

ACT 133

H.B. NO. 1462

A Bill for an Act Relating to the State of Hawaii.

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

PART I

SECTION 1. Section 28-10.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of the attorney general shall serve as the clearinghouse for information on financial and nonfinancial resources that may be available to assist in improving the delivery or coordination of services under, or the implementation of, programs of the criminal justice and juvenile justice systems and agencies and shall develop, update, and coordinate the implementation of a comprehensive statewide plan of programs and priorities for the improvement of law enforcement and criminal justice, including the prevention and control of juvenile delinquency. In addition, the department may:

- (1) Seek, apply for, and administer federal funding and other resources to enhance and expand the capabilities of the criminal and juvenile justice agencies;
- (2) Coordinate and assess information on a statewide basis for the development of policies to improve the criminal justice and juvenile justice systems and programs; and
- (3) Administer state-funded criminal and juvenile justice programs as specifically directed by law or as may be implied through the appropriation of funds[-]; and
- (4) Administer programs for the prevention of sexual violence and the protection and treatment of victims of sexual violence.

PART II

SECTION 2. Section 128D-32, Hawaii Revised Statutes, is amended by amending the definition of “prospective purchaser” to read as follows:

““Prospective purchaser” means a prospective owner, operator, tenant, developer, lender, or any other party who would not otherwise be liable under section 128D-6, prior to [~~conducting~~] a voluntary response action[-] being conducted.”

SECTION 3. Section 128D-34, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For each site at which a requesting party chooses to conduct a voluntary response action, an application and \$1,000 nonrefundable processing fee shall be submitted. In the case of a requesting party that is a public or nonprofit agency, the director may reduce or waive this fee if the director deems it to be in the public interest.”

SECTION 4. Section 128D-36, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) At the completion of the voluntary response action, or at the termination of the agreement, except when the voluntary response action requires continuing oversight, the department shall provide a final accounting of the site-specific account and return the balance to the requesting party.”

SECTION 5. Section 128D-37, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department’s oversight costs shall be calculated at \$100 for each hour of staff time plus actual expenses incurred or one hundred twenty-five per cent of actual cost when contracting for oversight services. If a requesting party is a public or nonprofit agency, the director may reduce or waive this fee if the director deems it to be in the public interest.”

SECTION 6. Section 128D-38, Hawaii Revised Statutes, is amended to read as follows:

“[~~§128D-38~~] **Exempt positions.** There [~~is~~] are established such positions as necessary to support the voluntary response program[-] and other voluntary activities pursuant to this chapter. These positions shall be appointed by the director without regard to chapter 76. These positions shall be included in any benefit program generally applicable to the officers and employees of the State.”

SECTION 7. Section 128D-39, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If contamination is left on the site, the letter of completion shall ~~[identify land use restrictions and any required management plan.]~~ specify terms and conditions necessary to protect the public health and environment.”

SECTION 8. Section 128D-40, Hawaii Revised Statutes, is amended to read as follows:

“**§128D-40 Exemption from liability.** (a) To qualify for an exemption from liability, a requesting party that is also a prospective purchaser shall enter into a voluntary response agreement with the department prior to becoming the owner or operator of the property that is the subject of the agreement.

(b) Prospective purchasers who complete a voluntary response action and receive a letter of completion from the department ~~[shall be]~~ are exempt from future liability to the department for those specific hazardous substances, pollutants, contaminants, media, and land area addressed in the voluntary response action[-. Parties who purchase property from an owner who] and specified in a letter of completion from the department. Prospective purchasers of property for which an owner has completed a voluntary response action and received a letter of completion from the department [shall be] are exempt from future liability to the department for those specific hazardous substances, pollutants, contaminants, media, and land area addressed in the voluntary response action and specified in the letter of completion issued to the party who conducted the voluntary response action.

(c) The exemption from future liability to the department referenced in subsection (b) ~~[shall apply]~~ applies only to those specific hazardous substances, pollutants, and contaminants cleaned up to a risk-based standard of not more than one total lifetime cancer risk per one million and only to the specific media and land area addressed in the voluntary response action; provided that the exemption only applies to the contamination which occurred prior to conducting the voluntary response action.

(d) A party who is exempt from future liability to the department under subsections (b) and (c) shall not be liable for claims for contribution or indemnity regarding matters addressed in the voluntary response action.

(e) The department reserves the right to take action consistent with this chapter against responsible parties.

(f) The exemption from liability shall not be effective:

- (1) If a letter of completion is acquired by fraud, misrepresentation, or failure to disclose material information; ~~[or]~~
- (2) Where transactions were made for the purpose of avoiding liability under part I[-]; or
- (3) If a prospective purchaser fails to comply with the terms and conditions specified in the letter of completion.

(g) There shall be no exemption from liability for other laws or requirements.”

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2005.

(Approved June 17, 2005.)