

## ACT 116

S.B. NO. 2682

A Bill for an Act Making Appropriations for Claims Against the State, its Officers, or its Employees.

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

## PART I

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. The following sums or so much thereof as may be necessary for fiscal year 2001-2002 are appropriated out of the general revenues of the State of Hawaii to the department of the attorney general 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 the overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

<b>JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:</b>	<b>AMOUNT</b>
<b>1. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:</b>	
Certified Storage, Inc. dba West Waipahu Center v. State of Hawaii Civil No. 98-3953-09, First Circuit	\$ 900,000.00 Settlement
Cox, et al. v. Aloha Stadium Authority, et al., Civil No. 00-00118, USDC	\$ 51,000.00 Settlement
Lista v. State of Hawaii, et al. Civil No. 00-1-3082-10, First Circuit	\$ 22,042.18 Judgment
Amount of Judgment:	\$21,767.18
4% interest from 3/22/02:	\$ 275.00
<b>SUBTOTAL:</b>	<b>\$ 973,042.18</b>
<b>2. DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, &amp; TOURISM:</b>	
National Lawyers Guild, et al. v. City and County of Honolulu Civil No. 01-00263 DAE-LEK, USDC	\$ 43,784.00 Settlement

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**

**AMOUNT**

Suntera v. Quinn, et al. Civil No. 96-3580-08, First Circuit	\$ 75,000.00
	<u>Settlement</u>
SUBTOTAL:	\$ 118,784.00
 3. DEPARTMENT OF EDUCATION:	
Doe, et al. v. State of Hawaii, et al. Civil No. 00-1-2430SSM, First Circuit	\$ 125,000.00
	Settlement
Macy, et al. v. State of Hawaii, et al. Civil No. 94-1026-03, First Circuit	\$ 75,000.00
	Settlement
Manaole v. State of Hawaii, et al. Civil No. 00-00393 SOM/LEK, USDC	\$ 25,000.00
	Settlement
Shimizu v. State of Hawaii, et al. Civil No. 99-3554-01, First Circuit	\$ 30,000.00
	Settlement
Small v. State of Hawaii, et al. Civil No. 99-4671-12(VLC), First Circuit	\$ 45,000.00
	Settlement
Watanabe v. State of Hawaii, et al. Civil No. 00-1-0003, Fifth Circuit	\$ 20,064.95
	Judgment
Amount of judgment:	\$19,520.95
4% interest from 11/20/01:	\$ 544.00
SUBTOTAL:	<u>\$ 320,064.95</u>
 4. DEPARTMENT OF HEALTH:	
Roes I, II and III v. State of Hawaii, et al., Civil Nos. 99-00079, 99-00308 and 99-00309, USDC	\$ 143,000.00
	Settlement
SUBTOTAL:	<u>\$ 143,000.00</u>
 5. DEPARTMENT OF HUMAN SERVICES:	
Gelbish, et al. v. Reeber, et al. Civil No. 97-0665-02, First Circuit	\$ 50,000.00
	Settlement
Kihara, et al. v. Chandler Civil No. 00-1-2847-09SSM, First Circuit	\$ 1,683,541.44
	Settlement
SUBTOTAL:	<u>\$ 1,733,541.44</u>
 6. DEPARTMENT OF LAND AND NATU- RAL RESOURCES:	
Bank of New York v. Converse, et al. Civil No. 00-1-0607-02, First Circuit	\$ 70,000.00
	Settlement
Kepa, et al. v. Okada Trucking Co., et al. Civil No. 00-1-1437-05, First Circuit	\$ 20,000.00
	Settlement
Ludlow v. County of Maui, et al. Civil No. 99-0662-1, Second Circuit	\$ 65,361.50
	Judgment
Amount of Judgment:	\$64,062.50
4% interest from 1/28/02:	\$ 1,299.00
Mitchell v. State of Hawaii, et al. Civil No. 99-217K, Third Circuit	\$ 36,720.48
	Judgment
	No interest

