

DAVID Y. IGE
GOVERNOR



DEPT. COMM. NO. 183

DOUGLAS S. CHIN
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DEPARTMENT OF THE ATTORNEY GENERAL
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RUSSELL A. SUZUKI
FIRST DEPUTY ATTORNEY GENERAL

December 30, 2016

The Honorable Ronald D. Kouchi
President of the Senate
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki
Speaker and Members of the House of
Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi and Speaker Souki:

For your information and consideration, I am transmitting one (1) copy for each of you of the Department of the Attorney General's Report on Administratively Established Funds and Accounts, as required by section 37-52.5, Hawaii Revised Statutes (HRS). In accordance with Section 93-16, HRS, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

If you have any questions or concerns, please feel free to call me at 586-1282.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Chin".

Douglas S. Chin
Attorney General

c: David Y. Ige, Governor
Shan S. Tsutsui, Lieutenant Governor
Legislative Reference Bureau (Attn.: Karen Mau)
Leslie Kondo, State Auditor
Wesley K. Machida, Director of Finance, Department of Budget and Finance
Stacey Aldrich, State Librarian, Hawaii State Public Library System
David Lassner, PhD., President, University of Hawaii

Enclosure

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REPORT ON ADMINISTRATIVELY ESTABLISHED FUNDS AND ACCOUNTS

Pursuant to Section 37-52.5, Hawaii Revised Statutes

For Fiscal Year 2015-2016

Submitted to the Twenty-Ninth State Legislature
Regular Session of 2017

I.	INTRODUCTION	2
II.	NATIONAL MORTGAGE SETTLEMENT TRUST FUND	2
	A. Overview of the National Mortgage Settlement Trust Fund	2
	B. Details of Revenues and Expenditures	3
III.	SEIZED FUNDS – FINAL DISPOSITION PENDING ACCOUNT	4
	A. Overview of the Seized Funds – Final Disposition Pending Account	4
	B. Transfers	5

I. INTRODUCTION

Section 37-52.5, Hawaii Revised Statutes, requires that, except for the Judiciary, any department that administratively establishes a new fund or account must submit a report to the Legislature and, at least twenty days prior to the convening of each regular session, must submit a report that shall include (1) a list of all administratively established accounts or funds and (2) all revenues, expenditures, encumbrances, and ending balances of each account or fund. The Department of the Attorney General administers the following administratively established fund and account: the National Mortgage Settlement Trust Fund and the Seized Funds – Final Disposition Pending Account.

II. NATIONAL MORTGAGE SETTLEMENT TRUST FUND

A. Overview of the National Mortgage Settlement Trust Fund

The National Mortgage Settlement Trust Fund, appropriation number T-916-N, was established pursuant to a consent judgment that was filed in the United States District Court for the District of Columbia on April 4, 2012. Hawaii along with 48 other states and several departments and agencies of the federal government reached a national mortgage settlement with the nations five largest banks and mortgage servicers on April 4, 2012. Pursuant to the consent judgments approving the settlement Hawaii received \$7,911,883 in direct settlement funds. The court's orders approving the settlement requires that the Hawaii funds be expended as follows:

The monies are to be held in trust for the benefit of homeowners and others in the State of Hawaii who are, have been, or may be affected by mortgage loan proceedings. This includes, but is not limited to, those who have been subject to foreclosure, are in foreclosure, are at risk of foreclosure, have delinquent mortgage loan payments, have negative equity in their homes, have lost their homes due to foreclosure, have been unable to refinance their mortgage loans, or are leasing a dwelling affected by foreclosure. The monies shall be used for housing and financial counseling, public education, mediation, dispute resolution, and enforcement of laws and agreements protecting the rights of homeowners and lessees. The monies shall be used only for these purposes. The monies shall be deposited into an administrative trust account to be administered by the Attorney General of the State of Hawaii, who as custodian shall have sole discretion to make determinations as to the amounts and the purposes for which the monies are to be expended.

Then Attorney General David M. Louie convened a task force on March 22, 2012, to provide recommendations on how best to expend the funds that Hawaii received

pursuant to the settlement.

The members of the task force were:

Senator Rosalyn H. Baker
Senator David Y. Ige
Representative Robert N. Herkes
Representative Marcus R. Oshiro
Department of Commerce and Consumer Affairs Director Kealii Lopez
Department of Commerce and Consumer Affairs Acting Deputy Director Jo Ann Uchida
Judiciary Staff Attorney Julia P. Verbrugge
Judiciary Center for Alternative Dispute Resolution Director Elizabeth Kent
Attorney General David M. Louie

B. Details of Revenues and Expenditures

In accordance with recommendations from the task force and the federal court consent order, the Attorney General established the Foreclosure Assistance Program and the trust fund to expend the settlement funds.

