
A BILL FOR AN ACT

RELATING TO TOBACCO MANUFACTURER QUALIFIED ESCROW FUNDS.

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

1 SECTION 1. Chapter 675, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§675- Assignment of interest in qualified escrow fund
5 to the State. (a) A tobacco product manufacturer that elects
6 to place funds into a qualified escrow fund pursuant to section
7 675-3(b) may assign to the State the tobacco product
8 manufacturer's interest in any moneys in the qualified escrow
9 fund.

10 (b) An assignment executed pursuant to subsection (a)
11 shall be permanent and irrevocable and shall apply to all moneys
12 in the qualified escrow fund, including all moneys deposited
13 into the qualified escrow fund before the tobacco product
14 manufacturer executes the assignment, all moneys deposited into
15 the qualified escrow fund after the tobacco product manufacturer
16 executes the assignment, and any interest or other appreciation
17 earned on any moneys in the qualified escrow fund.



1 (c) A qualified escrow agreement, as referenced in section
2 486P-5(c)(4), may be amended by the parties to the agreement for
3 the purpose of executing an assignment pursuant to subsection
4 (a).

5 (d) An assignment executed pursuant to subsection (a)
6 shall be in writing and shall be signed by the assignee and the
7 assignor or by an authorized agent or representative thereof.
8 An executed assignment becomes enforceable after a copy of the
9 assignment is delivered to the attorney general and the
10 financial institution where the qualified escrow fund is
11 maintained.

12 (e) Notwithstanding the provisions of section 675-3(b),
13 funds assigned to the State shall be deposited in the Hawaii
14 tobacco settlement special fund established pursuant to section
15 328L-2.

16 (f) Nothing in this section shall operate to:

17 (1) Waive the right of the State to bring a claim against
18 a tobacco product manufacturer, except that any funds
19 assigned to the State under this section shall be
20 credited on a dollar-for-dollar basis against any
21 judgment or settlement; or



1 (2) Relieve a tobacco product manufacturer from any
2 obligation or duty imposed pursuant to chapter 245,
3 chapter 486P, or this chapter.

4 (g) When a qualified escrow fund has been deemed abandoned
5 by a tobacco product manufacturer according to the criteria set
6 by each financial institution, the financial institution
7 maintaining the qualified escrow fund and acting as the escrow
8 agent may file a petition in circuit court for an order
9 authorizing a transfer of funds in the qualified escrow fund to
10 the State. The petition shall state the factual and legal bases
11 for the relief sought. The financial institution shall serve
12 the petition on the attorney general at the time the petition is
13 filed. Upon a finding that the account has been abandoned, the
14 court may order the transfer of funds in the qualified escrow
15 fund to the Hawaii tobacco settlement special fund established
16 pursuant to section 328L-2.

17 (h) The department of the attorney general may adopt rules
18 pursuant to chapter 91 necessary to implement this section."

19 SECTION 2. New statutory material is underscored.

20 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Tobacco Manufacturer Qualified Escrow Funds; Assignment to the State

Description:

Provides a mechanism to assign non-participating tobacco manufacturers' qualified escrow account balances to the State. Provides a mechanism for the financial institution acting as the escrow agent of the qualified escrow account to petition the courts to authorize transfer of funds to the State when the qualified escrow account is abandoned. (SD1)

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