

ACT 58

H.B. NO. 1111

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. The following sums or so much thereof as may be necessary for fiscal year 2002-2003 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 amounts 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>	
Event Partners in Concession Services, et al. v. State of Hawaii, et al., Civil No. 00-1-2077-07, First Circuit	\$ 185,000.00 Settlement
Hi-Tec Roofing Services, Inc. v. State of Hawaii, et al., PCH-2002-1, DCCA	\$ 119,298.41 Judgment
L.T.M. Corp. dba Civil Mechanical v. State of Hawaii, Civil No. 01-1-2159-07, First Circuit	\$ 27,500.00 Settlement
<b>SUBTOTAL:</b>	<hr/> \$ 331,798.41
<b>2. DEPARTMENT OF AGRICULTURE:</b>	
Thomas v. Nakatani Civil No. 00-00125 ACK/KSC, USDC	\$ 150,000.00 Settlement
<b>SUBTOTAL:</b>	<hr/> \$ 150,000.00
<b>3. DEPARTMENT OF EDUCATION:</b>	
Doe Parents v. Norton, et al. Civil No. 96-4906-11, First Circuit	\$1,790,242.47 Judgment
Amount of judgment: \$1,757,500.00	
4% interest from 2/12/03: \$ 32,742.47	
Halpenny v. State of Hawaii, et al. Civil No. 97-1941, First Circuit	\$ 150,000.00 Settlement

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

**AMOUNT**

Ibarra, et al. v. State of Hawaii, et al. Civil No. 01-1-0055K, Third Circuit	\$ 40,000.00 Settlement
Kane v. State of Hawaii, et al. Civil No. 98-2226-05, First Circuit	\$ 37,500.00 Settlement
Mother Doe I, et al. v. State of Hawaii, et al. Civil No. 01-1-1101-04, First Circuit	\$ 40,000.00 Settlement
Rahsaan v. State of Hawaii, et al. Civil No. 00-00795 HG/LEK, USDC	\$ 425,000.00 Settlement
Washino v. Ventura, et al. Civil No. 01-1-2570-08, First Circuit	\$ 12,500.00 Settlement
<b>SUBTOTAL:</b>	<u>\$2,495,242.47</u>
<b>4. OFFICE OF THE GOVERNOR:</b>	
Arakaki v. State of Hawaii Civil No. 00-00514, USDC Amount of judgment: \$53,733.64 2.53% interest from 4/18/02: \$ 1,760.44	\$ 55,494.08 Judgment
Arakaki v. State of Hawaii Civil No. 00-00514, USDC	\$ 104,000.00 Settlement
UPW v. Yogi Hawaii S.C. No. 23705 Amount of judgment: \$ 498.16 10% interest from 1/30/03: \$ 24.98	\$ 523.14 Judgment
<b>SUBTOTAL:</b>	<u>\$ 160,017.22</u>
<b>5. DEPARTMENT OF HUMAN SERVICES:</b>	
Burns-Vidlak and Sterling Cases (Class Actions)	\$7,000,000.00 Settlement
<b>SUBTOTAL:</b>	<u>\$7,000,000.00</u>
<b>6. DEPARTMENT OF LAND AND NATURAL RESOURCES:</b>	
Atahan v. County of Maui, et al. Civil No. 95-0160(1), Second Circuit	\$ 75,000.00 Settlement
Captain Andy's Sailing, Inc. v. Johns, et al. Civil No. 00-00051, USDC	\$ 242,854.60 Judgment
<b>SUBTOTAL:</b>	<u>\$ 317,854.60</u>
<b>7. OFFICE OF THE LIEUTENANT GOVERNOR:</b>	
Smith v. State of Hawaii, Campaign Spending Commission, et al. Civil No. 02-00068HG/BMK, USDC	\$ 63,042.58 Settlement
Smith v. State of Hawaii, Campaign Spending Commission, et al. Civil No. 02-00068HG/BMK, USDC	\$ 31,786.31 Judgment

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

Smith v. State of Hawaii, Campaign Spending Commission, et al. Civil No. 02-00068HG/BMK, USDC	\$ 14,079.56 Judgment
SUBTOTAL:	<u>\$ 108,908.45</u>
<b>8. DEPARTMENT OF PUBLIC SAFETY:</b>	
Aguinaldo v. Hoge, et al. Civil No. 01-1-0681-02, First Circuit	\$ 75,000.00 Settlement
Allen v. Iranon Civil No. 97-00175ACK, USDC	\$ 78,182.68 Judgment
Clark, et al. v. State of Hawaii, et al. Civil No. 99-00885DAE/BMK, USDC (Class Action)	\$1,053,195.62 Settlement
desMarets v. State of Hawaii, et al. Civil No. 97-3978-09, First Circuit	\$ 175,000.00 Settlement
Evans, et al. v. State of Hawaii, et al. Civil No. 97-1908-05, First Circuit	\$ 1,990,000.00 Settlement
Morrison v. State of Hawaii, et al. Civil No. 01-1-2248-07, First Circuit	\$ 70,000.00 Settlement
Serrao v. State of Hawaii Civil No. 01-1-0471, Third Circuit	\$ 50,000.00 Settlement
SUBTOTAL:	<u>\$ 3,491,378.30</u>
<b>9. MISCELLANEOUS CLAIMS:</b>	
Arylla Chong	\$ 575.00
Ronnie Goda-George	\$ 430.00
Charles Ramos	\$ 457.00
Masaaki Soneda	\$ 1,849.00
SUBTOTAL:	<u>\$ 3,311.00</u>
TOTAL (SECTION 1):	\$14,058,510.45

