

ACT 116

S.B. NO. 1318

A Bill for an Act Relating to Business Registration.

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

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (o) to read:

“(o) Every person licensed under any chapter within the jurisdiction of the department of commerce and consumer affairs and every person licensed subject to chapter 485 or registered under chapter 467B shall pay upon issuance of a license, permit, certificate, or registration a fee and a subsequent annual fee to be determined by the director and adjusted from time to time to ensure that the proceeds, together with all other fines, income, and penalties collected under this section, do not surpass the annual operating costs of conducting compliance resolution activities required under this section. The fees may be collected biennially or pursuant to rules adopted under chapter 91, and shall be deposited into the special fund established under this subsection. Every filing pursuant to chapter 514E or section 485-6(15) shall be assessed, upon initial filing and at each renewal period in which a renewal is required, a fee that shall be prescribed by rules adopted under chapter 91, and that shall be deposited into the special fund established under this subsection. Any unpaid fee shall be paid by the licensed person, upon application for renewal, restoration, reactivation, or reinstatement of a license, and by the person responsible for the renewal, restoration, reactivation, or reinstatement of a license, upon the

application for renewal, restoration, reactivation, or reinstatement of the license. If the fees are not paid, the director may deny renewal, restoration, reactivation, or reinstatement of the license. The director may establish, increase, decrease, or repeal the fees when necessary pursuant to rules adopted under chapter 91. The director may also increase or decrease the fees pursuant to section 92-28.

There is created in the state treasury a special fund to be known as the compliance resolution fund to be expended by the director's designated representatives as provided by this subsection. Notwithstanding any law to the contrary, all revenues, fees, and fines collected by the department shall be deposited into the compliance resolution fund. Unencumbered balances existing on June 30, 1999, in the cable television fund under chapter 440G, the division of consumer advocacy fund under chapter 269, the financial institution examiners' revolving fund, section 412:2-109, the special handling fund, section 414-13, and unencumbered balances existing on June 30, 2002, in the insurance regulation fund, section 431:2-215, shall be deposited into the compliance resolution fund. This provision shall not apply to the drivers education fund underwriters fee, section 431:10C-115, insurance premium taxes and revenues, revenues of the workers' compensation special compensation fund, section 386-151, the captive insurance administrative fund, section 431:19-101.8, the insurance commissioner's education and training fund, section 431:2-214, the medical malpractice patients' compensation fund as administered under section 5 of Act 232, Session Laws of Hawaii 1984, and fees collected for deposit in the office of consumer protection restitution fund, section 487-14, the real estate appraisers fund, section 466K-1, the real estate recovery fund, section 467-16, the real estate education fund, section 467-19, the contractors recovery fund, section 444-26, the contractors education fund, section 444-29, and the condominium management education fund, section 514A-131. Any law to the contrary notwithstanding, the director may use the moneys in the fund to employ, without regard to chapter 76, hearings officers, investigators, attorneys, accountants, and other necessary personnel to implement this subsection. Any law to the contrary notwithstanding, the moneys in the fund shall be used to fund the operations of the department. The moneys in the fund may be used to train personnel as the director deems necessary and for any other activity related to compliance resolution.

As used in this subsection, unless otherwise required by the context, "compliance resolution" means a determination of 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 485 has complied with that chapter;
 - (3) Any person submitting any filing required by chapter 514E or section 485-6(15) has complied with chapter 514E or section 485-6(15);
 - (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 92-28, Hawaii Revised Statutes, is amended to read as follows:

“§92-28 State service fees; increase or decrease of. Any law to the contrary notwithstanding, the fees or other nontax revenues assessed or charged by any board, commission, or other governmental agency may be increased or decreased by the body in an amount not to exceed fifty per cent of the statutorily assessed fee or nontax revenue, in order to maintain a reasonable relation between the revenues derived from such fee or nontax revenue and the cost or value of services rendered, comparability among fees imposed by the State, or any other purpose which it may deem necessary and reasonable; provided that:

