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# A BILL FOR AN ACT

RELATING TO NON-GENERAL FUNDS.

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

1           SECTION 1. The purpose of this Act is to:

2           (1) Reclassify or abolish certain non-general funds of the

3           department of the attorney general pursuant to the

4           recommendations by the auditor in auditor's report no.

5           19-16; and

6           (2) Repeal the University of Hawaii at Manoa

7           intercollegiate athletics special fund and University

8           of Hawaii at Hilo intercollegiate athletics special

9           fund pursuant to the recommendations by the auditor in

10          auditor's report no. 20-03,

11          and to transfer the remaining unencumbered balances to the

12          general fund.

13          SECTION 2. Section 28-16, Hawaii Revised Statutes, is

14          amended to read as follows:

15          " [†] §28-16 [†] **Litigation deposits trust [~~fund-~~] account.**

16          (a) There is created in the state treasury the litigation

17          deposits trust [~~fund-~~] account. There shall be deposited into



1 this [~~fund~~] account all moneys received through any civil action  
2 in which the State is a party where the settlement amount is  
3 \$100,000 or higher, except for those actions involving  
4 departments able to procure their own legal services as provided  
5 for by section 28-8.3 and where no other state statute or court  
6 order specifically provides for the deposit of moneys received  
7 through the action.

8 (b) The [~~fund~~] account shall be administered by the  
9 department of the attorney general. The department shall  
10 maintain accounting records of [~~fund~~] account moneys, including  
11 subsidiary records of individual litigation deposits and  
12 disbursements thereof. Moneys in the [~~fund~~] account may be  
13 separated into subsidiary accounts; provided that one subsidiary  
14 account shall not be commingled with moneys from another  
15 subsidiary account except for deposit or investment purposes  
16 under subsection (d).

17 (c) Disbursements from each subsidiary account maintained  
18 under subsection (b) may include attorney's fees and other  
19 necessary expenses that the department determines to be  
20 reasonable and directly related to prosecution of the civil  
21 action for which the subsidiary account is maintained; provided



1 that in the case of moneys deposited as a result of recoveries  
2 by an agency to which a non-general fund applies, the moneys  
3 shall be held and disbursed intact for deposit to the credit of  
4 the non-general fund. Money deposited in the [~~fund~~] litigation  
5 deposits trust account pursuant to an order of the court shall  
6 be disbursed in accordance with the order of the court. Any  
7 residual funds remaining in [~~an~~] a subsidiary account shall be  
8 transferred to the respective non-general or general fund with  
9 which the civil action is associated no later than thirty days  
10 after the civil action for which the subsidiary account is  
11 maintained is closed and all costs of that civil action have  
12 been paid, unless otherwise provided for by statute.

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

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



1 (1) The transactions, by subsidiary account, that take  
2 place in the [~~fund~~] litigation deposits trust account  
3 for each fiscal year; and

4 (2) A summary of the collections made in any amount on  
5 behalf of other departments and agencies specifying  
6 the appropriate number of transactions and amount  
7 collected for each department and agency."

8 SECTION 3. Section 456-9, Hawaii Revised Statutes, is  
9 amended by amending subsection (d) to read as follows:

10 "(d) The foregoing moneys collected by the attorney  
11 general pursuant to this section shall be deposited into the  
12 notaries public [~~revolving~~] special fund established by section  
13 456-9.5, except that if that fund is terminated, the foregoing  
14 moneys shall thereafter be deposited with the director of  
15 finance to the credit of the general fund."

16 SECTION 4. Section 456-9.5, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§456-9.5 Notaries public [~~revolving~~] special fund. (a)  
19 There is established in the state treasury the notaries public  
20 [~~revolving~~] special fund into which shall be deposited:



- 1 (1) All fees, administrative fines, charges, or other  
2 payments received pursuant to section 456-9;
- 3 (2) Penalties and fines for violations of section 456-3,  
4 456-7, or 456-16;
- 5 (3) Appropriations made for deposit into the notaries  
6 public [~~revolving~~] special fund; and
- 7 (4) Interest earned on money in the notaries public  
8 [~~revolving~~] special fund.
- 9 (b) The notaries public [~~revolving~~] special fund shall be  
10 administered by the department of the attorney general.  
11 Notwithstanding any law to the contrary, moneys in the notaries  
12 public [~~revolving~~] special fund shall be used for personnel  
13 costs, the acquisition of equipment, and operating and  
14 administrative costs deemed necessary by the department of the  
15 attorney general to administer this chapter. The moneys in the  
16 fund may also be used to train personnel as the attorney general  
17 deems necessary, and for any other activity related to notaries  
18 public."

19 SECTION 5. Section 456-18, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           "§456-18 Notaries in government service. Except as  
2 otherwise provided for by law, the head of every department  
3 (which term as used in this chapter includes any department,  
4 board, commission, bureau, or establishment of the United  
5 States, or of the State, or any political subdivision thereof)  
6 may designate one or more of the head of every department's  
7 subordinates to be a notary public who, upon duly qualifying and  
8 receiving a commission as a notary public in government service,  
9 shall perform, without charge, the services of a notary public  
10 in all matters of business pertaining to the State, any  
11 political subdivision thereof, or the United States.

