

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 2003-2004 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 AGRICULTURE:</b>	
Martin, et al. v. State of Hawaii, et al. Civil No. 01-1-3159-07, First Circuit	\$ 1,175,000.00 Settlement
SUBTOTAL:	<u>\$ 1,175,000.00</u>
<b>2. DEPARTMENT OF EDUCATION:</b>	
Amaral, et al. v. State of Hawaii, et al. Civil No. 99-0583(1), Second Circuit	\$ 55,000.00 Settlement
Figaroa v. State of Hawaii Civil No. 00-01-0146, Fifth Circuit	\$ 40,000.00 Settlement
Gay v. Department of Education Civil No. 02-00454DAE-KSC, USDC	\$ 10,000.00 Settlement
Lani v. Department of Education, et al. Civil No. 02-1-0128, Fifth Circuit	\$ 16,421.66 Judgment
Amount of Judgment: \$15,876.09	
4% interest from 7/28/03: \$ 545.57	
Mother Doe No. I, et al. v. State of Hawaii, et al., Civil No. 01-1-0930-03, First Circuit	\$ 15,000.00 Settlement
Ms. Doe Parent, et al. v. State of Hawaii, et al., Civil No. 01-1-1101-04, First Circuit	\$ 65,000.00 Settlement
Rahsaan v. State of Hawaii, et al. Civil No. 00-00795HG-LEK, USDC	\$ 84,463.12 Judgment
Torelli, et al. v. Department of Education, et al. Civil No. 02-1-0082, Fifth Circuit	\$ 19,000.00 Settlement
SUBTOTAL:	<u>\$ 304,884.78</u>
<b>3. DEPARTMENT OF HEALTH:</b>	
Bohland v. State of Hawaii Civil No. 03-1-2558-12, First Circuit	\$ 105,000.00 Settlement
Chua, et al. v. State of Hawaii Civil No. 03-1-0357-02, First Circuit	\$ 30,000.00 Settlement

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

Kelly, et al. v. 1250 Oceanside, et al. Civil No. 00-1-0192K, Third Circuit	\$ 60,000.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 195,000.00</b>
<b>4. DEPARTMENT OF HUMAN SERVICES:</b>	
Dolfo, et al. v. Koller, et al. Civil No. 02-1-2192-09, First Circuit	\$ 20,966.79 Settlement
In the Interest of Jane Doe, Born on July 13, 1998 Supreme Court No. 24913	\$ 54,334.89 Judgment
Amount of Judgment: \$51,559.68 10% interest from 1/15/04-7/31/04: \$ 2,775.21	
Mariveles, et al. v. Helm, et al. Civil No. 01-1-0549(3), Second Circuit	\$ 67,500.00 Settlement
Puuwai Momi Tenants Association, et al. v. Miyashiro Civil No. 02-00323ACK-BMK, USDC	\$ 11,000.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 153,801.68</b>
<b>5. DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS:</b>	
Vinson v. Thomas Civil No. 97-00091HG, USDC	\$ 117,500.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 117,500.00</b>
<b>6. DEPARTMENT OF LAND AND NATURAL RESOURCES:</b>	
Claim of Finance Factors	\$ 82,500.00 Settlement
Duncan v. Sheraton, et al. Civil No. 02-1-1292-05, First Circuit	\$ 15,945.46 Settlement
In Re: Sacred Falls Cases	\$ 2,000,000.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 2,098,445.46</b>
<b>7. DEPARTMENT OF PUBLIC SAFETY:</b>	
Campos v. State of Hawaii Civil No. 02-1-0289(1), Second Circuit	\$ 40,000.00 Settlement
Davenport v. State of Hawaii, et al. Civil No. 01-1-0030, Second Circuit	\$ 55,000.00 Settlement
Ford v. State of Hawaii, et al. Civil No. 02-1-0187, Third Circuit	\$ 20,000.00 Settlement
Henderson v. State of Hawaii, et al. Civil Nos. 00-1-0216 and 02-1-0407, Third Circuit	\$ 200,000.00 Settlement
Karish v. State of Hawaii, et al. Civil No. 02-1-1163-05, First Circuit	\$ 42,500.00 Settlement

**ACT 149**

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

**AMOUNT**

Lewis v. State of Hawaii Civil No. 01-1-1371-05, First Circuit	\$ 175,000.00 Settlement
Mattos, et al. v. State of Hawaii, et al. Civil No. 00-387SOM-LEK, USDC	\$ 245,000.00 Settlement
Tapaoan, et al. v. State of Hawaii Civil No. 01-000815, USDC	\$ 1,200,000.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 1,977,500.00</b>

**8. OFFICE OF THE LIEUTENANT  
GOVERNOR**

Smith v. State of Hawaii, Campaign Spending Commission, et al. Civil No. 02-00068HG-BMK, USDC	\$ 142,943.46 Judgment
Amount of Judgment: \$142,136.20	
1.23% interest from 2/28/04 to 8/15/04: \$ 807.26	
<b>SUBTOTAL:</b>	<b>\$ 142,943.46</b>

**9. MISCELLANEOUS CLAIMS:**

Rose K. J. Miller	\$ 1,002.50
Robert T. Miyabuchi	\$ 395.72
Charles Ramos	\$ 425.10
Eugene Seu	\$ 27.00
Robert and Kai Shun Warner	\$ 800.00
<b>SUBTOTAL:</b>	<b>\$ 2,650.32</b>
<b>TOTAL (SECTION 1):</b>	<b>\$ 6,167,725.70</b>

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 2003-2004 are appropriated out of the harbor special 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,  
HARBORS DIVISION:**

