
A BILL FOR AN ACT

RELATING TO ANTITRUST.

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

1 SECTION 1. Section 480-2, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) No person other than a consumer, the attorney general
4 ~~[or]~~, the director of the office of consumer protection, or the
5 corporation counsel or county attorney of a county may bring an
6 action based upon unfair or deceptive acts or practices declared
7 unlawful by this section."

8 SECTION 2. Section 480-3.1, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§~~480-3.1 Civil penalty. Any person, firm, company,
11 association, or corporation violating any of the provisions of
12 section 480-2 shall be fined a sum of not less than \$500 nor
13 more than \$10,000 for each violation, which sum shall be
14 collected in a civil action brought by the attorney general or
15 ~~[the]~~ director of the office of consumer protection on behalf of
16 the State~~[-]~~ or by the corporation counsel or county attorney on
17 behalf of a county. The penalties provided in this section are



1 cumulative to the remedies or penalties available under all
2 other laws of this State. Each day that a violation of section
3 480-2 occurs shall be a separate violation."

4 SECTION 3. Section 480-13, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Except as provided in subsections (b) and (c), any
7 person who is injured in the person's business or property by
8 reason of anything forbidden or declared unlawful by this
9 chapter:

10 (1) May sue for damages sustained by the person, and, if
11 the judgment is for the plaintiff, the plaintiff shall
12 be awarded a sum not less than \$1,000 or threefold
13 damages by the plaintiff sustained, whichever sum is
14 the greater, and reasonable attorney's fees together
15 with the costs of suit; provided that indirect
16 purchasers injured by an illegal overcharge shall
17 recover only compensatory damages, and reasonable
18 attorney's fees together with the costs of suit in
19 actions not brought under section [~~480-14(e);~~] 480-
20 14(e); and



1 (2) May bring proceedings to enjoin the unlawful
2 practices, and if the decree is for the plaintiff, the
3 plaintiff shall be awarded reasonable attorney's fees
4 together with the costs of suit."

5 SECTION 4. Section 480-14, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§480-14 Suits by the State[+] and counties; amount of**
8 **recovery.** (a) Whenever the State or any of its political
9 subdivisions or governmental agencies is injured, directly or
10 indirectly, in its business or property by reason of anything
11 forbidden or declared unlawful by this chapter, it may sue to
12 recover threefold the actual damages sustained by it, whether
13 directly or indirectly. [~~The~~]

14 (b) Except as provided in subsection (c), the attorney
15 general may bring an action on behalf of the State or any of its
16 political subdivisions or governmental agencies to recover the
17 damages provided for by this section, or by any comparable
18 provisions of federal law.

19 (c) The corporation counsel or county attorney, as the
20 case may be, may bring an action on behalf of a county to



1 recover the damages provided for by this section, or by any
2 comparable provisions of federal law.

3 ~~[(b)]~~ (d) The attorney general of the State shall be
4 authorized to bring a class action for indirect purchasers
5 asserting claims under this chapter. The attorney general ~~[or~~
6 ~~the]~~, director of the office of consumer protection, or
7 corporation counsel or county attorney of a county may bring a
8 class action on behalf of consumers based on unfair or deceptive
9 acts or practices declared unlawful by section 480-2. Actions
10 brought under this subsection shall be brought as *parens patriae*
11 on behalf of natural persons residing in the State to secure
12 threefold damages for injuries sustained by the natural persons
13 to their property by reason of any violation of this chapter.

14 ~~[(e)]~~ (e) If judgment is in favor of the State or any of
15 its political subdivisions or governmental agencies under any
16 provision of this chapter, the attorney general ~~[or the]~~,
17 director of the office of consumer protection, corporation
18 counsel, or county attorney shall be awarded reasonable
19 attorney's fees together with the cost of suit; provided that in
20 any class action lawsuit brought by the attorney general on
21 behalf of indirect purchasers, the attorney general shall in



1 addition be awarded an amount commensurate with expenses
2 reasonably expected to be expended in distribution of damages to
3 the indirect purchasers."

4 SECTION 5. Section 480-15, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§480-15 Injunction by the attorney general [~~or the~~],
7 director of the office of consumer protection[-], corporation
8 counsel, or county attorney. The attorney general may bring
9 proceedings to enjoin any violation of this chapter; provided
10 that the director of the office of consumer protection or
11 corporation counsel or county attorney of a county may also
12 bring proceedings to enjoin any violation of section 480-2."

13 SECTION 6. Section 480-15.1, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§480-15.1 Penalty. Any person, firm, company,
16 association, or corporation violating an injunctive order to
17 cease and desist from violating any provisions of this chapter
18 shall be fined by a sum not less than \$500 nor more than
19 \$10,000, which sum shall be collected in a civil action brought
20 by the attorney general or [~~the~~] director of the office of
21 consumer protection on behalf of the State[-] or by the



1 corporation counsel or county attorney on behalf of a county.
2 Each separate violation of any such order shall be a separate
3 offense, except that in the case of a violation through
4 continuing failure or neglect to obey a final order of the
5 court, each day of continuance of such failure shall constitute
6 a separate offense."

7 SECTION 7. Section 480-20, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

9 "(c) The attorney general, director of the office of
10 consumer protection, or corporation counsel or county attorney
11 of a county shall have concurrent jurisdiction [~~with the~~
12 ~~attorney general~~] to enforce the civil provisions of this
13 chapter with regard to violations of section 480-2."

14 SECTION 8. Section 480-22, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) A final judgment or decree rendered in any civil or
18 criminal proceeding brought by the State, county, or any of its
19 political subdivisions or governmental agencies, under this
20 chapter shall be prima facie evidence against the defendant in
21 any action or proceeding brought by any other party under this



1 chapter, or by the State, county, or any of its political
2 subdivisions or governmental agencies, under section 480-14,
3 against the defendant as to all matters respecting which the
4 judgment or decree would be an estoppel between the parties
5 thereto. This section shall not apply to consent judgments or
6 decrees entered before any complaint has been filed; provided
7 that when a consent judgment or decree is filed, the attorney
8 general shall set forth at the same time the alleged violations
9 and reasons for entering into the consent judgment or decree.
10 No consent judgment or decree that is entered before any
11 complaint has been filed shall become final until sixty days
12 from the filing of the consent judgment or decree or until the
13 final determination of any exceptions filed, as hereinafter
14 provided, whichever is later. During the sixty-day period any
15 interested party covered under section 480-13 may file verified
16 exceptions to the form and substance of the consent judgment or
17 decree, and the court, upon a full hearing thereon may approve,
18 refuse to approve, or may modify the consent judgment or
19 decree."



1 2. By amending subsection (c) to read:

2 "(c) Whenever any civil or criminal proceeding is
3 instituted by the State, county, or any of its political
4 subdivisions or governmental agencies, to prevent, restrain, or
5 punish violations of this chapter, but not including an action
6 under section 480-14, the running of the statute of limitations
7 in respect of every private right of action arising under the
8 laws and based in whole or in part on any matter complained of
9 in the proceeding shall be suspended during the pendency thereof
10 and for one year thereafter."

11 SECTION 9. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 10. This Act shall take effect upon its approval.
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H.B. NO. 2118

Report Title:

Antitrust; Monopolies; Counties; Suits

Description:

Clarifies that the corporation counsel or county attorney of a county may file suit to recover damages under Hawaii's antitrust laws or any comparable provisions of federal law.

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