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:****AMOUNT**

Kaahumanu, et al. v. State of Hawaii, et al., Civil No. 00-00758 DAE, USDC	\$	30,239.52	Settlement
Amount of settlement:		\$29,200.00	
3.56% interest from 8/8/01:		\$ 1,039.52	
O'Connor, et al. v. County of Maui, et al. Civil No. 94-0544, Second Circuit	\$	75,000.00	Settlement
Rode v. State of Hawaii, et al. Civil No. 00-1-0313(3), Second Circuit	\$	28,948.00	Judgment
Amount of Judgment:		\$27,776.00	
4% interest from 7/12/01:		\$ 1,172.00	
<b>SUBTOTAL:</b>	\$	<u>326,269.50</u>	
<b>7. DEPARTMENT OF PUBLIC SAFETY:</b>			
Akau v. State of Hawaii Civil No. 99-3238-08, First Circuit	\$	15,000.00	Settlement
Barona v. State of Hawaii Civil No. 01-1-0044-01, First Circuit	\$	42,500.00	Settlement
Gomes v. State of Hawaii, et al. Civil No. 00-1-1048-03, First Circuit	\$	32,500.00	Settlement
Kalamau v. State of Hawaii Civil No.00-1-0496, Third Circuit	\$	27,436.00	Judgment
Amount of Judgment:		\$26,000.00	
4% interest from 3/1/02:		\$ 436.00	
Costs:		\$ 1,000.00	
Lawrence v. Akana, et al. Civil No. 01-00299SOM-LEK, USDC	\$	10,000.00	Settlement
Laybon, et al. v. Smythe, et al. Civil No. 96-0660 DAE/BMK, USDC	\$	60,000.00	Settlement
Miguel v. State of Hawaii Civil No. 99-0801-02, First Circuit	\$	13,500.00	Settlement
Naki v. State of Hawaii Civil No. 99-3344-09, First Circuit	\$	75,000.00	Settlement
Pahk v. State of Hawaii, et al. Civil No. 99-00849 SOM-LEK, USDC	\$	40,000.00	Settlement
Preston v. State of Hawaii Civil No. 99-2000-05, First Circuit	\$	75,000.00	Settlement
<b>SUBTOTAL:</b>	\$	<u>390,936.00</u>	
<b>8. OFFICE OF THE GOVERNOR:</b>			
Rice v. Cayetano Civil No. 96-00390 DAE, USDC	\$	166,416.64	Judgment
Amount of Judgment:		\$151,010.68	
6.052% interest from 12/8/00:		\$ 15,405.96	
<b>SUBTOTAL:</b>	\$	<u>166,416.64</u>	
<b>9. MISCELLANEOUS CLAIMS:</b>			
Stephanie A. Cadelinia	\$	152.00	
Meka Eastman	\$	3,500.00	

<b>JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:</b>	<b>AMOUNT</b>
Sau Hing L. Goo	\$ 127.50
Amy E.T. Kobayashi	\$ 138.30
Demas Medeiros	\$ 166.00
Wilma Oskendahl	\$ 97.00
Debra Y.H. Pang	\$ 497.37
Rochelle Ugale Uganiza	\$ 332.00
SUBTOTAL:	\$ 5,010.17
TOTAL (SECTION 2):	\$ 4,177,064.88

The sums appropriated shall be expended by the department of the attorney general for the purposes of this Act; provided that of the general fund appropriation for Mitchell v. State of Hawaii, Civil No. 99-217K, Third Circuit, the sum of \$36,720.48 shall be deposited to the credit of the state harbors fund.

