
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 386-94, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "~~§386-94~~ [~~Attorneys,~~] Claimants' attorneys, defense
4 attorneys, physicians, other health care providers, and other
5 fees. (a) Claims for services shall not be valid unless
6 approved by the director or, if an appeal is had, by the
7 appellate board or court deciding the appeal. Any claim by a
8 claimant's attorney and so approved shall be a lien upon the
9 compensation in the manner and to the extent fixed by the
10 director, the appellate board, or the court. In no event shall
11 the claimant's attorney seek to enter into an agreement with the
12 claimant to obtain fees that are higher than those approved by
13 the director, the appellate board, or the court, and all such
14 agreements to obtain those higher fees shall be void.
15 (b) In approving fee requests, the director, appeals
16 board, or court may consider factors such as [~~the~~]:
17 (1) The attorney's skill and experience in state workers'
18 compensation matters[~~, the~~];



- 1 (2) The amount of time and effort required by the
- 2 complexity of the case~~[, the]~~;
- 3 (3) The novelty and difficulty of issues involved~~[, the]~~;
- 4 (4) The amount of fees awarded in similar cases~~[,~~
- 5 ~~benefits]~~;
- 6 (5) Benefits obtained for the claimant~~[, and the]~~; and
- 7 (6) The hourly rate customarily awarded attorneys
- 8 possessing similar skills and experience.

9 In all cases, reasonable attorney's fees shall be awarded.

10 (c) Any person who receives any fee, other consideration,

11 or gratuity on account of services so rendered, without

12 approval, in conformity with ~~[the preceding paragraph]~~

13 subsection (a), shall be fined by the director not more than

14 \$10,000."

15 SECTION 2. This Act shall not apply to attorney's fees


16 paid prior to its effective date.

17 SECTION 3. Statutory material to be repealed is bracketed

18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2008.

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INTRODUCED BY: 

Rider T. F. Casabella

J. Phil. Kuntz

H.B. NO. 2389

Della A. Belatti

*Orta v
K. Lito*

JAN 16 2008



Report Title:

Workers' Compensation; Attorneys Fees

Description:

Prohibits claimant attorneys from entering into agreements with claimants to obtain fees that are higher than those approved by the director of labor and industrial relations.

