
A BILL FOR AN ACT

RELATING TO PRIVATE ATTORNEY GENERAL.

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

1 SECTION 1. Chapter 6E, Hawaii Revised Statutes, is amended
2 by adding a new section to part I to be appropriately designated
3 and to read as follows:

4 "§6E- Civil suits by individuals. (a) Any person
5 injured by a violation of this chapter may act as a private
6 attorney general and may bring a civil action against any person
7 or entity, including partnerships, corporations, associations;
8 public or private organizations; the State, any county, or any
9 agency thereof, who violates this chapter.

10 (b) No action under this section shall be commenced:

11 (1) Prior to thirty days after the person injured has
12 given notice of the violation to:

13 (A) The board of land and natural resources, the
14 attorney general, or both; and

15 (B) Any alleged violator of the applicable law; and

16 (2) More than two years after the claim accrued unless the
17 violation is part of a continuing violation or pattern
18 of violations.



1 (c) The circuit court in the judicial circuit in which the
2 violation occurs shall have jurisdiction to:

3 (1) Enforce the requirements of the applicable law; and

4 (2) Apply any appropriate civil penalties.

5 (d) The court, in issuing any final order in any action
6 brought pursuant to this section, may award costs of litigation,
7 including reasonable attorney's and expert witness' fees, to any
8 prevailing or substantially prevailing plaintiff.

9 (e) Nothing in this section shall restrict any alternative
10 right that a person may have to seek enforcement or damages.
11 The civil penalties imposed by this part are in addition to, and
12 not in lieu of, any civil, administrative, or criminal penalties
13 provided by law, including injunctive relief under section 6E-
14 13.

15 (f) Any person or entity violating this chapter shall be
16 fined, pursuant to action brought under this section, not less
17 than \$500 and not more than \$10,000 for each separate violation.
18 Each day a violation exists constitutes a separate violation.
19 If the violator directly or indirectly has caused the loss of,
20 or damage to, any historic property or burial site, the violator
21 shall be fined an additional amount determined by the court to



1 be equivalent to the value of the lost or damaged historic
2 property or burial site.

3 (g) Penalties received shall be distributed as follows:

4 (1) Seventy-five per cent of the penalties received shall
5 be deposited into the Hawaii historic preservation
6 special fund; and

7 (2) Twenty-five per cent of the penalties received shall
8 be awarded to the injured person who is bringing the
9 civil action.

10 The court, in its discretion, may order that the defendant
11 provide funding for beneficial mitigation, restoration,
12 management, education, or protection projects that enhance
13 historic preservation instead of civil penalties."

14 SECTION 2. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 3. New statutory material is underscored.

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

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INTRODUCED BY:

Royce Hanohani
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[Signature]

Report Title:

Private Attorney General; Historic Preservation

Description:

Authorizes an individual to act as a private attorney general with the powers to enforce violations of the Hawaii historic preservation program by bringing a civil action against a violator.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

