
A BILL FOR AN ACT

RELATING TO FRANCHISE TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 26-9, Hawaii Revised Statutes, is
2 amended by amending subsection (o) to read as follows:
3 "(o) Every person licensed under any chapter within the
4 jurisdiction of the department of commerce and consumer affairs
5 and every person licensed subject to chapter 485A or registered
6 under chapter 467B shall pay upon issuance of a license, permit,
7 certificate, or registration a fee and a subsequent annual fee
8 to be determined by the director and adjusted from time to time
9 to ensure that the proceeds, together with all other fines,
10 income, and penalties collected under this section, do not
11 surpass the annual operating costs of conducting compliance
12 resolution activities required under this section. The fees may
13 be collected biennially or pursuant to rules adopted under
14 chapter 91, and shall be deposited into the special fund
15 established under this subsection. Every filing pursuant to
16 chapter 514E or section 485A-202(a)(26) shall be assessed, upon
17 initial filing and at each renewal period in which a renewal is



1 required, a fee that shall be prescribed by rules adopted under
2 chapter 91, and that shall be deposited into the special fund
3 established under this subsection. Any unpaid fee shall be paid
4 by the licensed person, upon application for renewal,
5 restoration, reactivation, or reinstatement of a license, and by
6 the person responsible for the renewal, restoration,
7 reactivation, or reinstatement of a license, upon the
8 application for renewal, restoration, reactivation, or
9 reinstatement of the license. If the fees are not paid, the
10 director may deny renewal, restoration, reactivation, or
11 reinstatement of the license. The director may establish,
12 increase, decrease, or repeal the fees when necessary pursuant
13 to rules adopted under chapter 91. The director may also
14 increase or decrease the fees pursuant to section 92-28.

15 There is created in the state treasury a special fund to be
16 known as the compliance resolution fund to be expended by the
17 director's designated representatives as provided by this
18 subsection. Notwithstanding any law to the contrary, and as
19 provided by section 241-7, all revenues, fees, and fines
20 collected by the department shall be deposited into the
21 compliance resolution fund. Unencumbered balances existing on



1 June 30, 1999, in the cable television fund under chapter 440G,
2 the division of consumer advocacy fund under chapter 269, the
3 financial institution examiners' revolving fund, section 412:2-
4 109, the special handling fund, section 414-13, and unencumbered
5 balances existing on June 30, 2002, in the insurance regulation
6 fund, section 431:2-215, shall be deposited into the compliance
7 resolution fund. This provision shall not apply to the drivers
8 education fund underwriters fee, sections 431:10C-115 and
9 431:10G-107, insurance premium taxes and revenues, revenues of
10 the workers' compensation special compensation fund, section
11 386-151, the captive insurance administrative fund, section
12 431:19-101.8, the insurance commissioner's education and
13 training fund, section 431:2-214, the medical malpractice
14 patients' compensation fund as administered under section 5 of
15 Act 232, Session Laws of Hawaii 1984, and fees collected for
16 deposit in the office of consumer protection restitution fund,
17 section 487-14, the real estate appraisers fund, section 466K-1,
18 the real estate recovery fund, section 467-16, the real estate
19 education fund, section 467-19, the contractors recovery fund,
20 section 444-26, the contractors education fund, section 444-29,
21 the condominium education trust fund, section 514B-71, and the



1 mortgage foreclosure dispute resolution special fund, section
2 667-86. Any law to the contrary notwithstanding, the director
3 may use the moneys in the fund to employ, without regard to
4 chapter 76, hearings officers and attorneys. All other
5 employees may be employed in accordance with chapter 76. Any
6 law to the contrary notwithstanding, the moneys in the fund
7 shall be used to fund the operations of the department. The
8 moneys in the fund may be used to train personnel as the
9 director deems necessary and for any other activity related to
10 compliance resolution.

11 A separate special subaccount of the compliance resolution
12 fund, to be known as the post-secondary education authorization
13 special subaccount, shall be established for fees collected by
14 the department of commerce and consumer affairs pursuant to
15 chapter 305J. The special subaccount shall be governed by
16 section 305J-19.

17 As used in this subsection, unless otherwise required by
18 the context, "compliance resolution" means a determination of
19 whether:



(1) Any licensee or applicant under any chapter subject to the jurisdiction of the department of commerce and consumer affairs has complied with that chapter;

(2) Any person subject to chapter 485A has complied with that chapter;

(3) Any person submitting any filing required by chapter 514E or section 485A-202(a)(26) has complied with chapter 514E or section 485A-202(a)(26);

(4) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce; or

(5) Any person subject to chapter 467B has complied with that chapter;

and includes work involved in or supporting the above functions, licensing, or registration of individuals or companies regulated by the department, consumer protection, and other activities of the department.

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. The report shall describe expenditures made from the fund including non-payroll operating expenses."



SECTION 2. Section 235-119, Hawaii Revised Statutes, is amended to read as follows:

"§235-119 Taxes, state realizations. All income taxes shall be for the use of the State and shall be paid into the state treasury at such times as the director of finance shall direct~~[]~~; provided that if the total amount transferred from the revenues collected under chapter 241 to the compliance resolution fund established pursuant to section 26-9(o) is less than \$2,000,000 at the close of the fiscal year, an amount equal to the difference between the total amount transferred from the revenues collected under chapter 241 and \$2,000,000 shall be distributed under this section to the compliance resolution fund for that fiscal year. In no event shall the amount distributed to the compliance resolution fund exceed \$2,000,000 in any fiscal year."

SECTION 3. Section 241-7, Hawaii Revised Statutes, is amended to read as follows:

"§241-7 Disposition of funds. ~~[All taxes collected under this chapter shall be state realizations; provided that, by June 30]~~ From the revenues collected under this chapter each fiscal year, the sum of \$2,000,000 shall be deposited with the director



1 of finance to the credit of the compliance resolution fund as
2 established pursuant to section 26-9(o) [÷] by June 30 of the
3 same fiscal year. The excess revenues collected under this
4 chapter shall be deposited into the general fund."

5 SECTION 4. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect on January 1, 2050.



Report Title:

Franchise Tax; Income Tax; Compliance Resolution Fund

Description:

Ensures that the \$2,000,000 franchise tax payment is credited in full to the compliance resolution fund for use by the division of financial institutions. Specifies that if franchise tax collections are insufficient, the difference will be derived from income tax collections. Clarifies that franchise tax revenues in excess of \$2,000,000 shall be deposited into the general fund. Effective 1/1/2050. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

