

JAN 22 2007

A BILL FOR AN ACT

RELATING TO EMINENT DOMAIN.

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

1 SECTION 1. Chapter 101, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§101- Good faith offer of settlement; award of
5 attorney's fees. (a) Not later than forty-five days before the
6 scheduled trial date on the issue of just compensation, the
7 plaintiff shall file and serve on the defendant an offer of
8 settlement. Not more than five days after the date the offer of
9 settlement is served, the party served shall respond by filing
10 and serving upon the other party an acceptance or a counter
11 offer of settlement. The offer or counter offer must state that
12 it is made under this section and specify the amount, exclusive
13 of interest and costs, that the party serving the offer is
14 willing to pay or accept, as the case may be, as just
15 compensation and damages for the property sought to be acquired.
16 The offer or counter offer supersedes any other offer previously
17 made by the party. An offer of settlement is considered



1 rejected unless an acceptance in writing is filed and served on
2 the party making the offer.

3 (b) If there is a trial and the amount of just
4 compensation and damages awarded to the defendant by the
5 judgment, exclusive of interest and costs, is greater than the
6 amount specified in the plaintiff's offer of settlement in
7 subsection (a), the court shall require the plaintiff to pay the
8 defendant's litigation expenses, including reasonable attorney's
9 fees, in an amount that does not exceed twenty-five per cent of
10 the amount of the judgment, exclusive of interest and costs."

11 SECTION 2. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun, before its effective date.

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: B. B. T. L.
Norman Safeway
Amor Mercedes R.
Y. P. Alvarado



Report Title:
Eminent Domain

Description:
Requires condemning authority to make offer of settlement.
Makes condemning authority liable for defendant's litigation
expenses if offer rejected and court award is greater than
offer.