SECTION 3. The following sums, or so much thereof as may be necessary for fiscal year 2001-2002, are appropriated out of the state highway fund for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**

**DEPARTMENT OF TRANSPORTATION,  
HIGHWAYS DIVISION:**

Carvalho v. State of Hawaii Civil No. 00-1-0475, Third Circuit	\$ 75,000.00 Settlement
DeSilva v. State of Hawaii Civil No. 97-0303(3), Second Circuit	\$ 12,754.59 Judgment No interest
Higuchi v. State of Hawaii Civil No. 00-1-3644-11, First Circuit	\$ 35,000.00 Settlement
Hurr v. State of Hawaii Civil No. 01-1-1058-04, First Circuit	\$ 20,000.00 Settlement
Kramer v. Ellett, et al. Civil No. 97-256, Third Circuit	\$ 26,132.32 Judgment
Interest Included	
Le, et al. Yasuda, et al. Civil No. 00-1-2813-09, First Circuit	\$ 200,000.00 Settlement
Lopez-Quezada, et al. v. State of Hawaii Civil No. 96-0991(2), Second Circuit	\$ 35,000.00 Settlement
Rim v. State of Hawaii Civil No. 95-4350-11, First Circuit	\$ 125,000.00 Settlement
Ross v. State of Hawaii, et al. Civil No. 00-1-0087, Fifth Circuit	\$ 20,000.00 Settlement
Lauifi v. State of Hawaii Civil No. 00-01-0350(2), Second Circuit	\$ 65,000.00 Settlement

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**

Struba v. Olayan, et al.	\$ 65,000.00
Civil No. 00-1-2062-06SSM, First Circuit	Settlement
<b>TOTAL (SECTION 3):</b>	<u>\$ 678,886.91</u>

The sums appropriated shall be expended by the department of transportation for purposes of this Act.

SECTION 4. The following sum, or so much thereof as may be necessary for fiscal year 2001-2002, are appropriated out of the state harbor fund for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**

DEPARTMENT OF TRANSPORTATION,  
HARBORS DIVISION:

Fernandez, et al. v. State of Hawaii	\$ 75,000.00
Civil No. 99-2522-07, First Circuit	Settlement
<b>TOTAL (SECTION 4):</b>	<u>\$ 75,000.00</u>

The sum appropriated shall be expended by the department of transportation for purposes of this Act.

SECTION 5. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the department of land and natural resources or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**

DEPARTMENT OF LAND AND NATURAL  
RESOURCES:

Kelly, et al. v. 1250 Oceanside Partners, et al., Civil No. 00-1-192K, Third Circuit	\$ 15,000.00
	Settlement
<b>SUBTOTAL:</b>	<u>\$ 15,000.00</u>
<b>TOTAL (SECTION 5):</b>	\$ 15,000.00

Provided that of the legislative appropriation for the department of land and natural resources for fiscal year 2002-2003 in section 3 of Act 259, Session Laws of Hawaii 2001, as amended by Act 3, Third Special Session Laws of Hawaii 2001, and as further amended by H.B. No. 1800 (the Supplemental Appropriations Act of 2002), the general fund sum of \$7,500.00 from the Historic Preservation Program (LNR 802), and the special fund sum of \$7,500.00 from the Na Ala Hele program special fund (LNR 804), shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 6. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the department of accounting and general services or its

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officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**

**DEPARTMENT OF ACCOUNTING AND  
GENERAL SERVICES:**

Kobayashi, et al. v. State of Hawaii, et al. Civil No. 00-1-2816-09, First Circuit	\$ 8,000.00 <u>Settlement</u>
SUBTOTAL:	<u>\$ 8,000.00</u>
TOTAL (SECTION 6):	\$ 8,000.00

Provided that of the legislative appropriation for the department of accounting and general services for fiscal year 2001-2002 in section 3 of Act 259, Session Laws of Hawaii 2001, as amended by Act 3, Third Special Session Laws of Hawaii 2001, and as further amended by H.B. No. 1800 (the Supplemental Appropriations Act of 2002), the general fund sum of \$8,000.00 shall be expended from the Construction Program (AGS 221) by the department of accounting and general services for the purposes of this Act.

