

ACT 111

H.B. NO. 989

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

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

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and entities, for claims against the State or its officers or employees for overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
Abalos v. State of Hawaii, et al. Civil No. 96-0282, Fifth Circuit	\$ 44,707.70 Settlement
Akiba, DLIR v. Schuman Carriage Buick-Cadillac-Subaru, Inc., Civil No. IRC97-5743, District Court	\$ 5,287.82 Judgment
Amount of Judgment:	\$ 5,067.82
Interest at 4% from 7/20/98:	\$ 220.00
Bueno v. Matsumoto, et al. Civil No. 94-0019, Fifth Circuit	\$ 45,000.00 Settlement
Burns-Vidlak, et al. v. Chandler, et al. Civil No. 95-00892 BMK, U.S.D.C.	\$ 20,704.31 Judgment
Casteel v. State of Hawaii Civil No. 96-0091(2), Second Circuit	\$ 240,000.00 Settlement
Coveyou v. State of Hawaii, et al. Civil No. 96-0870-03, First Circuit	\$ 115,861.00 Settlement
Amount of Settlement:	\$110,000.00
Interest at 4% from 4/1/98:	\$ 5,861.00
Cunningham v. State of Hawaii, et al. Civil No. 96-3816-09, First Circuit	\$ 200,000.00 Settlement
DesMarais v. Lau, et al. Civil No. 93-2040-05, First Circuit	\$ 15,000.00 Settlement
Doe v. Sumner, et al. Civil No. 94-2886-08, First circuit	\$ 15,000.00 Settlement
Echiberi v. State of Hawaii Civil No. 97-1800-05, First Circuit	\$ 24,000.00 Settlement
Edwards v. State of Hawaii Civil No. 96-01198 DAE, USDC	\$ 84,320.00 Settlement
Environment Hawaii, et al. v. Wilson, et al. Civil No. 97-2404-06, First Circuit	\$ 37,354.64 Judgment
Freitas v. State of Hawaii Civil No. 97-4242-10, First Circuit	\$ 125,000.00 Settlement

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
Gonsalves v. State of Hawaii, et al. Civil No. 98-0485(1), Second Circuit	\$ 16,000.00 Settlement
Jordan v. State of Hawaii Civil No. 96-0304, Fifth Circuit	\$ 20,000.00 Settlement
Kautz v. University of Hawaii, et al. Civil No. 98-1478-03, First Circuit and Civil No. 96-01012, USDC	\$ 50,000.00 Settlement
King v. State of Hawaii Civil No. 93-2919-07, First Circuit	\$ 20,000.00 Settlement
Lee v. Su, et al. Civil No. 97-2272-06, First Circuit	\$ 115,000.00 Settlement
Matias v. Giacobetti, et al. Civil No. 98-0218-01, First Circuit	\$ 25,000.00 Settlement
Matsushima v. State of Hawaii Civil No. 97-4997-12, First Circuit	\$ 16,000.00 Settlement
Miles v. State, et al. Civil No. 96-4238-10, First Circuit	\$ 20,000.00 Settlement
Morales v. State of Hawaii, et al. Civil No. 96-3401-08, First Circuit	\$ 15,000.00 Settlement
Napeahi v. Wilson, et al. Civil No. 85-9523 DAE, U.S.D.C.	\$ 203,500.00 Settlement
Amount of Settlement:	\$185,000.00
Interest at 10%:	\$ 18,500.00
Nobriga v. Department of Public Safety, et al. Civil No. 97-3733-09, First Circuit	\$ 14,229.33 Settlement
O'Donnell v. The University of Hawaii, et al. Civil No. 93-3019-08, First Circuit	\$ 27,000.00 Settlement
Ome v. State of Hawaii Civil No. 97-3464-08, First Circuit	\$ 175,000.00 Settlement
Pangilinan v. State Civil No. 96-4956-12, First Circuit	\$ 20,000.00 Settlement
Perez v. State Civil No. 93-0611-02, First Circuit	\$ 35,000.00 Settlement
Piko v. State of Hawaii, et al. Civil No. 96-1927-05, First Circuit	\$ 120,000.00 Settlement
Prevost v. State of Hawaii Civil No. 97-2227-05, First Circuit	\$ 63,115.78 Judgment
Amount of Judgment:	\$ 60,400.78
Interest at 4% from 6/17/98:	\$ 2,715.00
Quiaoit v. State of Hawaii Civil No. 94-3714-09, First Circuit	\$ 306,693.95 Judgment
Amount of Judgment:	\$303,373.17
Interest at 4% from 7/11/97:	\$ 5,219.97
Saunders, et al. v. Knudsen, et al. Civil No. 97-01038DAE, USDC	\$ 80,000.00 Settlement

JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:

Shannon, et al. v. State of Hawaii, et al.  
Civil No. 98-00228 HG, USDC

AMOUNT

\$ 430,000.00  
Settlement

Claimant #1: \$71,666.66  
Claimant #2: \$71,666.66  
Claimant #3: \$71,666.66  
Claimant #4: \$71,666.66  
Claimant #5: \$71,666.66  
Claimant #6: \$71,666.66

