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## A BILL FOR AN ACT

RELATING TO NON-GENERAL FUNDS.

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

1           SECTION 1. The purpose of this Act is to reclassify or  
2 abolish certain non-general funds of the department of the  
3 attorney general pursuant to the recommendations by the auditor  
4 in auditor's report no. 19-16 and, for any abolished accounts,  
5 transfer the remaining unencumbered balances in the trust  
6 accounts to the general fund.

7           SECTION 2. Section 28-16, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "~~{}~~\$28-16~~{}~~ **Litigation deposits trust ~~[fund-]~~ account.**

10 (a) There is created in the state treasury the litigation  
11 deposits trust ~~[fund-]~~ account. There shall be deposited into  
12 this ~~[fund]~~ account all moneys received through any civil action  
13 in which the State is a party where the settlement amount is  
14 \$100,000 or higher, except for those actions involving  
15 departments able to procure their own legal services as provided  
16 for by section 28-8.3 and where no other state statute or court



1 order specifically provides for the deposit of moneys received  
2 through the action.

3 (b) The [~~fund~~] account shall be administered by the  
4 department of the attorney general. The department shall  
5 maintain accounting records of [~~fund~~] account moneys, including  
6 subsidiary records of individual litigation deposits and  
7 disbursements thereof. Moneys in the [~~fund~~] account may be  
8 separated into subsidiary accounts; provided that one subsidiary  
9 account shall not be commingled with moneys from another  
10 subsidiary account except for deposit or investment purposes  
11 under subsection (d).

12 (c) Disbursements from each subsidiary account maintained  
13 under subsection (b) may include attorney's fees and other  
14 necessary expenses that the department determines to be  
15 reasonable and directly related to prosecution of the civil  
16 action for which the subsidiary account is maintained; provided  
17 that in the case of moneys deposited as a result of recoveries  
18 by an agency to which a non-general fund applies, the moneys  
19 shall be held and disbursed intact for deposit to the credit of  
20 the non-general fund. Money deposited in the [~~fund~~] litigation  
21 deposits trust account pursuant to an order of the court shall



1 be disbursed in accordance with the order of the court. Any  
 2 residual funds remaining in [~~an~~] a subsidiary account shall be  
 3 transferred to the respective non-general or general fund with  
 4 which the civil action is associated no later than thirty days  
 5 after the civil action for which the subsidiary account is  
 6 maintained is closed and all costs of that civil action have  
 7 been paid, unless otherwise provided for by statute.

8 (d) Moneys in the [~~fund~~] litigation deposits trust account  
 9 may be invested by the department in securities as provided by  
 10 section 36-21. Investment earnings shall be deposited in the  
 11 general fund.

12 (e) The department shall submit a report to the  
 13 legislature no later than twenty days prior to the convening of  
 14 each regular session on:

15 (1) The transactions, by subsidiary account, that take  
 16 place in the [~~fund~~] litigation deposits trust account  
 17 for each fiscal year; and

18 (2) A summary of the collections made in any amount on  
 19 behalf of other departments and agencies specifying  
 20 the appropriate number of transactions and amount  
 21 collected for each department and agency."



1 SECTION 3. Section 456-9, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) The moneys collected by the attorney general pursuant  
4 to this section shall be deposited into the notaries public  
5 [~~revolving~~] special fund established by section 456-9.5, except  
6 that if that fund is terminated, the moneys shall thereafter be  
7 deposited with the director of finance to the credit of the  
8 general fund."

9 SECTION 4. Section 456-9.5, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**\$456-9.5 Notaries public [~~revolving~~] special fund.** (a)  
12 There is established in the state treasury the notaries public  
13 [~~revolving~~] special fund into which shall be deposited:

- 14 (1) All fees, administrative fines, charges, or other  
15 payments received pursuant to section 456-9;
- 16 (2) Penalties and fines for violations of section 456-3 or  
17 456-7;
- 18 (3) Appropriations made for deposit into the notaries  
19 public [~~revolving~~] special fund; and
- 20 (4) Interest earned on money in the notaries public  
21 [~~revolving~~] special fund.



1 (b) The notaries public [~~revolving~~] special fund shall be  
2 administered by the department of the attorney general.  
3 Notwithstanding any law to the contrary, moneys in the notaries  
4 public [~~revolving~~] special fund shall be used for personnel  
5 costs, the acquisition of equipment, and operating and  
6 administrative costs deemed necessary by the department of the  
7 attorney general to administer this chapter. The moneys in the  
8 fund may also be used to train personnel as the attorney general  
9 deems necessary, and for any other activity related to notaries  
10 public."

