

**ACT 78**

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H.B. NO. 2376

A Bill for an Act Relating to Prepaid Legal Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to delete the requirement that the

department of commerce and consumer affairs consider legislative intent favoring the formation of prepaid legal service plans when determining the amount and type of security required for plans that accumulate funds prior to paying persons providing legal services. The intent of having the department require security under these circumstances is to ensure that funds paid by innocent subscribers to these prepaid legal service plans are safeguarded and used solely for the purposes for which they were intended. The statutory provision directing the department to first consider the legislative intent to encourage the establishment of these plans undercuts this safeguard and may lead to diluted security requirements.

While the legislature is concerned about unreasonably onerous security requirements that might discourage the establishment of prepaid legal service plans, the primary intent must always be one of securing the assets of the subscribers. Security requirements established by the department should be based solely upon reasonable and relevant financial considerations. Encouraging or requiring the department to allow the establishment of unsecured or inadequately secured plans contradicts the spirit and intent of the prepaid legal services law. The legislature continues to support and encourage the establishment and maintenance of prepaid legal service plans, but seeks to ensure that gains made in this area are real and not illusory.

SECTION 2. Section 488-4, Hawaii Revised Statutes, is amended to read as follows:

**“[§488-4] Accumulated funds, protection, violation.** Any plan which accumulates funds prior to the payment of such funds to the persons providing legal services shall meet the requirements of this section.

The plan administrator shall obtain a bond in an amount and form approved by the department which shall be executed by the plan administrator and a surety company authorized to do business in the State as a surety. The bond shall be to the benefit of the members of the plan and shall be filed with the department. In lieu of the bond required by this section, the department shall accept letters of credit, certificates of deposits, or other evidences of security in form and amounts deemed appropriate by the department.

[In administering this chapter and this section in particular, it is the intention of the legislature to encourage the formation and operation of prepaid legal service plans. Therefore, all efforts shall be made by the department in determining the amount or type of security required to meet such legislative intent to encourage the formation of prepaid legal service plans.]”

SECTION 3. Statutory material to be repealed is bracketed.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1992.)