
A BILL FOR AN ACT

RELATING TO ATTORNEYS' FEES.

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

1 SECTION 1. The legislature finds that attorney's fees can
2 cost a prevailing party a significant portion of their
3 settlement amount or monetary award. In some cases, a
4 prevailing party may only receive sixty to sixty-five per cent
5 of the settlement amount or monetary award after attorney's fees
6 and costs are deducted. For a plaintiff that is suing for
7 construction defects, a significant reduction in the settlement
8 amount or monetary award may not leave the plaintiff with enough
9 money to cover the necessary repair costs. In that situation,
10 the plaintiff may end up in a worse position than before they
11 initiated the lawsuit and publicly disclosed the existence of
12 the construction defects. A property with known construction
13 defects may become significantly devalued, which will impact the
14 plaintiff's ability to sell or refinance the property.

15 The purpose of this Act is to limit the attorneys' fees and
16 costs in settlement agreements relating to, or actions brought



1 as a result of, construction defects to ensure that plaintiffs
2 can better afford the repair costs.

3 SECTION 2. Chapter 605, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 **"§605- Attorney's fees in disputes relating to**
7 **construction defects; settlements; limitation.** (a)

8 Notwithstanding any other law to the contrary, in matters
9 arising from a dispute relating to construction defects that are
10 settled, practitioners representing plaintiffs shall be entitled
11 to their accrued attorney's fees and costs not to exceed twenty-
12 five per cent of the recovery amount.

13 (b) For the purposes of this section, "construction
14 defect" means a deficiency in, or arising out of, the design,
15 specifications, surveying, planning, construction, supervision,
16 or observation of construction of a building or structure."

17 SECTION 3. Chapter 607, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 **"§607- Attorney's fees in actions alleging construction**
21 **defects; prevailing plaintiff; limitation.** (a) Notwithstanding



1 any other law to the contrary, in actions alleging construction
2 defects, the court shall deny the awarding of accrued attorney's
3 fees and costs to a prevailing plaintiff's attorney in excess of
4 twenty-five per cent of the recovery amount.

5 (b) For the purposes of this section, "construction
6 defect" has the same meaning as in section 605- ."

7 SECTION 4. This Act shall not be applied so as to impair
8 any contract existing as of the effective date of this Act in a
9 manner violative of either the Constitution of the State of
10 Hawaii or Article I, section 10, of the United States
11 Constitution.

12 SECTION 5. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 6. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on July 1, 3000.



Report Title:

Settlements; Civil Actions; Attorney's Fees and Costs;
Construction Defects

Description:

Limits the accrued attorneys' fees and costs in matters relating to, or actions brought as a result of, construction defects to twenty-five per cent of the recovery amount. Effective 7/1/3000. (HD1)

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