11 SECTION 5. Section 456-18, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§456-18 Notaries in government service.** Except as  
14 otherwise provided for by law, the head of every department  
15 (which term as used in this chapter includes any department,  
16 board, commission, bureau, or establishment of the United  
17 States, or of the State, or any political subdivision thereof)  
18 may designate one or more of the head of every department's  
19 subordinates to be a notary public who, upon duly qualifying and  
20 receiving a commission as a notary public in government service,  
21 shall perform, without charge, the services of a notary public



1 in all matters of business pertaining to the State, any  
2 political subdivision thereof, or the United States.

3 Any provision of this chapter to the contrary  
4 notwithstanding, a subordinate so designated and thus qualified  
5 and commissioned as a notary public in government service shall:

6 (1) Be authorized to perform the duties of a notary public  
7 in one or more of the judicial circuits of the State  
8 as the attorney general shall designate;

9 (2) Not be required to:

10 (A) Pay any fee to the clerk of any circuit court for  
11 filing a copy of the notary's commission;

12 (B) Pay any fee to the attorney general for the  
13 issuance of the notary's commission or the  
14 renewal thereof; or

15 (C) Furnish and file an official bond unless that  
16 bond is required by the head of the department in  
17 which the notary is a subordinate, in which  
18 event, the expense of furnishing any such bond  
19 shall be borne by the department concerned; and

20 (3) Not demand or receive any fee for the notary's service  
21 as a notary public; provided that where the occasion,



1 in the judgment of the head of the department, is  
2 deemed one of urgent necessity and convenience, the  
3 notary may, but shall not be compelled to, administer  
4 oaths or take acknowledgments in nongovernmental  
5 matters, for which services the prescribed fees shall  
6 be demanded and received as governmental realizations  
7 and covered into the notaries public [~~revolving~~]  
8 special fund established by section 456-9.5, except  
9 that if that fund is terminated, the fees shall  
10 thereafter be deposited into the general fund of the  
11 State; provided further that with the prior written  
12 approval of the attorney general, the notary public,  
13 upon paying the fees prescribed by law and upon  
14 executing, depositing, and filing at the notary's own  
15 expense, the required official bond, may demand or  
16 receive the fees prescribed by law for services  
17 rendered by the notary in matters not pertaining to  
18 such public business."

19 SECTION 6. Section 712A-16, Hawaii Revised Statutes, is  
20 amended by amending subsection (4) to read as follows:



1           "(4) There is established in the department of the  
2 attorney general a [~~revolving~~] special fund to be known as the  
3 criminal forfeiture fund, hereinafter referred to as the "fund"  
4 in which shall be deposited one-half of the proceeds of a  
5 forfeiture and any penalties paid pursuant to section  
6 712A-10(6). All moneys in the fund shall be expended by the  
7 attorney general and are appropriated for the following  
8 purposes:

- 9           (a) The payment of any expenses necessary to seize,  
10            detain, appraise, inventory, safeguard, maintain,  
11            advertise, or sell property seized, detained, or  
12            forfeited pursuant to this chapter or of any other  
13            necessary expenses incident to the seizure, detention,  
14            or forfeiture of such property and such contract  
15            services and payments to reimburse any federal, state,  
16            or county agency for any expenditures made to perform  
17            the foregoing functions;
- 18           (b) The payment of awards for information or assistance  
19            leading to a civil or criminal proceeding;
- 20           (c) The payment of supplemental sums to state and county  
21            agencies for law enforcement purposes;



- 1 (d) The payment of expenses arising in connection with  
2 programs for training and education of law enforcement  
3 officers;
- 4 (e) The payment of expenses arising in connection with  
5 enforcement pursuant to the drug nuisance abatement  
6 unit in the department of the attorney general; and
- 7 (f) The payment of expenses arising in connection with the  
8 law enforcement officer independent review board in  
9 the department of the attorney general."

10 SECTION 7. The Hawaii criminal justice commission trust  
11 account established in 1985 pursuant to the authority granted by  
12 section 28-10.6(a)(5), Hawaii Revised Statutes, is abolished and  
13 any remaining unencumbered balance shall lapse to the credit of  
14 the general fund.

15 SECTION 8. The national mortgage settlement trust account  
16 administratively established in 2012 is abolished and any  
17 remaining unencumbered balance shall lapse to the credit of the  
18 general fund.

19 SECTION 9. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1           SECTION 10. This Act shall take effect on July 1, 2060;  
2 provided that the amendments made to section 712A-16, Hawaii  
3 Revised Statutes, shall not be repealed when that section is  
4 repealed and reenacted on June 30, 2022, by Act 161, Session  
5 Laws of Hawaii 2016.



**Report Title:**

Attorney General; Non-General Funds; Reclassification;  
Abolishment

**Description:**

Reclassifies the notaries public revolving fund and criminal forfeiture revolving fund as special funds. Reclassifies the litigation deposits trust fund as a trust account. Abolishes the national mortgage settlement trust account and the criminal justice commission trust account, and transfers the remaining unencumbered balances in these trust accounts to the general fund. Effective 7/1/2060. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