Silva v. State of Hawaii, et al.  
Civil No. 93-3361-08, First Circuit

\$ 26,310.00  
Settlement

Amount of Settlement:

\$ 25,000.00

Interest at 4% from 4/1/98:

\$ 1,310.00

Singleton v. State of Hawaii, et al.  
Civil No. 97-0091K, Third Circuit

\$ 160,000.00  
Settlement

Trendler v. State of Hawaii, et al.  
Civil No. 95-0924(3), Second Circuit

\$2,000,000.00  
Settlement

Trim v. Adams, et al.  
Civil No. 95-4339-11, First Circuit

\$ 95,000.00  
Settlement

Victorino v. State of Hawaii, et al.  
Civil No. 96-0635(1), Second Circuit

\$ 16,666.66  
Settlement

Weldon v. Murray, et al.  
Civil No. 96-4062-10, First Circuit

\$ 50,000.00  
Settlement

Witsell v. State of Hawaii  
Civil No. 96-0401-01, First Circuit

\$ 25,000.00  
Settlement

Claim of C. Brewer Homes, Inc.

\$ 800,000.00  
Settlement

MISCELLANEOUS CLAIMS:

Carlos Angora  
Richard K. Blaisdell  
Gem of Hawaii, Inc.  
Kepuhi Partnership  
Henry Marion  
Harold Masumoto  
Leora Murakami  
SMS Research and Marketing  
Ethel Tomoguchi  
Daniel C. Malakie  
Evon K. Kaawa  
Shirley L. Wong  
Steven S. Yamaki  
Jo Ann Loa  
Leighton Y.H. and Valerie Ah Cook  
Alison Johns  
Estate of Yaeko Fasone  
Lydia T. Auyong  
Jody K. Uchida  
David G. Yukimura  
Daniel and Carol Eckstein

\$ 5,385.68  
\$ 597.60  
\$ 805.96  
\$ 1,042.28  
\$ 858.04  
\$ 269,792.50  
\$ 379.00  
\$ 3,950.00  
\$ 908.41  
\$ 640.76  
\$ 87.66  
\$ 107.40  
\$ 91.47  
\$ 171.60  
\$ 334.00  
\$ 200.00  
\$ 258.00  
\$ 167.40  
\$ 107.46  
\$ 1,121.80  
\$ 2,179.97

SECTION 2. The sums hereinabove appropriated may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon warrants or checks issued by the comptroller of the State:

- (1) Upon vouchers approved by the director of taxation as to claims for refunds of taxes; and
- (2) Upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which that statute applies.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by sections 1 and 2 of this Act as of the close of business on June 30, 2000, shall lapse into the fund from which appropriated.

SECTION 5. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

“§ - **Claims against the State; report to the legislature.** (a) The attorney general shall develop and implement a procedure, no later than October 1, 1999, for advising its client agencies on how to avoid future claims, by requesting client agencies to take corrective action to eliminate or mitigate those factors identified by the attorney general as contributing to the State's negligence. Based upon this advice, the client agencies shall develop new policies or modify existing practices to avoid repetition of similar claims.

(b) The attorney general shall submit a report to the speaker of the house of representatives, the president of the senate, and the chairs of the house and senate judiciary committees no later than twenty days prior to the convening of each regular legislative session describing the claims and the attendant circumstances therein and containing the advice for corrective action rendered to the agency. The report shall also contain the remedial measures which the Attorney General shall take or recommended that the Legislature take if an agency fails to take corrective action within a reasonable period of time. The report shall be deemed a confidential and privileged communication to the legislature and shall not be disclosed pursuant to sections 92F-13 and 92F-19(b).”

SECTION 6. Section 37-77, Hawaii Revised Statutes, is amended to read as follows:

“**§37-77 Claims for legislative relief.** All claims for refunds, reimbursements, or other payments, authorization for which is sought from the legislature, shall, as a condition to their being considered by the legislature, be filed with the attorney general together with all data and documents in support thereof[.] within six years from the date on which the claim for payment matured. In the absence of a showing of sufficient reason therefor, failure to comply with this paragraph shall be deemed sufficient cause for refusal of the legislature to consider the claims.

The attorney general shall, immediately upon receipt thereof, refer any claim and data so received by the attorney general to the agency concerned or the comptroller, and the agency to which the reference is made or the comptroller shall immediately investigate the claim, secure all available data and documents bearing thereon, and refer the same back to the attorney general with its recommendations

thereon. The attorney general shall review the claim and make a recommendation as to the disposition of the claim.

The attorney general shall, within five days after the opening of the session, transmit to the legislature the claims which are then recommended for approval in an appropriate legislative bill form, together with an explanation for each claim. Additional recommendations for approval may be transmitted later in the session. All claims for which there is a recommendation of denial shall also be reported to the legislature with an explanation. The data and documents submitted by claimants shall be available for inspection by the legislature.”

SECTION 7. The attorney general shall consult with the governor prior to entering into any settlement agreement for awards exceeding \$75,000 that are subject to legislative approval.

SECTION 8. If any provision of this Act, or the application thereof to any person or entity or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 1999.

(Approved June 25, 1999.)

**Note**

1. Edited pursuant to HRS §236-16.5.