

JAN 23 2009

A BILL FOR AN ACT

RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES.

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

1 SECTION 1. The legislature finds that in the 2007
2 Assessment of Civil Legal Needs and Barriers of Low- and
3 Moderate-Income People of Hawai'i, four out of five low- and
4 moderate-income residents did not have their legal needs met and
5 that legal service providers are only able to assist one in
6 three who contact them for assistance.

7 The legislature also finds that in order to increase the
8 delivery of legal service, more funding is necessary and can be
9 generated by increasing the surcharge for indigent legal
10 services, as recommended by the Access to Justice Hui, in its
11 Community Wide Action Plan: Ten Steps to Increase Access to
12 Justice in Hawai'i by 2010.

13 The legislature further finds that the Hawaii Consortium of
14 Legal Services Providers has been working diligently together to
15 strengthen and increase outreach and services to low-income
16 residents, and that each unique legal service provider requires
17 a certain minimum amount of funding to meet basic expenses
18 necessary to operate the respective non-profit organization or



1 program. Therefore, the purpose of this Act is to change the
2 allocation formula so that thirty per cent of all funds
3 distributed shall be provided equally to all organizations or
4 programs that meet the qualifications for receipt of the funds,
5 in addition to a seventy per cent distribution of all funds pro
6 rata under the current formula.

7 SECTION 2. Section 607-5.7, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsections (a) and (b) to read:

10 "(a) In addition to the costs and fees prescribed in
11 section 607-5, any person in a civil action in the circuit court
12 who is required to pay an initial filing fee shall pay an
13 additional surcharge of [~~\$25~~] \$65 at the time of the person's
14 initial filing. Initial filings for which this surcharge shall
15 be assessed include;

16 (1) Complaints, petitions, interventions, applications for
17 special proceedings, and answers containing one or
18 more cross-claims or counter-claims; and

19 (2) Third party complaints, but shall not include post-
20 judgment civil process.

21 (b) In addition to the costs and fees prescribed in
22 section 607-4, any person [~~who files an action for summary~~



1 ~~possession in the district court]~~ in a civil action in the
2 district court who is required to pay an initial filing fee
3 shall pay an additional surcharge of [~~\$10~~] \$35 at the time of
4 the person's initial filing. Any person in a civil action in
5 the [~~supreme court~~] courts of appeal who is required to pay an
6 initial filing fee also shall pay an additional surcharge of
7 [~~\$25~~] \$65 at the time of the person's filing. No surcharge
8 shall be assessed against:

- 9 (1) Small claims cases;
- 10 (2) Petitions for temporary restraining orders;
- 11 (3) Petitions for protective orders;
- 12 (4) Any party who has received the court's permission to
13 proceed in forma pauperis; or
- 14 (5) Any party proceeding on behalf of the county or State.

15 Surcharges subject to this section shall be limited to one
16 payment per party."

17 2. By amending subsection (g) to read:

18 "(g) Funds shall be distributed as follows:

- 19 (1) General distribution. Seventy per cent of all funds
20 shall be distributed on a pro rata basis to
21 organizations that meet the criteria in subsection
22 (f), based upon the portion of their total budget



1 expended in the prior year for civil legal services to
2 indigent persons as compared to the combined total
3 expended in the prior year for legal services by all
4 qualifying organizations applying for funding. An
5 applicant that provides services other than civil
6 legal services to indigent persons may establish its
7 proportionate entitlement to funds based upon
8 financial statements which strictly segregate that
9 portion of the organization's expenditures in the
10 prior year which were devoted exclusively to the
11 provision of civil legal services for indigents.

12 (2) Supplemental distribution. For organizations that
13 apply for and receive funding under subsection (f),
14 above, whose total budget expended in the prior year
15 for civil legal services to indigent persons exceeds
16 \$100,000, thirty per cent of all funds shall be
17 distributed equally to all such organizations."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect on July 1, 2009.

21
INTRODUCED BY: 



Report Title:

Surcharge for Indigent Legal Services

Description:

Increases the initial filing fee for civil actions.

