

ACT 168

H.B. NO. 513

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and entities, for claims against the State or its officers or employees for overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:**

AMOUNT

**1. DEPARTMENT OF ACCOUNTING AND
GENERAL SERVICES:**

Action Construction, Inc. v. State of Hawaii, et al., Civil No. 98-2564-06, First Circuit	\$ 90,000.00	Settlement
Aloha Flea Market Litigation Civil No. 99-00529SOM/FIY, USDC Civil No. 99-1308-03, First Circuit Civil No. 99-3107-08DDD, First Circuit	\$ 295,000.00	Settlement
Walter Y. Arakaki, General Contractor, Inc. v. Raymond H. Sato, Comptroller, Civil No. 98-5296-12, First Circuit	\$ 55,000.00	Settlement
Gassner v. State of Hawaii Civil No. 98-1314-03, First Circuit	\$ 260,000.00	Settlement
SUBTOTAL:	\$ 700,000.00	

**2. DEPARTMENT OF BUDGET AND FI-
NANCE:**

Royal State National Insurance Company, Ltd. v. Board of Trustees, et al., Civil No. 99-0400-01, First Circuit	\$ 22,668.44	Settlement
SUBTOTAL:	\$ 22,668.44	

**3. DEPARTMENT OF BUSINESS, ECO-
NOMIC DEVELOPMENT AND TOURISM:**

Heanu v. State of Hawaii Civil No. 9-00167HG, USDC	\$ 51,331.59	Settlement/ Judgment
Amount of Settlement:	\$ 10,000.00	
Amount of Judgment:	\$ 40,458.59	
6.241% interest from 12/27/00:	\$ 873.00	
Nishida v. State of Hawaii Civil No. 98-00145DAE, USDC	\$ 12,170.80	Judgment
Amount of Judgment:	\$ 11,737.80	
6.241% interest from 12/29/00:	\$ 433.00	
Rowan v. State of Hawaii Civil No. 98-00144ACK, USDC	\$ 18,398.25	Judgment
Amount of Judgment:	\$ 17,573.25	
6.241% interest from 10/31/00:	\$ 825.00	
Quiocho v. State of Hawaii Civil No. 99-2504-06, First Circuit	\$ 15,798.74	Settlement
SUBTOTAL:	\$ 97,699.38	

4. DEPARTMENT OF EDUCATION:

Caires v. Foodland Supermarkets, et al. Civil No. 99-3326-09, First Circuit	\$ 18,500.00	Settlement
Carvalho v. Downey, et al. Civil No. 98-00844, USDC	\$ 35,000.00	Settlement

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:****AMOUNT**

Doe Parent v. Heu, et al. Civil No. 00-00740HG, USDC	\$ 15,000.00 Settlement
Ferrera v. Azama, et al. Civil No. 99-0816-02, First Circuit	\$ 539,964.58 Judgment
Amount of Judgment:	\$ 515,891.05
4% interest from 6/13/00:	\$ 24,073.53
Francisco v. State of Hawaii Civil No. 98-0230, Fifth Circuit	\$ 800,000.00 Settlement
James P., et al. v. LeMahieu Civil No. 99-00861DAE, USDC	\$ 15,383.66 Judgment
Amount of Judgment:	\$ 14,632.66
6.241% interest from 10/11/00:	\$ 751.00
Luu v. Cook, et al. Civil No. 98-0018-01, First Circuit	\$ 17,500.00 Settlement
Rohan v. State of Hawaii, et al. Civil No. 00-1-0044(K), Third Circuit	\$ 30,000.00 Settlement
Trinies v. State of Hawaii Civil No. 99-407-11DDD, First Circuit	\$ 15,000.00 Settlement
SUBTOTAL:	\$1,486,348.24
5. DEPARTMENT OF HEALTH:	
Department of Justice Under the False Claims Act for Medicare Overpayment by the Emergency Medical Services Systems Branch of Department of Health	\$ 280,226.52 Settlement
Jones v. State of Hawaii Civil No. 99-00701SOM, USDC	\$ 12,500.00 Settlement
Slavik v. State of Hawaii Civil No. 96-242K, Third Circuit	\$1,536,643.62 Judgment
Amount of Judgment:	\$1,500,000.00
4% interest from 2/6/01:	\$ 28,931.00
Costs:	\$ 7,712.62
SUBTOTAL:	\$1,829,370.14
6. DEPARTMENT OF HUMAN SERVICES:	
Akana v. Chandler, et al. Civil No. 97-00544BMK, USDC	\$ 6,100.00 Settlement
Chang v. Chandler, et al. Civil No. 97-0111 OBMK, USDC	\$ 8,000.00 Settlement
Chong v. Chandler, et al. Civil No. 97-01113BMK, USDC	\$ 1,000.00 Settlement
Esera v. Chandler, et al. Civil No. 97-0539BMK, USDC	\$ 1,016.00 Settlement
Fujioka v. State of Hawaii Civil No. 97-5232-12, First Circuit	\$ 205,000.00 Settlement

