
A BILL FOR AN ACT

RELATING TO FORFEITURE.

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

1 SECTION 1. The legislature finds that in cases where an
2 individual's property is errantly seized and the value of the
3 property is less than the cost of potential attorneys' fees,
4 there is an injustice done when recovery of the property would
5 result in a net loss for the individual, discouraging the
6 pursuit of rightfully owned property.

7 Accordingly, the purpose of this Act is to allow the
8 criminal forfeiture fund to pay for attorneys' fees for
9 individuals that successfully recover property forfeited to the
10 State.

11 SECTION 2. Chapter 712A, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§712A- Awards of attorneys' fees for recovery of seized
15 property. (a) Notwithstanding any law to the contrary, in any
16 judicial forfeiture proceeding, the court shall allow an



1 individual reasonable attorneys' fees, if the court finds in
2 favor of the individual.

3 (b) Whenever any court awards attorneys' fees pursuant to
4 this section, the award shall not exceed \$. If an
5 individual is represented by counsel from a publicly funded
6 legal service organization, attorneys' fees shall not be
7 awarded.

8 (c) All attorneys' fees awarded pursuant to this section
9 shall be payable from the criminal forfeiture fund established
10 under section 712A-16."

11 SECTION 3. Section 712A-16, Hawaii Revised Statutes, is
12 amended by amending subsection (4) to read as follows:

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

20 (a) The payment of any expenses necessary to seize,
21 detain, appraise, inventory, safeguard, maintain,



1 advertise, or sell property seized, detained, or
 2 forfeited pursuant to this chapter or of any other
 3 necessary expenses incident to the seizure, detention,
 4 or forfeiture of such property and such contract
 5 services and payments to reimburse any federal, state,
 6 or county agency for any expenditures made to perform
 7 the foregoing functions;

8 (b) The payment of awards for information or assistance
 9 leading to a civil or criminal proceeding;

10 (c) The payment of supplemental sums to state and county
 11 agencies for law enforcement purposes;

12 (d) The payment of expenses arising in connection with
 13 programs for training and education of law enforcement
 14 officers; ~~and~~

15 (e) The payment of expenses arising in connection with
 16 enforcement pursuant to the drug nuisance abatement
 17 unit in the department of the attorney general~~[-]~~; and

18 (f) The payment of attorneys' fees awarded pursuant to
 19 section 712A- ."

20 SECTION 4. Statutory material to be repealed is bracketed
 21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

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H.B. NO. 2514

Report Title:

Criminal Forfeiture Fund; Attorneys' Fees

Description:

Requires payment, from the Criminal Forfeiture Fund, of attorneys' fees to individuals that successfully recovered property forfeited to the State.

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