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

**PART II**

SECTION 2. The following sums, or so much thereof as may be necessary for fiscal year 2002-2003, 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 payments 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:**

Allstate v. State of Hawaii, et al. Civil No. 99-0648(3), Second Circuit	\$ 250,000.00 Settlement
Delos Reyes, et al. v. State of Hawaii Civil No. 02-1-0819-04, First Circuit	\$1,500,000.00 Settlement
Eveleth v. State of Hawaii, et al. Civil No. 01-1-0157, Third Circuit	\$ 15,000.00 Settlement
Hashimoto, et al. v. State of Hawaii, Civil No. 01-1-0110-01, F irst Circuit	\$ 250,000.00 Settlement
Island Insurance Co. v. Department of Transportation, et al., Civil No. 02-1-0156-01, First Circuit	\$ 19,000.00 Settlement
Querubin v. State of Hawaii Civil No. 99-498, Third Circuit	\$ 30,000.00 Settlement
San Nicholas, et al. v. State of Hawaii, Civil No. 01-1-0111-01, First Circuit	\$ 350,000.00 Settlement
<b>SUBTOTAL:</b>	<u>\$2,414,000.00</u>
<b>TOTAL (SECTION 2):</b>	<u>\$2,414,000.00</u>

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

**SECTION 3.** 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 health 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 HEALTH:**

Aguinaldo v. State of Hawaii, et al. Civil No. 00-1-0278(2), Second Circuit	\$ 20,000.00 Settlement
<b>SUBTOTAL:</b>	<u>\$ 20,000.00</u>
<b>TOTAL (SECTION 3):</b>	<u>\$ 20,000.00</u>

Provided that of the legislative appropriation for the department of health 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, as further amended by Act 177, Session Laws of Hawaii 2002, the general fund sum of \$20,000.00 from the Developmental Disabilities program (HTH 501) shall be expended by the department of health for the purposes of this Act.

**SECTION 4.** 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:**

Maalaea Slip 69, Inc. dba	\$ 4,133.25
Rascal Charters v. Department of Land and Natural Resources, Civil No. 01-1-0421(1), Second Circuit	Judgment
SUBTOTAL:	<u>\$ 4,133.25</u>
TOTAL (SECTION 4):	\$ 4,133.25

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, as further amended by Act 177, Session Laws of Hawaii 2002, the special fund sum of \$4,133.25 from the Ocean-Based Recreation program (LNR 801) shall be expended by the department of land and natural resources for the 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 and 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:**

Oberle v. State of Hawaii	\$ 31,200.00
Civil No. 00-1-0214, Third Circuit	Settlement
SUBTOTAL:	<u>\$ 31,200.00</u>
TOTAL (SECTION 5):	\$ 31,200.00

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, as further amended by Act 177, Session Laws of Hawaii 2002, the general fund sum of \$31,200 from the Park Development and Operation program (LNR 806) 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 business, economic development, and tourism 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:

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

**DEPARTMENT OF BUSINESS, ECONOMIC  
DEVELOPMENT, AND TOURISM:**

Hewlen v. Laboy, et al. Civil No. 01-1-0366-02, First Circuit	\$ 15,000.00 Settlement
SUBTOTAL:	\$ 15,000.00
TOTAL (SECTION 6):	\$ 15,000.00

Provided that of the legislative appropriation for the department of business, economic development, and tourism for fiscal year 2003-2004 in section 3 of H.B. 200 (the General Appropriations Act of 2003), the other federal funds sum of \$14,400.00 and the revolving funds sum of \$600.00 shall be expended from the Rental Housing Services program (BED 220) by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 7. The legislature finds and declares that the following claims for legislative relief recommended for approval as to the following named persons for claims against the State or the department of business, economic development, and tourism 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 BUSINESS, ECONOMIC  
DEVELOPMENT, AND TOURISM:**

Tuioti, et al. v. City & County of Honolulu, Civil No. 00-1-1609-05, First Circuit	\$ 18,333.34 Settlement
SUBTOTAL:	\$ 18,333.34
TOTAL (SECTION 7):	\$ 18,333.34

Provided that of the legislative appropriation for the department of business, economic development, and tourism for fiscal year 2003-2004 in section 3 of H.B. No. 200 (the General Appropriations Act of 2003), the other federal funds sum of \$18,333.34 shall be expended from the Rental Housing Services program (BED 220) by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 8. The legislature finds and declares that the following claims for legislative relief recommended for approval as to the following named persons 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:**

Braithwaite, et al. v. State of Hawaii, et al. Civil No. 02-1-1280-05, First Circuit	\$ 30,000.00 Settlement
SUBTOTAL:	<u>\$ 30,000.00</u>
TOTAL (SECTION 8):	\$ 30,000.00

Provided that of the legislative appropriation for the department of education 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, as further amended by Act 177, Session Laws of Hawaii 2002, the other federal funds sum of \$30,000.00 shall be expended from the School-Based Budgeting program (EDN 100) by the department of education for the purposes of this Act.

SECTION 9. 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 10. 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 that statute applies.

**PART III**

SECTION 11. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2004, shall lapse.

SECTION 12. 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 13. This Act shall take effect upon its approval; provided that sections 6 and 7 of this Act shall take effect on July 1, 2003.

(Approved May 15, 2003.)