

ACT 98

H.B. NO. 2277

A Bill for an Act Making Appropriations for Claims Against the State, its Officers, or its Employees.

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

PART I

SECTION 1. The following sums or so much thereof as may be necessary for fiscal year 2005-2006 are appropriated out of the general revenues of the State of Hawaii to the department of the attorney general 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 the overpayment

of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amounts set forth opposite their names:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
1. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:	
Oceanic Companies, Inc. v. State of Hawaii, Civil No. 04-1-0054, Fifth Circuit	\$ 130,800.00 Settlement
SUBTOTAL:	<u>\$ 130,800.00</u>
2. DEPARTMENT OF EDUCATION:	
Aguinaldo, et al. v. De Costa, et al. Civil No. 05-1-0380(3), Second Circuit	\$ 16,500.00 Settlement
Aldana, Cesar (Tort Claim)	\$ 137,500.00 Settlement
Anova Science Education Corp. and Robert Landsman v. Halau Lokahi Public Charter School, et al. Civil No. 05-1-1395-08, First Circuit	\$ 20,000.00 Settlement
Cacho v. State of Hawaii, et al. Civil No. 04-1-1091-06, First Circuit	\$ 25,000.00 Settlement
Hewett v. State of Hawaii Civil No. 05-1-0313, First Circuit	\$ 37,000.00 Settlement
Sula, Pamata (Tort Claim)	\$ 125,000.00 Settlement
SUBTOTAL:	<u>\$ 361,000.00</u>
3. DEPARTMENT OF HEALTH:	
Hawaii Disability Rights Center, et al v. State of Hawaii, et al. Civil No. 03-00524, USDC	\$ 121,169.17 Judgment
Tyler, et al v. State of Hawaii, et al. Civil No. 05-1-0037-01, First Circuit	\$ 32,889.00 Settlement
SUBTOTAL:	<u>\$ 154,058.17</u>
4. HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII:	
Anone, et al. v. Aveiro, et al. Civil No. 04-00508, USDC	\$ 40,138.59 Settlement
SUBTOTAL:	<u>\$ 40,138.59</u>
5. DEPARTMENT OF HUMAN SERVICES:	
Doi v. State of Hawaii, et al. Civil No. 97-4036-10, First Circuit	\$2,000,000.00 Settlement
Hirata v. Chandler, et al. Civil No. 02-1-2277-09, First Circuit	\$ 90,000.00 Settlement
Kahoohanohano, et al. v. Department of Human Services, et al. Civil No. 03-1-0012(2), Second Circuit	\$ 74,000.00 Settlement
Rayford v. Omura, et al. Civil No. 04-00565, USDC	\$ 65,000.00 Settlement

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
R.G., et al., v. Koller, et al. Civil No. 05-566, USDC	\$ 625,000.00 Settlement
Ryan, et al. v. Kamaka, et al. Civil No. 03-00384, USDC	\$ 47,500.00 Settlement
SUBTOTAL:	<u>\$2,901,500.00</u>
6. DEPARTMENT OF LAND AND NATURAL RESOURCES:	
Fielder v. Murphy Civil No. 01-00608, USDC	\$ 162,018.34 Judgment
Giltner v. State of Hawaii, et al. Civil No. 02-1-0187, Fifth Circuit	\$ 79,469.52 Judgment
Rumball, et al. v. State of Hawaii, et al. Civil No. 04-1-0038K, Third Circuit	\$ 100,000.00 Settlement
SUBTOTAL:	<u>\$ 341,487.86</u>
7. DEPARTMENT OF PUBLIC SAFETY:	
Abiley v. State of Hawaii Civil No. 04-1-0725-04, First Circuit	\$ 23,000.00 Settlement
Belle v. State of Hawaii, et al. Civil No. 04-1-1355-07, First Circuit	\$ 225,000.00 Settlement
Fineman v. Maesaka, et al. Civil No. 04-1-1619-09, First Circuit And Allstate Insurance Company, et al. v. State of Hawaii, et al., Civil No. 05-1-1049-06, First Circuit	\$ 70,000.00 Settlement
Rodenhurst v. State of Hawaii, et al. Civil No. 04-1-0724-04, First Circuit	\$ 31,342.71 Judgment
Roe v. Murashige, et al. Civil No. 05-1-0008(1), Second Circuit	\$ 95,000.00 Settlement
Siuze v. Department of Public Safety, et al. Civil No. 05-1-0780-05, First Circuit	\$ 36,238.80 Settlement
SUBTOTAL:	<u>\$ 480,581.51</u>
8. RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII:	
Perreira v. Maloney, et al. Civil No. 04-1-1075, Third Circuit	\$ 22,500.00 Settlement
SUBTOTAL:	<u>\$ 22,500.00</u>
9. MISCELLANEOUS CLAIMS:	
Boetcher, Barbara E.	\$ 65.08
SUBTOTAL:	<u>\$ 65.08</u>
TOTAL (SECTION 1):	<u>\$4,432,131.21</u>

The sums appropriated shall be expended by the department of the attorney general for the purposes of this Act.