- (1) The authority to increase or decrease fees or nontax revenues shall be subject to the approval of the governor and extend only to the following: chapters 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189, 231, 269, 271, 321, 338, 373, 412, 414, 414D, 415A, 417E, 419, 421, 421C, 421H, 421I, 425, 425E, 428, 431, 438, 439, 440, 442, 447, 448, 452, 453, 455, 456, 457, 458, 459, 460, 461, 463, 464, 466, 467, 469, 471, 482, 482E, 485, 501, 502, 505, 572, 574, and 846 (part II);
- (2) The authority to increase or decrease fees or nontax revenues under the chapters listed in paragraph (1) that are established by the department of commerce and consumer affairs shall apply to fees or nontax revenues established by statute or rule;
- ~~(2)~~ (3) The authority to increase or decrease fees or nontax revenues established by the University of Hawaii under chapters 304, 305, 306, and 308 shall be subject to the approval of the board of regents; provided that the board’s approval of any increase or decrease in tuition for regular credit courses shall be preceded by an open public meeting held during or prior to the semester preceding the semester to which the tuition applies;
- ~~(3)~~ (4) This section shall not apply to judicial fees as may be set by any chapter cited in this section;
- ~~(4)~~ (5) The authority to increase or decrease fees or nontax revenues pursuant to this section shall be exempt from the public notice and public hearing requirements of chapter 91; and
- ~~(5)~~ (6) Fees for copies of proposed and final rules and public notices of proposed rulemaking actions under chapter 91 shall not exceed 10 cents a page, as required by section 91-2.5.”

SECTION 3. Section 414-13, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The following fees shall be paid to the department director upon the filing of corporate documents:

- (1) Articles of incorporation, \$100;
- (2) Articles of amendment, [~~\$50;~~] \$25;
- (3) Restated articles of incorporation, [~~\$50;~~] \$25;
- (4) Articles of conversion or merger, [~~\$200;~~] \$100;
- (5) Articles of merger (subsidiary corporation), [~~\$100;~~] \$50;
- (6) Articles of dissolution, [~~\$50;~~] \$25;
- (7) Annual report of domestic and foreign corporations organized for profit, \$25;
- (8) Agent’s statement of change of registered office, [~~\$50]~~ \$25 for each affected domestic corporation or foreign corporation, except if simultaneous filings are made, the fee is reduced to \$1 for each affected domestic corporation or foreign corporation in excess of two hundred;

- (9) Any other statement, report, certificate, application, or other corporate document, except an annual report, of a domestic or foreign corporation, [~~\$50;~~] \$25;
 - (10) Application for a certificate of authority, \$100;
 - (11) Application for a certificate of withdrawal, [~~\$50;~~] \$25;
 - (12) Reservation of corporate name, [~~\$20;~~] \$10;
 - (13) Transfer of reservation of corporate name, [~~\$20;~~] \$10;
 - (14) Good standing certificate, \$25;
 - (15) Special handling fee for review of corporation documents, excluding articles of conversion or merger, [~~\$50;~~] \$25;
 - (16) Special handling fee for review of articles of conversion or merger, [~~\$150;~~] \$75;
 - (17) Special handling fee for certificates issued by the department, [~~\$25~~] \$10 per certificate; and
 - (18) Special handling fee for certification of documents, [~~\$25;~~] \$10.”
2. By amending subsection (d) to read:
- “(d) The department director shall charge and collect:
- (1) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, [~~\$20~~] \$10 for the certificate and affixing the seal thereto; and
 - (2) At the time of any service of process on the department director as agent for service of process of a corporation, [~~\$25;~~] \$10, which amount may be recovered as taxable costs by the party to the suit or action causing the service to be made if the party prevails in the suit or action.”

SECTION 4. Section 414D-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The following fees shall be paid to the department director upon the filing of corporate documents:

- (1) Articles of incorporation, \$50;
- (2) Articles of amendment, [~~\$20;~~] \$10;
- (3) Restated articles of incorporation, [~~\$20;~~] \$10;
- (4) Articles of merger, [~~\$100;~~] \$50;
- (5) Articles of conversion, [~~\$200;~~] \$50;
- (6) Articles of dissolution, [~~\$20;~~] \$10;
- (7) Annual report of nonprofit domestic or foreign corporation, \$5;
- (8) Any other statement, report, certificate, application, or other corporate document, except an annual report, of a nonprofit domestic or foreign corporation, [~~\$20;~~] \$10;
- (9) Application for a certificate of authority, \$50;
- (10) Application for a certificate of withdrawal, [~~\$20;~~] \$10;
- (11) Reservation of corporate name, [~~\$20;~~] \$10;
- (12) Transfer of reservation of corporate name, [~~\$20;~~] \$10;
- (13) Good standing certificate, \$25;
- (14) Special handling fee for review of corporation documents, excluding articles of merger or conversion, [~~\$50;~~] \$25;
- (15) Special handling fee for review of articles of conversion or merger, [~~\$150;~~] \$75;
- (16) Special handling fee for certificates issued by the department, [~~\$25~~] \$10 per certificate;
- (17) Special handling fee for certification of documents, [~~\$25;~~] \$10; and
- (18) Agent’s statement of change of registered office, [~~\$20~~] \$10 for each affected domestic corporation or foreign corporation; provided that if more than two hundred simultaneous filings are made, the fee shall be

reduced to \$1 for each affected domestic corporation or foreign corporation.”

