

**ACT 155**

S.B. NO. 592

**A Bill for an Act Relating to Limiting Commercial Exploitation of Crime.**

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

**SECTION 1.** Chapter 351, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

**“PART VI. LIMITING COMMERCIAL EXPLOITATION OF CRIME**

**§351-81 Deposit of copy of contract upon indictment or charge of criminal offense.** Every person, firm, corporation, partnership, association, or other legal entity upon entering into a contract with any person indicted or charged with a criminal offense committed in this State or a representative or assignee of any such person, shall submit a copy of the contract to the commission if:

- (1) The contract provides for monetary compensation payable to the person indicted or charged or payable at the person’s direction; and
- (2) The subject matter of the contract is the reenactment of the crime, or the expression of the thoughts, feelings, opinions, or emotions of the person about the criminal offense for which the person is indicted or charged which is to be reflected in a movie, book, article, radio or television program, or other form of communication.

**§351-82 Effect of conviction upon contract; deposit of monetary compensation with the criminal injuries compensation commission.** If the person indicted or charged is subsequently convicted, the person, firm, corporation, partnership, association, or other legal entity which entered into a contract of the type identified in section 351-81 shall:

- (1) Deposit fifty per cent of the monetary compensation paid under such contract into a collection account established by the commission pursuant to section 351-83 and deposit the other fifty per cent of such monetary compensation in a special account established by the commission pursuant to section 351-84 if a timely appeal from the conviction is filed and the contract provides that monetary compensation is payable to the convicted person; or
- (2) Deposit all monetary compensation paid under such contract with the commission to a special account established pursuant to section 351-84, if a timely appeal from the conviction is:
  - (A) Filed and the contract provides that the monetary compensation is payable to a person other than the convicted person;
  - (B) Filed, the conviction is affirmed on appeal, and no further appellate action is allowed; or
  - (C) Not filed.

**§351-83 Collection account, creation, disbursements.** Monetary compensation received by the commission pursuant to section 351-82(1) shall be deposited into a collection account established by the commission. The moneys deposited into the collection account including interest earned shall be used exclusively to pay the expenses of legal representation incurred by the convicted person in prosecuting an appeal of the conviction. Upon the presentation of a verified statement of attorney’s fees and expenses, the commission shall pay such attorney’s fees and expenses reasonably and necessarily incurred in prosecuting the appeal.

If the monetary compensation deposited into the collection account pursuant to section 351-82(1) is not sufficient to prosecute the convicted person’s appeal, or if the convicted person seeks other judicial relief in order to void the conviction or to obtain release from incarceration, then the convicted person may obtain a court order compelling the commission either to pay the sum necessary for adequate legal representation out of the funds deposited in the special account pursuant to section 351-82(2) or to deposit into the collection

account a percentage greater than fifty per cent of the monetary compensation payable to the convicted person.

**§351-84 Special account, creation, disbursements.** (a) Monetary compensation received by the commission pursuant to section 351-82(2) shall be deposited into a special account established by the commission. The moneys deposited into the special account including interest earned shall be retained or disbursed by the commission pursuant to this section.

(b) Moneys deposited into the special account shall be used first as provided in section 351-83, if necessary, and then to reimburse the criminal injuries compensation fund for payments made pursuant to this chapter for the crime committed by the convicted person.

(c) Moneys remaining after disbursement under subsection (b) shall be disbursed to a judgment creditor, for the purpose of satisfying a judgment, moneys from the special account if:

- (1) The judgment creditor is a victim, a victim's representative, or other person specified in section 351-31, or a person who is not specified in section 351-31 but is the victim of a crime subject to this part;
- (2) The judgment is for the damages arising out of the criminal act of the convicted person;
- (3) A certified copy of the judgment is presented to the commission; and
- (4) There is no order staying the judgment or enjoining disbursement.

Judgment creditors shall be paid out of the special account in the order in which certified copies of the judgments are presented to the commission.

**§351-85 Collection, special accounts to be interest bearing.** All moneys deposited into the collection account or special account under this part shall be deposited into federally-insured interest-bearing accounts.

**§351-86 Money deposited not subject to execution, levy, attachment, or lien.** All moneys received by the commission pursuant to this part shall not be subject to execution, levy, attachment, or lien of any kind.

**§351-87 Lien in favor of State.** The failure of any person, firm, corporation, partnership, association, or legal entity to pay moneys over to the commission in accordance with this part shall create a debt owing to the commission from that person, firm, corporation, partnership, association, or legal entity and shall constitute a preferential lien in favor of the State which may be collected by the commission by civil process.

**§351-87<sup>1</sup> Part not applicable; return of moneys held.** This part shall not apply and shall have no effect where:

- (1) The conviction is reversed or overturned; or
- (2) The applicable statute of limitations for a civil action which may be filed by a victim, a victim's representative, or a person specified in section 351-31 relating to the criminal act committed by the convicted person has expired, and there are no such civil actions pending and ten years have elapsed since the date of the last judgment obtained by a victim, a victim's representative, or a person specified in section 351-31.

Under the circumstances set forth in paragraph (1) or (2), all moneys held by the commission in a collection account or special account, including interest, shall be disbursed to the convicted person or any other person legally entitled to receive the disbursement."

**ACT 155**

SECTION 2. Section 831-3, Hawaii Revised Statutes, is amended to read as follows:

“**§831-3 Rights retained by convicted person.** Except as otherwise provided by this chapter[,] and chapter 351, part VI, a person convicted of a crime does not suffer civil death or corruption of blood or sustain loss of civil rights or forfeiture of estate or property, but retains all of his rights, political, personal, civil, and otherwise, including the right to hold public office or employment, to vote, to hold, receive, and transfer property, to enter into contracts, to sue and be sued, and to hold offices of private trust in accordance with law.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

**Note**

1. So in original.