

A Bill for an Act Relating to Costs, Attorney's Fees and Jury Trials Under the State Tort Liability Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 661-1, Hawaii Revised Statutes, is amended to read:

“Sec. 661-1 Jurisdiction. The several circuit courts and, except as otherwise provided by statute or rule, the several district courts shall, subject to appeal as provided by law, have original jurisdiction to hear and determine the following matters, and, unless otherwise provided by law, shall determine all questions of fact involved without the intervention of a jury.

(1) All claims against the State founded upon any statute of the State; or upon any regulation of an executive department; or upon any contract, expressed or implied, with the State, and all claims which may be referred to any such court by the legislature; provided, that no action shall be maintained, nor shall any process issue against the State, based on any contract or any act of any state officer which the officer is not authorized to make or do by the laws of the State, nor upon any other cause of action than as herein set forth.

(2) All counterclaims, whether liquidated or unliquidated, or other demands whatsoever on the part of the State against any person making claim against the State under this chapter.”

SECTION 2. Section 662-5, Hawaii Revised Statutes, is amended to read:

“Sec. 662-5 Jury. Any action against the State under this chapter shall be tried by the court without a jury; provided however, that the court, with the consent of all the parties, may order a trial with a jury whose verdict shall have the same effect as if trial by jury had been a matter of right.”

SECTION 3. Section 662-9, Hawaii Revised Statutes, is amended to read:

“**Sec. 662-9 Costs.** In an action under this chapter, court costs and fees as set by law may be allowed to the prevailing party.”

SECTION 4. Section 662-12, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 662-12 Attorney’s fees.** The court rendering a judgment for the plaintiff pursuant to this chapter or the attorney general making a disposition pursuant to section 662-11 may, as a part of such judgment, award, or settlement, determine and allow reasonable attorney’s fees which shall not, however, exceed twenty-five per cent of the amount recovered and shall be payable out of the judgment awarded to the plaintiff; provided that such limitation shall not include attorney’s fees and costs that the court may award the plaintiff as a matter of its sanctions.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. *

SECTION 6. This Act shall take effect upon approval, and shall apply to all civil actions commenced after its effective date.

(Approved June 1, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.