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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF THE ATTORNEY GENERAL.

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

1           SECTION 1. The legislature enacted the state false claims  
2 act to establish a procedure for restitution of money taken from  
3 the State by fraud and to create a chilling effect to discourage  
4 fraud from occurring in the first place. As the chief law  
5 enforcement officer in the State, the attorney general may bring  
6 an action for false claims or may intervene and assume primary  
7 responsibility for prosecuting an action brought by a person in  
8 the name of the State. To accomplish this responsibility, the  
9 attorney general must investigate and litigate cases that are  
10 often document intensive and require the services of expert  
11 witnesses, accountants, investigators, and support staff. The  
12 attorney general does not have sufficient resources to divert to  
13 these cases to vigorously fight fraud against the government.  
14 The purpose of this Act is to establish a trust fund that will  
15 provide sufficient resources for the attorney general to enforce  
16 the false claims statutes. Such a trust fund will yield direct  
17 benefits to the public and protect the health, safety, and  
18 welfare of the people of the State of Hawaii.



1 SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended  
2 by adding to part I a new section to be appropriately designated  
3 and to read as follows:

4 "§28- False claims trust fund. (a) There is  
5 established in the state treasury the false claims trust fund,  
6 into which shall be deposited:

7 (1) Thirty-three per cent of the proceeds of any action or  
8 settlement by the attorney general pursuant to section  
9 661-22, except where the deposit is inconsistent with  
10 the court order or settlement agreement relating to  
11 the amount; and

12 (2) Appropriations made by the legislature for deposit  
13 into the trust fund.

14 (b) The false claims trust fund shall be administered by  
15 the department of the attorney general and shall be used for  
16 expenditures relating to the enforcement of false claims and qui  
17 tam actions pursuant to section 661-22, for staff, experts,  
18 training, equipment, and facilitating participation in multi-  
19 state false claim actions.

20 (c) All unencumbered and unexpended moneys in excess of  
21 \$1,000,000 remaining on balance in the false claims trust fund



1 at the close of June 30 of each year shall lapse to the credit  
2 of the general fund.

3 (d) The department of the attorney general shall submit a  
4 report to the legislature no later than twenty days prior to the  
5 convening of each regular session to provide an accounting of  
6 the receipts and expenditures of the fund."

7 SECTION 3. Section 661-22, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "[~~f~~]**§661-22**[~~]~~ **Civil actions for false claims.** The  
10 attorney general shall investigate any violation under section  
11 661-21. If the attorney general finds that a person has  
12 violated or is violating section 661-21, the attorney general  
13 may bring a civil action under this section. If the attorney  
14 general initiates an action or assumes control of an action  
15 initiated by a private person pursuant to section 661-25, the  
16 attorney general shall receive pursuant to section 28- a fixed  
17 thirty-three per cent of the proceeds of the action or  
18 settlement of the claim, which shall be used to support the  
19 attorney general's ongoing investigation and prosecution of  
20 false claims.

21 For purposes of this section, "proceeds of the action"  
22 includes civil penalties as well as damages."



1 SECTION 4. Section 661-27, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) If the State proceeds with an action brought by a  
4 person under section 661-25, the person shall receive at least  
5 fifteen per cent but not more than twenty-five per cent of the  
6 proceeds of the action or settlement of the claim, depending  
7 upon the extent to which the person substantially contributed to  
8 the prosecution of the action. Where the action is one that the  
9 court finds to be based primarily on disclosures of specific  
10 information, other than information provided by the person  
11 bringing the action, relating to allegations or transactions in  
12 a criminal, civil, or administrative hearing, in a legislative  
13 or administrative report, hearing, audit, or investigation, or  
14 from the news media, the court may award sums as it considers  
15 appropriate, but in no case more than ten per cent of the  
16 proceeds, taking into account the significance of the  
17 information and the role of the person bringing the action in  
18 advancing the case to litigation. Any payment to a person under  
19 this subsection shall be made from the proceeds. [+]The[+]  
20 person shall also receive an amount for reasonable expenses that  
21 the court finds to have been necessarily incurred, plus  
22 reasonable attorneys' fees and costs. All reasonable expenses,



1 fees, and costs shall be awarded against the defendant. All  
2 such reasonable expenses, fees, and costs of the person bringing  
3 the action shall be awarded against the defendant separately  
4 from the proceeds of the action or settlement of the claim."

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

7 SECTION 7. This Act shall take effect on July 1, 2007.



**Report Title:**

AG proceeds of settlement; False Claims Trust Fund

**Description:**

Provides the AG with 33% of the proceeds or settlement from a false claim prosecution where the AG initiates or assumes control of the action. (HB1239 HD1)