SECTION 7. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the department of education or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**

**DEPARTMENT OF EDUCATION:**

Kobayashi, et al. v. State of Hawaii, et al. Civil No. 00-1-2816-09, First Circuit	\$ 8,000.00 <u>Settlement</u>
SUBTOTAL:	<u>\$ 8,000.00</u>
TOTAL (SECTION 7):	\$ 8,000.00

Provided that of the legislative appropriation for the department of education for fiscal year 2001-2002 in section 3 of Act 259, Session Laws of Hawaii 2001, as amended by Act 3, Third Special Session Laws of Hawaii 2001, and as further amended by H.B. No. 1800 (the Supplemental Appropriations Act of 2002), the general fund sum of \$8,000.00 shall be expended from the School Based Budgeting Program (EDN 100) by the department of education for the purposes of this Act.

SECTION 8. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the department of public safety or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**

**DEPARTMENT OF PUBLIC SAFETY:**

Hernandez v. State of Hawaii, et al.	\$ 17,500.00
Civil No. 01-1-1733-06(SSM), First Circuit	<u>Settlement</u>
SUBTOTAL:	\$ 17,500.00
TOTAL (SECTION 8):	\$ 17,500.00

Provided that of the legislative appropriation for the department of public safety for fiscal year 2001-2002 in section 3 of Act 259, Session Laws of Hawaii 2001, as amended by Act 3, Third Special Session Laws of Hawaii 2001, and as further amended by H.B. No. 1800 (the Supplemental Appropriations Act of 2002), the general fund sum of \$17,500.00 shall be expended from the Health Care Division Program (PSD 421) by the department of public safety for the purposes of this Act.

SECTION 9. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the department of land and natural resources or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**

**DEPARTMENT OF LAND AND NATURAL  
RESOURCES:**

Hawaii Electric Light Company, Inc. v.	\$ 17,622.07
Department of Land and Natural Resources,	<u>Judgment</u>
et al., Civil No. 96-131K, Third Circuit	No Interest
SUBTOTAL:	\$ 17,622.07
TOTAL (SECTION 9):	\$ 17,622.07

Provided that of the legislative appropriation for the department of land and natural resources for fiscal year 2001-2002 in section 3 of Act 259, Session Laws of Hawaii 2001, as amended by Act 3, Third Special Session Laws of Hawaii 2001, and as further amended by H.B. No. 1800 (the Supplemental Appropriations Act of 2002), the special fund sum of \$17,622.07 shall be expended from the Special Land and Development Fund special fund in LNR 101, by the department of land and natural resources for the purposes of this Act.

SECTION 10. The sums hereinabove may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon checks issued by the comptroller; provided departments must obtain the approval of the attorney general before payment of any claim can be made.

SECTION 11. Notwithstanding the sums hereinabove stated 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 part, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which their statute applies.

PART II

SECTION 12. The legislature finds and declares that the following claims for legislative relief recommended for approval as to the following named person for claims against the State or the University of Hawaii or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

**JUDGMENTS AGAINST THE UNIVERSITY OF HAWAII AND SETTLEMENTS OF CLAIMS:**

Hoshijo, et al. v. State of Hawaii, et al. FEP No. 8743; EEOC 37B-98-0075	\$ 25,000.00 Settlement
Silva v. University of Hawaii, et al. Civil No. 99-00636, SPK/BMK, USDC	\$ 138,162.50 Settlement
SUBTOTAL:	<u>\$ 163,162.50</u>
TOTAL (SECTION 12):	\$ 163,162.50

Provided that of the legislative appropriation for the University of Hawaii for fiscal year 2002-2003 in section 3 of Act 259, Session Laws of Hawaii 2001, as amended by Act 3, Third Special Session Laws of Hawaii 2001, and as further amended by H.B. No. 1800 (the Supplemental Appropriations Act of 2002), the following special fund sum of \$163,162.50 shall be expended from the University of Hawaii tuition and fees special fund by the University of Hawaii for purposes of this Act.

SECTION 13. Notwithstanding the sums hereinabove, if any, stated as interest upon judgments against the University of Hawaii, 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 part, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which that statute applies.

PART III

SECTION 14. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2003, shall lapse.

SECTION 15. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not effect 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 16. This Act shall take effect upon its approval; provided that part II of this Act shall take effect on July 1, 2002.

(Approved May 31, 2002.)