During Fiscal Year (FY) 2015-2016, the following significant transactions occurred in the trust fund:

REVENUES:

\$4,364.99 INVESTMENT POOL INTEREST

EXPENDITURES:

1. \$234,252.00 paid to Big Island Mediation service providers to provide mortgage loan modification and foreclosure mediation services to consumers on the Big Island.
 2. \$184,666.00 to the Department of Consumer Affairs for foreclosure assistance services, including mortgage rescue fraud services.
 3. \$236,117.00 to the Judiciary for foreclosure assistance services.
 4. \$337,500.00* to Legal Aid of Hawaii for loan modification, housing counseling and foreclosure assistance services.
- *Ten (10) percent of the amount is held until the end of the contract period.

Financial Data for Fiscal Years 2012-2013, 2013-2014, 2014-2015 and 2015-2016:

Below are the details of the revenue and expenditure for this account for FY 2015-2016

	FY 2012-2013	FY 2013-2014	FY 2014-2015	FY 2015-2016
Beginning Cash Balance	\$0	\$1,529,243.00	\$1,324,990.75	\$1,066,320.25
Beginning Encumbrances		\$0	\$0	\$0
Revenues	\$7,911,883.00		\$3,840.73	\$4,364.99
Expenditures	\$6,382,640.00	\$204,252.25	\$262,511.23	\$958,785.00
Transfers				
Ending Cash Balance	\$1,529,243.00	\$1,324,990.75	\$1,066,320.25	\$111,900.24

Revenue by Source Code:

Source Code	Description	Revenue
0288	INVESTMENT POOL ACCOUNT	\$4,364.99
787	MISCELLANEOUS CLAIMS	0.00
1492	SALE OF SERVICES – UTILITIES	0.00
	Total Revenue	\$4,364.99

Expenditure by Object Code:

Object Code	Description	Expenditure
6800	JUDGMENTS AND CLAIMS	\$958,785.00
4300	EMPLOYEE TRAVEL	0.00
	Total Expenditure	\$958,785.00

III. SEIZED FUNDS – FINAL DISPOSITION PENDING ACCOUNT

**A. Overview of the Seized Funds – Final Disposition Pending Account:
 FY 2015-2016**

In 1988, the Legislature enacted chapter 712A, Hawaii Revised Statutes (HRS), the Hawaii Omnibus Criminal Forfeiture Act. Chapter 712A provides for the forfeiture of property used or acquired in connection with the commission of certain criminal offenses and for the distribution of the property, or its proceeds, to law enforcement agencies for law enforcement purposes. A detailed history and explanation to the program is provided in the Annual Report of proceedings under the Hawaii Omnibus Criminal Forfeiture Act and Report on Seized Funds – Final Disposition Pending Account submitted contemporaneously with this report.

The Seized Funds – Final Disposition Pending Account, account number T-906, was administratively established in 1988 as a “holding” account because currency

seized for administrative or judicial forfeiture can be ordered returned to a claimant, forfeiture to the State, or divided between the clamant and the State pursuant to a judicial or administrative settlement agreement. This fund receives no actual revenue since it operates as a trust account. Disbursements from the fund include amounts returned to a claimant if the seized funds are not forfeited or, if the seized funds are ordered forfeited, the funds are transferred to the Criminal Forfeiture Fund which is discussed more fully in the Annual Report of proceedings under the Hawaii Omnibus Criminal Forfeiture Act and Report on Seized Funds – Final Disposition Pending Account submitted contemporaneously with this report.

B. Transfers

During Fiscal Year (FY) 2015-2016, the following significant transactions occurred in the trust fund:

TRANSFERS INTO ACCOUNT:

Hawaii County Police Department	\$ 34,931.00
Honolulu Police Department	\$ 86,045.47
Kauai County Police Department	\$ 27,841.56
Maui County Police Department	\$ 78,797.32
Transfer from Criminal Forfeiture Fund	
Error correction	<u>\$ 14,085.00</u>
 Total Transfers In	 <u>\$ 241,700.35</u>

TRANSFERS OUT OF ACCOUNT:

Transfers to the Criminal Forfeiture Fund	\$ 522,821.00
Returned directly to Claimant	\$ 1,400.00
Hawaii County Police Department	\$ 14,861.00
Honolulu Police Department	\$ 17,141.09
Kauai County Police Department	\$ 2,428.04
Maui County Police Department	<u>\$ 9,164.00</u>
 Total Transfers Out	 <u>\$ 567,815.13</u>