

DAVID Y. IGE
GOVERNOR OF
HAWAII



DEPT. COMM. NO. 53

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 2, 2020

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Revenues Generated From General Administrative Penalties Imposed Under Chapter 183, Hawaii Revised Statutes report, as required by Section 183-5, Hawaii Revised Statutes (HRS). In accordance with Section 93-16, HRS, a copy of this report has been transmitted to the Legislative Reference Bureau and the report may be viewed electronically at <https://files.hawaii.gov/dlnr/reports-to-the-legislature/2021/FW21-Forestry-Penalty-Revenue-Rpt-FY20.pdf>.

Sincerely,

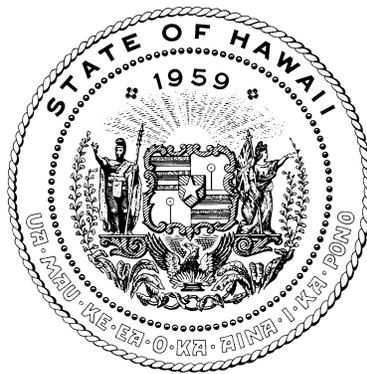
A handwritten signature in cursive script that reads "Suzanne D. Case".

SUZANNE D. CASE
Chairperson

Enclosure

**REPORT TO THE THIRTY-FIRST LEGISLATURE
STATE OF HAWAII
2021 REGULAR SESSION**

**REVENUES GENERATED FROM GENERAL ADMINISTRATIVE PENALTIES
IMPOSED UNDER CHAPTER 183, HAWAII REVISED STATUTES**



Prepared by

**THE STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE**

In response to Section 183-5, Hawaii Revised Statutes

Honolulu, Hawaii
December 2020

REVENUES GENERATED FROM GENERAL ADMINISTRATIVE PENALTIES IMPOSED UNDER CHAPTER 183, HAWAII REVISED STATUTES

PURPOSE

This report complies with Section 183-5, Hawaii Revised Statutes (HRS), and covers specific topics relating to the protection of the State Forest Reserve System (FRS). Act 174, Session Laws of Hawaii (SLH) 2006, in part amended Chapter 183, HRS, by adding a new section entitled, “General Administrative Penalties.” This section authorizes the Board of Land and Natural Resources (Board) or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The Department of Land and Natural Resources (Department) is also required to submit an annual report to the Hawaii State Legislature outlining revenues generated by these administrative penalties. This annual report covers the period from July 1, 2019 to June 30, 2020.

BACKGROUND

The administrative penalties for violations of Chapter 183, HRS, became effective in June of 2006, by way of Act 174, Session Laws of Hawaii (HRS) 2006. This Act authorizes the Board or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The Department sought this particular change to HRS due to a notable increase in the occurrence and severity of violations, particularly the theft or unpermitted harvest of highly valuable koa timber resources from the FRS. The Department appreciates the attention that this report and related laws have drawn to this important issue.

Prior to Act 174, SLH 2006, the existing language within Chapter 183, HRS, created a situation whereby certain penalties for violations, particularly large-scale theft of timber or other resources on FRS lands, did not effectively deter illegal harvesting because the potential value of the resources taken far exceeded any penalties that could be imposed by the State upon a violator. With the enactment of Act 174, SLH 2006, a framework for effective enforcement of penalties and timely prosecution of those in violation of Chapter 183, HRS, and associated rules was established.

Act 174, SLH 2006, has helped to protect public resources by, among other things:

- 1) Allowing the Board of Land and Natural Resources to set and collect administrative penalties, including bringing legal action to recover fines, fees, and other costs resulting from violations of Chapter 183, HRS, and associated rules;
- 2) Increasing the criminal fine amount for timber trespass, including the removal of any timber within the FRS; and
- 3) Establishing specific administrative penalty levels for repeat offenders or violations of varying severity.

The Department does note that from the onset of the Act, the value of forest products, including koa and now ‘iliahi (sandalwood), has significantly increased. Thus, the penalties and fines are now out of date with the current value of the resources. Further, there have been several reports

of theft or attempted thefts in the past several years across both public and private forest lands of these valuable forest resources.

The Administration submitted proposals for updating the penalties and fines of Chapter 183, HRS, as part of its legislative packages for the 2016, 2017, and 2019 regular legislative sessions, but has not been successful in getting approval by the legislature to date.

REVENUES GENERATED

The Board of Land and Natural Resources did not issue any administrative fines or fees in fiscal year 2020. The Department did, however, receive payment on one of two administrative fines issued in fiscal year 2019 of \$2,500 for a first violation for conducting commercial operations in a forest reserve without a permit. The other administrative fine, issued for a similar violation and amount, has not been received as of this report, but the Department is continuing to follow-up on payment of the fine.

Additionally, the Department received revenue from a settlement agreement related to the purchase of the Helemano Wilderness Area in 2019. Following the purchase of the Helemano property by the Department, a boundary discrepancy was identified for one of the four parcels included in the purchase. The seller agreed to settle with the state for \$39,000; these settlement funds were then returned to the various agencies that provided funding support for the acquisition.

RECOMMENDATION

This law is very important for the protection of public resources within the state Forest Reserve System. However, the Department believes that amending fines for destroying or harvesting trees and plants on lands within the forest reserves to an amount up to three times the market value at the time and place of the violation for each tree or plant and the cost of restoration or replacement of the habitat, would provide a stronger deterrent for unauthorized and illegal use of public resources.