

DAVID Y. IGE
GOVERNOR OF
HAWAII



DEPT. COMM. NO. 38

SUZANNE D. CASE
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BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 5, 2018

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

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Revenues Generated From General Administrative Penalties Imposed Under Chapter 183, Hawaii Revised Statutes report, as required by Section 183-5, Hawaii Revised Statutes (HRS). In accordance with Section 93-16, HRS, a copy of this report has been transmitted to the Legislative Reference Bureau and the report may be viewed electronically at <http://dlnr.hawaii.gov/reports/>.

Sincerely,

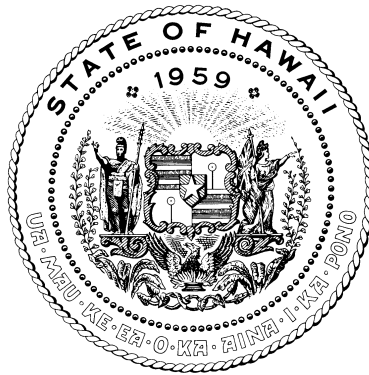
A handwritten signature in blue ink, appearing to read "Suzanne D. Case".

SUZANNE D. CASE
Chairperson

Enclosure

**REPORT TO THE THIRTIETH LEGISLATURE
STATE OF HAWAII
2019 REGULAR SESSION**

**REVENUES GENERATED FROM GENERAL ADMINISTRATIVE PENALTIES
IMPOSED UNDER CHAPTER 183, HAWAII REVISED STATUTES**



Prepared by

**THE STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE**

In response to Section 183-5, Hawaii Revised Statutes

Honolulu, Hawaii
December 2018

REVENUES GENERATED FROM GENERAL ADMINISTRATIVE PENALTIES IMPOSED UNDER CHAPTER 183, HAWAII REVISED STATUTES

PURPOSE

This report complies with Section 183-5, Hawaii Revised Statutes (HRS), and covers specific topics relating to the protection of the State Forest Reserve System (FRS). Act 174, Session Laws of Hawaii (SLH) 2006, in part amended Chapter 183, HRS, by adding a new section entitled, “General Administrative Penalties.” This section authorizes the Board of Land and Natural Resources (Board) or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The Department of Land and Natural Resources (Department) is also required to submit an annual report to the Hawaii State Legislature outlining revenues generated by these administrative penalties. This annual report covers the period from July 1, 2017 to June 30, 2018.

BACKGROUND

The administrative penalties for violations of Chapter 183, HRS, became effective in June of 2006, by way of Act 174, SLH 2006. This Act authorizes the Board or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The Department sought this particular change to HRS due to a notable increase in the occurrence and severity of violations, particularly the theft or unpermitted harvest of highly valuable koa timber resources from the FRS. The Department appreciates the attention that this report and related laws have drawn to this important issue.

Prior to Act 174, SLH 2006, the existing language within Chapter 183, HRS, created a situation whereby certain penalties for violations, particularly large-scale theft of timber or other resources on FRS lands, did not effectively deter illegal harvesting because the potential value of the resources taken far exceeded any penalties that could be imposed by the State upon a violator. With the enactment of Act 174, SLH 2006, a framework for effective enforcement of penalties and timely prosecution of those in violation of Chapter 183, HRS, and associated rules was established.

Act 174, SLH 2006, has helped to protect the public resources by, among other things:

- 1) Allowing the Board of Land and Natural Resources to set and collect administrative penalties, including bringing legal action to recover fines, fees, and other costs resulting from violations of Chapter 183, HRS, and associated rules;
- 2) Increasing the criminal fine amount for timber trespass, including the removal of any timber within the FRS; and
- 3) Establishing specific administrative penalty levels for repeat offenders or violations of varying severity.

The Department does note that from the onset of the Act, the value of forest products, including koa and now sandalwood, has significantly increased. Thus, the penalties and fines are now out of date with the current value of the resources.

The Administration submitted as part of its legislative package for the 2016 regular session proposals introduced as House Bill 2378 and Senate Bill 2907 and for the 2017 regular session proposals introduced as House Bill 1123 and Senate Bill 989, relating to updating the penalties and fines of Chapter 183, HRS. A similar bill, SB2451, made it to conference committee meetings during the 2016 regular session, but was not taken up for a final vote. The Department continues to believe the penalties and fines need to be updated.

REVENUES GENERATED

No revenue was generated during this reporting period.

RECOMMENDATION

This law is very important for the protection of public resources within the State FRS. However, the Department believes that amending fines for destroying or harvesting trees and plants on lands within the FRS to an amount up to three times the market value at the time and place of the violation for each tree or plant and the cost of restoration or replacement of the habitat would provide a stronger deterrent for unauthorized and illegal use of public resources.