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:**

AMOUNT

Gonsalves v. Chandler, et al.		\$ 11,772.63
Civil No. 97-00498BMK, USDC		Judgment
Amount of Judgment:	\$ 11,178.63	
6.052% interest from 9/14/00:	\$ 594.00	
Hoelscher v. Chandler, et al.		\$ 17,663.64
Civil No. 97-00504BMK, USDC		Judgment
Amount of Judgment:	\$ 16,741.64	
6.052% interest from 9/14/00:	\$ 892.00	
Kamahele v. Chandler, et al.		\$ 2,800.00
Civil No. 97-01 128BMK, USDC		Settlement
Makin v. State of Hawaii, et al.		\$ 108,500.00
Civil No. 98-00997DAE, USDC		Settlement
Muller v. Chandler, et al.		\$ 2,500.00
Civil No. 97-01 140BMK, USDC		Settlement
Naeole v. D'Enbeau, et al.		\$ 30,118.21
Civil No. 97-0096(1), Second Circuit		Judgment
Naeole v. State of Hawaii, et al.		\$ 75,000.00
Civil No. 97-0096(1), Second Circuit		Settlement
Ota v. Chandler, et al.		\$ 2,000.00
Civil No. 97-02245BMK, USDC		Settlement
Bramble v. Chandler, et al.		\$ 35,000.00
Civil No. 97-00561BMK, USDC		Settlement
Ranit v. Chandler, et al.		\$ 8,641.00
Civil No. 97-01438BMK, USDC		Settlement
Teruya v. Auhll		\$ 4,649.00
Civil No. 94-4034-10, First Circuit		Settlement
Amount of Settlement:	\$ 4,519.00	
4% interest from 11/14/00:	\$ 130.00	
Yee v. Chandler, et al.		\$ 1,000.00
Civil No. 97-01156BMK, USDC		Settlement
Yuen v. State of Hawaii		\$ 13,614.54
S.P. No. 00-1-0004(RWP), First Circuit		Settlement
Amount of Settlement:	\$ 13,290.42	
4% interest from 12/22/00 to 7/31/01:	\$ 324.12	
SUBTOTAL:		\$ 534,375.02
7. DEPARTMENT OF LABOR AND INDUS-		
TRIAL RELATIONS:		
Tseu v. Jeyte		\$ 30,000.00
Civil No. 94-1553, First Circuit		Settlement

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:****AMOUNT**

Vinson v. Thomas, et al. Civil No. 97-00091HG, USDC	\$ 48,452.42 Settlement
SUBTOTAL:	\$ 78,452.42
8. DEPARTMENT OF LAND AND NATURAL RESOURCES:	
Fielder v. Gehring, et al. Civil No. 99-00350SOM/BMK, USDC	\$ 265,000.00 Settlement
McShane v. State of Hawaii Civil No. 97-2523-06, First Circuit	\$ 25,000.00 Settlement
Napeahi v. Wilson Civil No. 85-01523DAE, USDC	\$ 332,652.69 Judgment
Amount of Judgment:	\$ 314,762.69
6.18% interest from 8/30/00:	\$ 17,890.00
Perreira v. State of Hawaii, et al. Civil No. 98-871, Third Circuit	\$ 30,000.00 Settlement
Pfeiffer, et al. v. State of Hawaii, et al. Civil No. 99-0321-01, First Circuit	\$ 75,000.00 Settlement
SUBTOTAL:	\$ 727,652.69
9. DEPARTMENT OF PUBLIC SAFETY:	
desMarets, In the Matter of desMarets and Waihee, et al. CE-13-181, HLRB	\$ 89,857.14 Judgment
Amount of Judgment:	\$ 84,297.14
4% interest from 12/9/99:	\$ 5,560.00
Dilay v. State of Hawaii Civil No. 99-0053-01, First Circuit	\$ 15,000.00 Settlement
Drane v. Halawa Correctional Facility, et al., Civil No. 98-2093-05, First Circuit	\$ 30,000.00 Settlement
Freeman v. Espinda, et al. Civil No. 98-00244 DAE, USDC	\$ 126,215.47 Settlement
Amount of Settlement:	\$ 122,607.47
Interest:	\$ 3,608.00
Kamai v. State of Hawaii, et al. Civil No. 99-0841-02, First Circuit	\$ 175,000.00 Settlement
McGuire v. State of Hawaii Civil No. 99-3319-09EEH, First Circuit	\$ 40,000.00 Settlement
Nix v. State of Hawaii Civil No. 99-1006-03, First Circuit	\$ 30,000.00 Settlement
Revera v. State of Hawaii, et al. Civil No. 00-1-1289-4, First Circuit	\$ 250,000.00 Settlement
Taylor v. State of Hawaii Civil No. 99-4736-12, First Circuit Civil No. 99-00909DAE/BMK, USDC and MCCP 99-71	\$ 90,000.00 Settlement

