
A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF THE ATTORNEY GENERAL.

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

1 SECTION 1. Section 28-16, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~**28-16** **Litigation deposits trust fund.** (a) There
4 is created in the state treasury the litigation deposits trust
5 fund. ~~[There]~~ Notwithstanding any other law to the contrary,
6 there shall be deposited into this fund all ~~[moneys received~~
7 ~~through any civil action in which the State is a party where the~~
8 ~~settlement amount is \$100,000 or higher, except for those~~
9 ~~actions involving departments able to procure their own legal~~
10 ~~services as provided for by section 28-8.3 and where no other~~
11 ~~state statute or court order specifically provides for the~~
12 ~~deposit of moneys received through the action.~~

13 ~~(b) The fund shall be administered by the department of~~
14 ~~the attorney general. The department shall maintain accounting~~
15 ~~records of fund moneys, including subsidiary records of~~
16 ~~individual litigation deposits and disbursements thereof.~~

17 ~~Moneys in the fund may be separated into subsidiary accounts,~~
18 ~~provided that one subsidiary account shall not be commingled~~



1 ~~with moneys from another account except for deposit or~~
2 ~~investment purposes under subsection (d).~~

3 ~~(c) Disbursements from each account maintained under~~
4 ~~subsection (b) may include attorney's fees and other necessary~~
5 ~~expenses that the department determines to be reasonable and~~
6 ~~directly related to prosecution of the civil action for which~~
7 ~~the account is maintained; provided that in the case of moneys~~
8 ~~deposited as a result of recoveries by an agency to which a non-~~
9 ~~general fund applies, the moneys shall be held and disbursed~~
10 ~~intact for deposit to the credit of the non general fund. Money~~
11 ~~deposited in the fund pursuant to an order of the court shall be~~
12 ~~disbursed in accordance with the order of the court. Any~~
13 ~~residual funds remaining in an account shall be transferred to~~
14 ~~the respective non general or general fund with which the civil~~
15 ~~action is associated no later than thirty days after the civil~~
16 ~~action for which the account is maintained is closed and all~~
17 ~~costs of that civil action have been paid, unless otherwise~~
18 ~~provided for by statute.] proceeds from any civil action or~~
19 ~~settlement of a civil claim initiated, filed, or prosecuted by~~
20 ~~the attorney general, except when the deposit is inconsistent~~
21 ~~with a court order or settlement agreement relating to the~~
22 ~~amount.~~



1 (b) This section shall not apply to amounts recovered for
2 deposit into the:

- 3 (1) Antitrust trust fund under section 28-13;
- 4 (2) Tobacco enforcement special fund under section 28-15;
- 5 (3) Medicaid investigations recovery fund under section
6 28-91.5;
- 7 (4) Hawaii tobacco settlement special fund under section
8 328L-2; and
- 9 (5) Criminal forfeiture fund under section 712A-16(4).

10 (c) The fund shall be administered by the department of
11 the attorney general; provided that:

- 12 (1) Fifteen per cent of any recovery shall be retained by
13 the fund to support the department's investigation and
14 prosecution efforts, including expenditures relating
15 to attorney's fees, operating costs relating to the
16 fund, investigation and litigation costs,
17 participation in multi-state or federal-state actions,
18 training, equipment purchases, and educational
19 resources; and
- 20 (2) Of the balance remaining after allocation pursuant to
21 paragraph (1), for:



1 (A) A recovery relating to a general fund action or
2 claim, the remaining balance shall be retained by
3 the fund, unless otherwise provided for by law;
4 and

5 (B) A recovery relating to a non-general fund action
6 or claim, a sum up to the amount of the loss
7 incurred by the non-general fund relating to the
8 action or claim, as determined by the attorney
9 general, shall be remitted by the attorney
10 general to the non-general fund; provided further
11 that the remaining balance after the disbursement
12 of such moneys shall be retained by the fund.

13 (d) Moneys in the fund may be invested by the department
14 in securities as provided by section 36-21. Investment earnings
15 shall be ~~[deposited in the general fund.~~

16 ~~(c) The department shall submit a report to the~~
17 ~~legislature no later than twenty days prior to the convening of~~
18 ~~each regular session on:~~

19 ~~(1) The transactions, by subsidiary account, that take~~
20 ~~place in the fund for each fiscal year; and~~

21 ~~(2) A summary of the collections made in any amount on~~
22 ~~behalf of other departments and agencies specifying~~



1 ~~the appropriate number of transactions and amount~~
2 ~~collected for each department and agency.]~~ credited to
3 the fund.

4 (e) All unencumbered and unexpended moneys in excess of
5 \$1,000,000 remaining on balance in the fund at the close of June
6 30 of each year shall lapse to the credit of the general fund.

7 (f) This section shall not apply if the application of
8 this section would result in a violation of a federal law or a
9 federal grant agreement.

10 (g) The department of the attorney general shall submit a
11 report to the legislature no later than twenty days prior to the
12 convening of each regular session with an accounting of the
13 receipts and expenditures of the fund."

14 SECTION 2. Section 661-22, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~§~~**661-22**~~§~~ **Civil actions for false claims.** The
17 attorney general shall investigate any violation under section
18 661-21. If the attorney general finds that a person has
19 violated or is violating section 661-21, the attorney general
20 may bring a civil action under this section. All recoveries in
21 an action brought pursuant to this section by the State shall be



1 deposited into the litigation deposits trust fund established
2 pursuant to section 28-16."

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

5 SECTION 4. This Act shall take effect 'on July 1, 2012.



Report Title:

Department of the Attorney General; Litigation Deposits Trust Fund

Description:

Amends sections 28-16 and 661-22, Hawaii Revised Statutes, to enable the Attorney General to retain and deposit fifteen per cent of recoveries from any civil action or settlement of a civil claim initiated or prosecuted by the Attorney General to be used to pay for investigation and litigation expenses, operating costs, equipment, and training. Allows the Attorney General to retain some of the remaining money subject to certain conditions. Effective July 1, 2012. (HB2442 HD1)

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