
A BILL FOR AN ACT

RELATING TO ACTIVITY DESKS.

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

1 SECTION 1. Section 468M-9, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§468M-9 Client trust accounts; maintenance of and**
4 **withdrawal from accounts.** (a) Within three business days of
5 receipt, an activity desk shall deposit all sums received from a
6 consumer for excursions or activities offered by the activity
7 desk in a trust account maintained in a federally insured
8 financial institution located in Hawaii. All sums paid by any
9 person to an activity desk for activities furnished by an
10 activity provider shall be held in trust for the benefit of the
11 person making the payment and the activity provider. The
12 activity desk shall be considered the trustee of the funds paid
13 into the client trust account, less any commission.

14 (b) The trust account required by this section shall be
15 established and maintained for the benefit of the consumers
16 paying money to the activity desk and the activity provider.
17 The activity desk shall not in any manner encumber the amounts
18 in trust and shall not withdraw money therefrom except:



1 (1) In partial or full payment to the activity provider
2 directly providing the services for excursion or
3 activities; or

4 (2) To make refunds as required by this chapter.

5 (c) This section shall not prevent the withdrawal from the
6 trust account of:

7 (1) The amount of the sales commission, up to a maximum of
8 fifteen per cent;

9 (2) Any interest earned and credited to the trust account;

10 (3) Refunds; or

11 (4) Remaining funds of a consumer once the activity
12 provider has been paid.

13 (d) At the time of registration, the activity desk shall
14 file with the department the account number and the name of the
15 financial institution at which the trust account is held or
16 submit a bond or letter of credit as provided in section
17 468M-10. The activity desk shall notify the department of any
18 change in the account number or location within one business day
19 of the change.

20 (e) At the time of licensure and renewal, the activity
21 desk shall designate an individual, officer, director, member,



1 or manager who shall be a signatory on and who shall be fully
2 responsible for the client trust account. The designated
3 signatory shall be personally responsible for the paying or
4 reimbursing of all amounts for failure to comply with this
5 section or any applicable rule. The designated signatory shall
6 be responsible for the direct management and control of the
7 activity desk and the entity's compliance with the laws and
8 rules relating to activity desks in Hawaii and subject to civil
9 and criminal penalties as provided by law. An activity desk
10 shall notify the director, in writing, within ten days of any
11 change in the designated signatory."

12 SECTION 2. Section 468M-16, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~§~~**468M-16** **Criminal penalties.** A person commits the
15 criminal offense of theft if the person, being an activity desk
16 or an agent, employee, or independent contractor of an activity
17 desk, knowingly or intentionally violates section 468M-9(a), (b)
18 [~~or~~], (c) [~~of this chapter.~~], or (e)."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Activity Desks; Signatories; Client Trust Accounts; Penalties

Description:

Requires an activity desk to designate an individual, officer, director, member, or manager who shall be a signatory on and fully responsible for the client trust account. Specifies responsibilities of the designated signatory. Amends existing criminal penalties under chapter 468M, Hawaii Revised Statutes, to include violations of signatory requirements for activity desks. (SD1)

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