SECTION 5. Section 414D-18, Hawaii Revised Statutes, is amended to read as follows:

“~~[(1)]~~ **§414D-18** **Miscellaneous charges.** The department director shall charge and collect:

- (1) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, ~~[\$20;]~~ \$10; and
- (2) At the time of any service of process on the department director as agent for service of process of a corporation, ~~[\$25;]~~ \$10, which amount may be recovered as taxable costs by the party to the action causing the service to be made if that party prevails in the action.”

SECTION 6. Section 425-12, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The following fees shall be paid to the director upon the filing of general partnership documents:

- (1) Partnership registration statement, \$25;
- (2) Partnership change of name statement, ~~[\$25;]~~ \$10;
- (3) Partnership dissolution statement, ~~[\$25;]~~ \$10;
- (4) Foreign general partnership registration statement, \$25;
- (5) Statement of change, ~~[\$25;]~~ \$10;
- (6) Application for certificate of withdrawal, ~~[\$10;]~~ \$5;
- (7) Statement of correction, ~~[\$25;]~~ \$10;
- (8) Reservation of name, ~~[\$20;]~~ \$10;
- (9) Transfer of reservation of name, ~~[\$20;]~~ \$10;
- (10) Annual statement for domestic or foreign general partnership, \$10;
- (11) Good standing certificate, \$25;
- (12) Articles of conversion~~[-\$200;]~~ or merger, \$100;
- (13) Any other statement, certificate, or other document for a domestic or foreign general partnership, ~~[\$25;]~~ \$10;
- (14) Special handling fee for review of any general partnership document, ~~[\$50;]~~ \$25;
- (15) Special handling fee for certificates issued by the director, ~~[\$25]~~ \$10 per certificate;
- (16) Special handling fee for certification of documents, ~~[\$25;]~~ \$10;
- (17) Special handling fee for review of articles of conversion~~[-\$150;]~~ or merger, \$75; and
- (18) Agent’s statement of change of address, ~~[\$20]~~ \$10 for each affected foreign general partnership; provided that if more than two hundred simultaneous filings are made, the fee shall be reduced to \$1 for each affected foreign general partnership.

(b) The director shall charge and collect:

- (1) For furnishing a certified copy of any document, instrument, or paper relating to a general partnership, ~~[\$20]~~ \$10 for the certificate and affixing the seal thereto; and
- (2) At the time of any service of process on the director as agent for service of process of a general partnership, ~~[\$25;]~~ \$10, which amount may be recovered as taxable costs by the party to the suit or action causing the service to be made if the party prevails in the suit or action.”

SECTION 7. Section 425-168, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

“(a) The director shall collect the following fees for the following limited liability partnership documents:

- (1) Annual report, \$25;
- (2) Statement of qualification, \$50;
- (3) Statement of foreign qualification, \$100;
- (4) Statement of correction, amendment, restatement, or amendment and restatement, [~~\$50;~~] \$25;
- (5) Certificate of good standing, \$25;
- (6) Articles of conversion[~~-, \$200;~~] or merger, \$100;
- (7) For any other certificate, statement, or document, [~~\$50;~~] \$25;
- (8) Certification of domestic or foreign partnership, [~~\$20;~~] \$10; and
- (9) For each agent’s statement of change of registered office, [~~\$20]~~ \$10 for each affected domestic or foreign limited liability partnership; provided that if an agent files more than two hundred statements of change of registered office at the same time, the fee shall be reduced to \$1 for each affected domestic or foreign limited liability partnership.

(b) The following special handling fees shall be assessed by the director for expeditious handling and review of the following documents:

- (1) Statement of qualification, [~~\$50;~~] \$25;
- (2) Statement of correction, amendment, restatement, or amendment and restatement, [~~\$50;~~] \$25;
- (3) Annual report, [~~\$50;~~] \$25;
- (4) Certification of domestic or foreign limited liability partnership, [~~\$25;~~] \$10;
- (5) Certificate of good standing for domestic or foreign limited liability partnership, [~~\$25;~~] \$10;
- (6) Articles of conversion or merger for domestic or foreign limited liability partnership, [~~\$150;~~] \$75;
- (7) Statement of foreign qualification, [~~\$50;~~] \$25;
- (8) Statement of correction, amendment, restatement, or amendment and restatement of foreign limited liability partnership, [~~\$50;~~] \$25;
- (9) Annual report, [~~\$50;~~] \$25; and
- (10) For any other certificate or document authorized by this subpart, [~~\$50;~~] \$25.