PART II

SECTION 2. The following sums or so much thereof as may be necessary for fiscal year 2005-2006 are appropriated out of the state highway fund 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:	AMOUNT
DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:	
Adams, et al. v. Lee Loy, et al. Civil No. 04-1-0413, Third Circuit	\$ 35,073.97 Settlement
Benicta v. State of Hawaii Civil No. 05-1-1556-08, First Circuit	\$ 15,000.00 Settlement
Brzezowski, et al. v. State of Hawaii, et al. Civil No. 04-1-0595-03, First Circuit	\$ 150,000.00 Settlement
Carvalho, et al. v. State of Hawaii, et al. Civil No. 04-1-118, Third Circuit	\$ 25,000.00 Settlement
Fearon v. State of Hawaii Civil No. 03-1-1939-09, First Circuit	\$ 65,000.00 Settlement
Fortuno v. Lee Loy, et al. Civil No. 04-1-0402, Third Circuit	\$ 15,000.00 Settlement
Kamalu v. Paren, et al. Civil No. 97-4959-12, First Circuit	\$1,702,327.87 Judgment
Kienker, et al. v. Bauer, et al. Civil No. 98-033K, Third Circuit	\$1,135,188.72 Judgment
Kramer v. Elliott, et al. Civil No. 97-256, Third Circuit	\$ 160,753.09 Judgment
Lewis, et al. v. State of Hawaii, et al. Civil No. 02-1-0257, Second Circuit	\$ 318,467.62 Settlement
Moniz, et al. v. Keola, et al. Civil No. 02-1-2741-11, First Circuit	\$ 75,000.00 Settlement
Nelson v. State of Hawaii, et al. Civil No. 03-1-0415(3), Second Circuit	\$ 40,000.00 Settlement
Newhouse v. Buza, et al. Civil No. 04-1-0090, Fifth Circuit	\$ 200,000.00 Settlement
Pregil v. State of Hawaii Civil No. 06-1-0052-01 SSM, First Circuit	\$ 15,000.00 Settlement
SUBTOTAL:	\$3,951,811.27
TOTAL (SECTION 2):	\$3,951,811.27

The sums appropriated shall be expended by the department of transportation, highways division, for the purposes of this Act.

SECTION 3. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for

claims against the State or department of land and natural resources or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

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

**DEPARTMENT OF LAND AND NATURAL
RESOURCES.**

Allstate Insurance Company (Tort Claim)	\$ 25,000.00 Settlement
SUBTOTAL:	<u>\$ 25,000.00</u>
TOTAL (SECTION 3):	\$ 25,000.00

Provided that the legislative appropriation for the department of land and natural resources for fiscal year 2006-2007 shall be expended from the special land and development fund S-07-318 by the department of land and natural resources for the purposes of this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,300,000, for fiscal year 2006-2007, to the housing and community development corporation of Hawaii, for the purpose of the settlement of the case entitled, Smith, et al. v. Housing and Community Development Corporation of Hawaii, Civil No. 04-1-0096K, Third Circuit.

Funds appropriated under this section shall be subject to:

- (1) Obtaining necessary approval of the settlement from the circuit court and the Department of Housing and Urban Development;
- (2) Disbursement of settlement money to individual qualified resident households, with a set-off or rent credit for any delinquent amounts owed to the housing and community development corporation of Hawaii, and in the form of future rent credits, provided that the housing and community development corporation of Hawaii shall retain any amount of moneys for such rent credits, set-offs, or future rent credits; and
- (3) Payment of any attorney's fees.

Funds appropriated under this section shall be allocated and expended by the housing and community development corporation of Hawaii for the purposes of and in accordance with this section, including but not limited to the terms and conditions of the applicable settlement agreement, and for any rent credit, set-off, or future rent credit.

SECTION 5. The sums hereinabove may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon checks issued by the comptroller; provided that the departments shall obtain the approval of the attorney general before payment of any claim can be made.

SECTION 6. Notwithstanding the sums hereinabove stated 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 part, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which the statute applies.

PART III

SECTION 7. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2007, shall lapse.

SECTION 8. If any provision of this Act, or the application thereof to any person 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 9. This Act shall take effect upon its approval.

(Approved May 15, 2006.)