12           Any provision of this chapter to the contrary  
13 notwithstanding, a subordinate so designated and thus qualified  
14 and commissioned as a notary public in government service shall:

15           (1) Be authorized to perform the duties of a notary public  
16                 in one or more of the judicial circuits of the State  
17                 as the attorney general shall designate;

18           (2) Not be required to:

19                 (A) Pay any fee to the clerk of any circuit court for  
20                         filing a copy of the notary's commission;



- 1 (B) Pay any fee to the attorney general for the  
2 issuance of the notary's commission or the  
3 renewal thereof; or
- 4 (C) Furnish and file an official bond unless that  
5 bond is required by the head of the department in  
6 which the notary is a subordinate, in which  
7 event, the expense of furnishing any such bond  
8 shall be borne by the department concerned; and
- 9 (3) Not demand or receive any fee for the notary's service  
10 as a notary public; provided that where the occasion,  
11 in the judgment of the head of the department, is  
12 deemed one of urgent necessity and convenience, the  
13 notary may, but shall not be compelled to, administer  
14 oaths or take acknowledgments in nongovernmental  
15 matters, for which services the prescribed fees shall  
16 be demanded and received as governmental realizations  
17 and covered into the notaries public [~~revolving~~]  
18 special fund established by section 456-9.5, except  
19 that if that fund is terminated, the fees shall  
20 thereafter be deposited into the general fund of the  
21 State; provided further that with the prior written



1 approval of the attorney general, the notary public,  
2 upon paying the fees prescribed by law and upon  
3 executing, depositing, and filing at the notary's own  
4 expense, the required official bond, may demand or  
5 receive the fees prescribed by law for services  
6 rendered by the notary in matters not pertaining to  
7 such public business."

8 SECTION 6. Section 712A-16, Hawaii Revised Statutes, is  
9 amended by amending subsection (4) to read as follows:

10 "(4) There is established in the department of the  
11 attorney general a [~~revolving~~] special fund to be known as the  
12 criminal forfeiture fund, hereinafter referred to as the "fund"  
13 in which shall be deposited one-half of the proceeds of a  
14 forfeiture and any penalties paid pursuant to section  
15 712A-10(6). All moneys in the fund shall be expended by the  
16 attorney general and are appropriated for the following  
17 purposes:

18 (a) The payment of any expenses necessary to seize,  
19 detain, appraise, inventory, safeguard, maintain,  
20 advertise, or sell property seized, detained, or  
21 forfeited pursuant to this chapter or of any other





- 1 necessary expenses incident to the seizure, detention,  
2 or forfeiture of such property and such contract  
3 services and payments to reimburse any federal, state,  
4 or county agency for any expenditures made to perform  
5 the foregoing functions;
- 6 (b) The payment of awards for information or assistance  
7 leading to a civil or criminal proceeding;
- 8 (c) The payment of supplemental sums to state and county  
9 agencies for law enforcement purposes;
- 10 (d) The payment of expenses arising in connection with  
11 programs for training and education of law enforcement  
12 officers;
- 13 (e) The payment of expenses arising in connection with  
14 enforcement pursuant to the drug nuisance abatement  
15 unit in the department of the attorney general; and
- 16 (f) The payment of expenses arising in connection with the  
17 law enforcement officer independent review board in  
18 the department of the attorney general."

19 SECTION 7. Section 304A-2176, Hawaii Revised Statutes, is  
20 repealed.



1           ~~["§304A-2176] University of Hawaii at Manoa~~  
2 ~~intercollegiate athletics special fund and University of Hawaii~~  
3 ~~at Hilo intercollegiate athletics special fund. Notwithstanding~~  
4 ~~any other law to the contrary, there are established the~~  
5 ~~University of Hawaii at Manoa intercollegiate athletics special~~  
6 ~~fund and the University of Hawaii at Hilo intercollegiate~~  
7 ~~athletics special fund for the intercollegiate athletic programs~~  
8 ~~of the University of Hawaii at Manoa and the University of~~  
9 ~~Hawaii at Hilo, which shall be used to receive, deposit,~~  
10 ~~disburse, and account for funds from the activities of the~~  
11 ~~intercollegiate athletic programs. The university may establish~~  
12 ~~appropriate charges for activities related to its athletic~~  
13 ~~programs and the use of its athletic facilities, the proceeds~~  
14 ~~from which shall be deposited into these special funds.~~

15           ~~The university shall maintain the financial integrity and~~  
16 ~~viability of these special funds, including the maintenance of~~  
17 ~~an adequate reserve to cope with the various factors that impact~~  
18 ~~the revenue structure of an intercollegiate athletic program."]~~

19           SECTION 8. The University of Hawaii at Manoa  
20 intercollegiate athletics special fund and University of Hawaii  
21 at Hilo intercollegiate athletics special fund established under



1 section 304A-2176, Hawaii Revised Statutes, is abolished  
2 pursuant to section 7 of this Act and any remaining unencumbered  
3 balances shall be transferred to the general fund.

4 SECTION 9. The Hawaii criminal justice commission trust  
5 account established in 1985 pursuant to the authority granted by  
6 section 28-10.6(a)(5), Hawaii Revised Statutes, is abolished and  
7 any remaining unencumbered balance shall lapse to the credit of  
8 the general fund.

9 SECTION 10. The national mortgage settlement trust account  
10 administratively established in 2012 is abolished and any  
11 remaining unencumbered balance shall lapse to the credit of the  
12 general fund.

13 SECTION 11. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 12. This Act shall take effect on July 1, 2020;  
16 provided that the amendments made to section 712A-16, Hawaii  
17 Revised Statutes, shall not be repealed when that section is  
18 repealed and reenacted on June 30, 2022, by Act 161, Session  
19 Laws of Hawaii 2016.

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**Report Title:**

ATG; UH; Non-General Funds; Reclassification; Abolish

**Description:**

Reclassifies the notaries public revolving fund, and criminal forfeiture revolving fund as special funds; litigation deposits trust fund as a trust account; and the national mortgage settlement trust account as a trust fund. Abolishes the criminal justice commission trust account. Abolishes the UH intercollegiate athletics special fund. (HD1)

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