(c) The director shall charge and collect:

- (1) For furnishing a certified copy of any document, instrument, or paper relating to a limited liability partnership, [~~\$20]~~ \$10 for the certificate and affixing the seal thereto; and
- (2) At the time of any service of process on the director as agent for service of process of a limited liability partnership, [~~\$25,~~] \$10, which amount may be recovered as taxable costs by the party to the suit or action causing the service to be made if the party prevails in the suit or action.”

SECTION 8. Section 425E-211, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The following fees shall be paid to the director upon the filing of limited partnership documents:

- (1) Certificate of limited partnership, \$50;
- (2) Any certificate of amendment, restatement, or correction, [~~\$20;~~] \$10;
- (3) Certificate of cancellation, [~~\$20;~~] \$10;
- (4) Annual statement for domestic or foreign limited partnership, \$10;
- (5) Any other certificate or document of domestic or foreign limited partnership, [~~\$20;~~] \$10;

- (6) Application for registration as a foreign limited partnership, \$100;
 - (7) Any certificate of amendment or agent change for foreign limited partnership, [~~\$20;~~] \$10;
 - (8) Application for certificate of withdrawal of foreign limited partnership, [~~\$20;~~] \$10;
 - (9) Reservation of name, [~~\$20;~~] \$10;
 - (10) Transfer of reservation of name, [~~\$20;~~] \$10;
 - (11) Good standing certificate, \$25;
 - (12) Articles of conversion[~~;~~ ~~\$200;~~] or merger, \$100;
 - (13) Special handling fee for review of articles of conversion[~~;~~ ~~\$150;~~] or merger, \$75;
 - (14) Special handling fee for review of any limited partnership document, [~~\$50;~~] \$25;
 - (15) Special handling fee for certificates issued by the director, [~~\$25~~] \$10 per certificate;
 - (16) Special handling fee for certification of documents, [~~\$25;~~] \$10; and
 - (17) Agent's statement of change of address, [~~\$20~~] \$10 for each affected foreign limited partnership; provided that if more than two hundred simultaneous filings are made, the fee shall be reduced to \$1 for each affected foreign limited partnership.
- (b) The director shall charge and collect:
- (1) For furnishing a certified copy of any document, instrument, or paper relating to a limited partnership, [~~\$20~~] \$10 for the certificate and affixing the seal thereto; and
 - (2) At the time of any service of process on the director as agent for service of process of a limited partnership, [~~\$25;~~] \$10, which amount may be recovered as taxable costs by the party to the suit or action causing the service to be made if the party prevails in the suit or action."

SECTION 9. Section 428-1301, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The following fees shall be paid to the director upon the filing and issuance of records under this chapter:

- (1) Articles of organization, \$100;
- (2) Articles of amendment, [~~\$50;~~] \$25;
- (3) Restated articles of organization, [~~\$50;~~] \$25;
- (4) Articles of merger or conversion, [~~\$200;~~] \$100;
- (5) Statement of dissociation, [~~\$50;~~] \$25;
- (6) Articles of termination, [~~\$50;~~] \$25;
- (7) Application for reinstatement for administratively terminated limited liability company, [~~\$50;~~] \$25;
- (8) Annual report, \$25;
- (9) Statement of change of designated office or agent for service of process, or both, for limited liability company or foreign limited liability company, [~~\$50;~~] \$25;
- (10) Agent's statement of change of address, [~~\$50~~] \$25 for each affected domestic limited liability company or foreign limited liability company; provided that if more than two hundred simultaneous filings are made, the fee shall be reduced to \$1 for each affected domestic limited liability company or foreign limited liability company;
- (11) Any other statement or document of a domestic or foreign limited liability company, [~~\$50;~~] \$25;
- (12) Application for certificate of authority for foreign limited liability company, \$100;

- (13) Application for cancellation of authority of foreign limited liability company, [~~\$50;~~ \$25;
- (14) Reservation of name, [~~\$25;~~ \$10;
- (15) Good standing certificate, ~~\$25~~;
- (16) Any other record not otherwise covered in this part, [~~\$50;~~ \$25;
- (17) Certified copy of any record relating to a limited liability company or foreign limited liability company, [~~\$20~~] \$10 for the certificate and affixing the seal thereto;
- (18) Special handling fee for review of any record other than articles of merger or conversion, [~~\$50;~~ \$25;
- (19) Special handling fee for review of articles of merger or conversion, [~~\$150;~~ \$75;
- (20) Special handling fee for certificate issued by the director not otherwise covered by this section, [~~\$25~~] \$10 per certificate;
- (21) Special handling fee for certification of record, [~~\$25;~~ \$10; and
- (22) Any service of notice, demand, or process upon the director as agent for service of process of a limited liability company or foreign limited liability company, [~~\$25,~~] \$10, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.”

SECTION 10. Statutory material to be repealed is bracketed and ~~stricken~~. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2004.

(Approved June 15, 2004.)