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JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
Young v. Public Safety, et al. Civil No. 99-00500HG/LEK, USDC	\$ 15,000.00 Settlement
Zukevich v. State of Hawaii Civil No. 95-00545 ACK, USDC	\$ 294,723.22 Settlement
SUBTOTAL:	\$1,155,795.83
10. UNIVERSITY OF HAWAII:	
Emerick v. State of Hawaii, dba Leeward Community College Civil No. 97-00766SPK/KSC, USDC	\$ 177,000.00 Settlement
SUBTOTAL:	\$ 177,000.00
11. MISCELLANEOUS CLAIMS (Escheated Warrants):	
Fusayo Ito	\$ 93.10
Remy Luria	\$ 111.00
Tammy G.L. Chun	\$ 111.78
Barbara M. Matsumura	\$ 166.00
Esther Matsushita	\$ 170.00
Greg McCormack	\$ 213.53
Patricia M. Perez	\$ 335.11
SUBTOTAL:	\$ 1,200.52
TOTAL (SECTION 1):	\$6,810,562.68

SECTION 2. The following sums of money are appropriated out of the state highway and harbors funds for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	
DEPARTMENT OF TRANSPORTATION, HARBORS DIVISION:	
Healy Tibbitts Builders, Inc. v. State of Hawaii, Civil No. 96-0828-02, First Circuit	\$ 450,000.00 Settlement
Mitchell v. State of Hawaii, et al. Civil No. 99-217K, Third Circuit	\$ 36,481.48 Judgment
Amount of Judgment:	\$ 35,196.42
4% interest from 3/22/01:	\$ 506.00
Costs:	\$ 779.06
TOTAL:	\$ 486,481.48
DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:	
Arakaki v. Anama, et al. Civil No. 98-3469-08, First Circuit	\$ 75,000.00 Settlement
Austria v. State of Hawaii Civil No. 00-1-0757-03, First Circuit	\$ 20,000.00 Settlement

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:**

Braganza v. State of Hawaii, et al. Civil No. 99-2632-07, First Circuit	\$ 15,000.00 Settlement
Castro v. State of Hawaii Civil No. 90-139, Third Circuit	\$3,563,323.70 Judgment
Cohen v. State of Hawaii Civil No. 00-10060(1), Second Circuit	\$ 72,500.00 Settlement
Corpuz v. State of Hawaii Civil No. 99-0902-03, First Circuit	\$ 40,000.00 Settlement
DeSilva v. State of Hawaii Civil No. 97-0303(3), Second Circuit	\$ 685,974.40 Judgment
Amount of Judgment:	\$638,774.40
4% interest from 9/28/00:	\$ 47,200.00
Fireman's Fund Insurance Companies v. State of Hawaii, Civil No. 99-105, Third Circuit	\$ 25,000.00 Settlement
Hale Kauai v. State of Hawaii Civil No. 97-0028, Fifth Circuit	\$ 15,000.00 Settlement
Julian v. Jacobson, et al. Civil No. 98-5212-12, First Circuit	\$ 75,000.00 Settlement
Kolomitz v. State of Hawaii Civil No. 96-0108(1), Second Circuit	\$ 15,743.66 Judgment
Melvin v. Shephard, et al. Civil No. 97-0-001288(KNB), First Circuit	\$ 60,000.00 Settlement
Pottenger v. State of Hawaii Civil No. 99-103, Third Circuit	\$ 32,500.00 Settlement
Rinaldi, et al. v. Trans-Hawaiian Maui, et al. Civil No. 97-0690(1), Second Circuit	\$ 77,975.30 Judgment
Amount of Judgment:	\$ 63,045.46
4% interest from 10/17/00:	\$ 1,997.00
Costs:	\$ 12,932.84
Roseman v. State of Hawaii Civil No. 98-2192-05, First Circuit	\$ 16,296.50 Settlement
Williams v. State of Hawaii Civil No. 98-0683(3), Second Circuit	\$ 144,118.42 Judgment
Amount of Judgment:	\$134,193.22
4% interest from 7/26/00:	\$ 5,485.76
Costs:	\$ 4,439.44
TOTAL:	<u>\$4,933,431.98</u>
TOTAL (SECTION 2):	<u>\$5,419,913.46</u>
GRAND TOTAL (SECTIONS 1 AND 2):	\$12,230,476.14

SECTION 3. The sums hereinabove appropriated may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon warrants or checks issued by the comptroller of the State:

- (1) Upon vouchers approved by the director of taxation as to claims for refunds of taxes; and

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(2) Upon vouchers approved by the attorney general as to all other claims.

SECTION 4. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which that statute applies.

SECTION 5. All unexpended and unencumbered balances of the appropriations made by section 1 of this Act as of the close of business on June 30, 2002, shall lapse into the general fund of the State.

SECTION 6. Any future claim for which money is required to satisfy a judgment or settlement agreement shall be funded through each agency's departmental allocation and not by general fund appropriations.

SECTION 7. If any provision of this Act, or the application thereof to any person or entity or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. This Act shall take effect on July 1, 2001.

(Approved May 29, 2001.)