Lowe v. Young Brothers, Ltd., et al. Civil No. 00-1-0131(2), Second Circuit	\$ 25,000.00 Settlement
Solliday v. State of Hawaii, et al. Civil No. 02-00680DAE-BMK, USDC	\$ 45,000.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 70,000.00</b>
<b>TOTAL (SECTION 2):</b>	<b>\$ 70,000.00</b>

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

SECTION 3. The following sums or so much thereof as may be necessary for fiscal year 2003-2004 are appropriated out of the highway special 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:**

Chan v. Island Movers, Inc., et al. Civil No. 02-1-1512-06, First Circuit	\$ 25,000.00 Settlement
Ducosin v. State of Hawaii, et al. Civil No. 99-0735(3), Second Circuit	\$ 540,000.00 Settlement
Godbehere v. State of Hawaii, et al. Civil No. 02-1-1292-05, First Circuit	\$ 100,000.00 Settlement
Kealoha, et al. v. Johnson, et al. Civil No. 01-1-0681(3), Second Circuit	\$ 705,000.00 Settlement
Kia v. Nieto, et al. Civil No. 01-1-1811-06, First Circuit	\$ 50,000.00 Settlement
Morita v. County of Hawaii, et al. Civil Nos. 99-101 and 00-1-123, Third Circuit	\$ 684,416.12 Settlement
SUBTOTAL:	<hr/> \$ 2,104,416.12
TOTAL (SECTION 3):	\$ 2,104,416.12

The sums appropriated shall be expended by the department of transportation 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 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:**

Gay v. Department of Education Civil No. 02-00454 DAE-KSC, USDC	\$ 10,000.00 Settlement
SUBTOTAL:	<hr/> \$ 10,000.00
TOTAL (SECTION 4):	\$ 10,000.00

Provided that of the legislative appropriation for the department of education for fiscal year 2004-2005 in section 3 of Act 200, Session Laws of Hawaii 2003, as amended by \_\_B. No. \_\_ (the Supplemental Appropriations Act of 2004<sup>1</sup>), the general fund sum of \$10,000.00 shall be expended from the School Based Budget (EDN 100) by the department of education 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 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:**

Young, et al. v. Coloma-Agaran, et al.	\$ 251,849.75
Civil No. 00-00774HG-BMK, USDC and No. 02-15202, Ninth Circuit Court of Appeals	Judgment

Provided that of the legislative appropriation for the department of land and natural resources, boating special fund, for fiscal year 2004-2005 in section 3 of Act 200, Session Laws of Hawaii 2003, as amended by \_\_.B. No. \_\_ (the Supplemental Appropriations Act of 2004<sup>1</sup>), the sum of \$251,849.75 shall be expended from the Boating Special Fund (LNR 801) 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 persons for claims against the State or the department of business, economic development, and tourism/Hawaii tourism authority 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:**

Hawaii Tourism Authority v. Pacific Motivation Advisors, Inc., et al.	\$ 20,000.00
Civil No. 03-00014DAE/LEK, USDC	Settlement
SUBTOTAL:	\$ 20,000.00
TOTAL (SECTION 6):	\$ 20,000.00

Provided that of the legislative appropriation for the department of business, economic development, and tourism for fiscal year 2003-2004 in section 3 of Act 200, Session Laws of Hawaii 2003, as amended by \_\_.B. No. \_\_ (the Supplemental Appropriations Act of 2004<sup>1</sup>), the sum of \$20,000.00 shall be expended from the Tourism Special Fund (BED 113TO) by the Hawaii tourism authority for the purposes of this Act.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,340,027.14, or so much thereof as may be necessary, for fiscal year 2004-2005 to the State, Hawaii health systems corporation, and the judiciary for the purposes of:

- (1) Satisfying the terms of settlement agreements between the State, Hawaii health systems corporation, the judiciary, and the United Public Workers, AFSCME, Local 646, AFL-CIO ("UPW") to pay employees who are members of collective bargaining units 1 and 10 amounts owed for a proposed deferred compensation plan sponsored by UPW that was never implemented (the amounts owed to these employees are autho-

rized and provided in prior collective bargaining agreements between the State, Hawaii health systems corporation, the judiciary, and UPW); and

- (2) Providing adjustments of a comparable nature to excluded employees under chapter 89C, Hawaii Revised Statutes, if applicable.

Funds appropriated under this section shall be subject to:

- (1) The execution of settlement agreements between the State, Hawaii health systems corporation, the judiciary, and UPW for employees who are members of collective bargaining units 1 and 10; and
- (2) A determination of the applicability of adjustments of a comparable nature under chapter 89C, Hawaii Revised Statutes, to excluded employees.

Funds appropriated under this section shall be allocated and expended by the State, Hawaii health systems corporation, and the judiciary for the purposes of and in accordance with this section, including but not limited to the terms and conditions of the applicable settlement agreements.

The state departments, Hawaii health systems corporation, and the judiciary employing members of collective bargaining units 1 and 10 and employees subject to chapter 89C, Hawaii Revised Statutes, as applicable, that are funded by non-general funds shall reimburse the general fund for the respective amounts payable under this section.

**SECTION 8.** 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 that departments must obtain the approval of the attorney general before payment of any claim can be made.

**SECTION 9.** 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 Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which that statute applies.

### PART III

**SECTION 10.** All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2005, shall lapse.

**SECTION 11.** If any provision of this Act, or the application thereof to any person 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 12.** This Act shall take effect upon its approval.

(Approved June 29, 2004.)

#### Note

1. H.B. No. 1800, Act 41.