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## 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-     Award of attorney's fees, and reasonable expenses  
5 to defendant; conditions to award; good-faith estimate.

6           (a) Whenever any proceeding instituted under Chapter 101,  
7 Part I, proceeds to trial or hearing on the merits to determine  
8 the amount of compensation or damages to be awarded to any  
9 person in occupation of or having a claim or interest in any  
10 property, the court shall award the defendant reasonable  
11 attorney's fees, and other reasonable expenses including but not  
12 limited to the costs of the action, appraisal costs and expert  
13 witness fees if judgment awarded the defendant exceeds by 10%  
14 the sum of money estimated by plaintiff to be just compensation  
15 or damages for the taking of the land and filed in compliance  
16 with HRS §101-28.

17           (b) The parties may consent on the amount deemed to be  
18 reasonable attorney fees, and other reasonable expenses, and the



1 court may approve the same upon submission of any valid written  
2 settlement agreement to the court."

3 (c) Notwithstanding the preceding paragraphs or elsewhere  
4 within this chapter, the court may make any order of reasonable  
5 attorney's fees, and other reasonable expenses in favor of  
6 defendant if after a trial or hearing on the merits the  
7 defendant is awarded just compensation or damages less than any  
8 offer of settlement by plaintiff if the court finds that it is  
9 in the interests of justice to do so, or plaintiff's estimate of  
10 just compensation or damages filed in compliance with HRS §101-  
11 28 is found not to be a good-faith estimate.

12 SECTION 2. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: RLM

JAN 23 2014



# H.B. NO. 2685

**Report Title:**

Eminent domain; Fees and costs; good-faith estimates

**Description:**

Provides that the court shall award reasonable attorney's fees, and other reasonable expenses if the judgment on compensation or damages exceeds the plaintiff's original written statement by ten per cent or more; but if not mandatory then discretionary for lack of good-faith or in the interests of justice.

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