
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 reclassify or
2 abolish certain non-general funds of the department of the
3 attorney general pursuant to the recommendations by the auditor
4 in auditor's report no. 19-16 and to transfer the remaining
5 unencumbered balances to the general fund.

6 SECTION 2. Section 28-13, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~§~~28-13~~§~~ **Antitrust** ~~[trust]~~ special fund. (a) There
9 is established in the state treasury the antitrust ~~[trust]~~
10 special fund, into which shall be deposited:

11 (1) Ten per cent of any antitrust judgment or settlement
12 received by the State except where the deposit is
13 inconsistent with the court order or settlement
14 agreement relating to the amount; and

15 (2) Appropriations made by the legislature.

16 (b) The antitrust ~~[trust]~~ special fund shall be
17 administered by the department of the attorney general and shall



1 be used for expenditures relating to the enforcement of
2 antitrust laws, including but not limited to expenditures for
3 training, equipment purchases, educational resources, and
4 facilitating participation in antitrust lawsuits and
5 investigations initiated by other states.

6 (c) All unencumbered and unexpended moneys in excess of
7 \$250,000 remaining on balance in the antitrust [~~trust~~] special
8 fund at the close of June 30 of each year shall lapse to the
9 credit of the general fund.

10 (d) The department of the attorney general shall submit a
11 report to the legislature no later than twenty days prior to the
12 convening of each regular session to provide an accounting of
13 the receipts and expenditures of the antitrust special fund."

14 SECTION 3. Section 28-16, Hawaii Revised Statutes, is
15 amended to read as follows:

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

17 (a) There is created in the state treasury the litigation
18 deposits trust [~~fund-~~] account. There shall be deposited into
19 this [~~fund~~] account all moneys received through any civil action
20 in which the State is a party where the settlement amount is
21 \$100,000 or higher, except for those actions involving



1 department able to procure their own legal services as provided
2 for by section 28-8.3 and where no other state statute or court
3 order specifically provides for the deposit of moneys received
4 through the action.

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

14 (c) Disbursements from each subsidiary account maintained
15 under subsection (b) may include attorney's fees and other
16 necessary expenses that the department determines to be
17 reasonable and directly related to prosecution of the civil
18 action for which the subsidiary account is maintained; provided
19 that in the case of moneys deposited as a result of recoveries
20 by an agency to which a non-general fund applies, the moneys
21 shall be held and disbursed intact for deposit to the credit of



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

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

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

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

20 (2) A summary of the collections made in any amount on
21 behalf of other departments and agencies specifying



1 the appropriate number of transactions and amount
2 collected for each department and agency."

3 SECTION 4. Section 456-9, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) The foregoing moneys collected by the attorney
6 general pursuant to this section shall be deposited into the
7 notaries public [~~revolving~~] special fund established by section
8 456-9.5, except that if that fund is terminated, the foregoing
9 moneys shall thereafter be deposited with the director of
10 finance to the credit of the general fund."

11 SECTION 5. Section 456-9.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§456-9.5 Notaries public [~~revolving~~] special fund.** (a)
14 There is established in the state treasury the notaries public
15 [~~revolving~~] special fund into which shall be deposited:

16 (1) All fees, administrative fines, charges, or other
17 payments received pursuant to section 456-9;

18 (2) Penalties and fines for violations of section 456-3,
19 456-7, or 456-16;

20 (3) Appropriations made for deposit into the notaries
21 public [~~revolving~~] special fund; and

1 (4) Interest earned on money in the notaries public
2 [~~revolving~~] special fund.

3 (b) The notaries public [~~revolving~~] special fund shall be
4 administered by the department of the attorney general.

5 Notwithstanding any law to the contrary, moneys in the notaries
6 public [~~revolving~~] special fund shall be used for personnel
7 costs, the acquisition of equipment, and operating and
8 administrative costs deemed necessary by the department of the
9 attorney general to administer this chapter. The moneys in the
10 fund may also be used to train personnel as the attorney general
11 deems necessary, and for any other activity related to notaries
12 public."

13 SECTION 6. Section 456-18, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§456-18 Notaries in government service.** Except as
16 otherwise provided for by law, the head of every department
17 (which term as used in this chapter includes any department,
18 board, commission, bureau, or establishment of the United
19 States, or of the State, or any political subdivision thereof)
20 may designate one or more of the head of every department's
21 subordinates to be a notary public who, upon duly qualifying and



1 receiving a commission as a notary public in government service,
2 shall perform, without charge, the services of a notary public
3 in all matters of business pertaining to the State, any
4 political subdivision thereof, or the United States.

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

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

11 (2) Not be required to:

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

14 (B) Pay any fee to the attorney general for the
15 issuance of the notary's commission or the
16 renewal thereof; or

17 (C) Furnish and file an official bond unless that
18 bond is required by the head of the department in
19 which the notary is a subordinate, in which
20 event, the expense of furnishing any such bond
21 shall be borne by the department concerned; and



1 (3) Not demand or receive any fee for the notary's service
2 as a notary public; provided that where the occasion,
3 in the judgment of the head of the department, is
4 deemed one of urgent necessity and convenience, the
5 notary may, but shall not be compelled to, administer
6 oaths or take acknowledgments in nongovernmental
7 matters, for which services the prescribed fees shall
8 be demanded and received as governmental realizations
9 and covered into the notaries public [~~revolving~~]
10 special fund established by section 456-9.5, except
11 that if that fund is terminated, the fees shall
12 thereafter be deposited into the general fund of the
13 State; provided further that with the prior written
14 approval of the attorney general, the notary public,
15 upon paying the fees prescribed by law and upon
16 executing, depositing, and filing at the notary's own
17 expense, the required official bond, may demand or
18 receive the fees prescribed by law for services
19 rendered by the notary in matters not pertaining to
20 such public business."



1 SECTION 7. Section 712A-16, Hawaii Revised Statutes, is
2 amended by amending subsection (4) to read as follows:

3 "(4) There is established in the department of the
4 attorney general a [~~revolving~~] special fund to be known as the
5 criminal forfeiture fund, hereinafter referred to as the "fund"
6 in which shall be deposited one-half of the proceeds of a
7 forfeiture and any penalties paid pursuant to section
8 712A-10(6). All moneys in the fund shall be expended by the
9 attorney general and are appropriated for the following
10 purposes:

11 (a) The payment of any expenses necessary to seize,
12 detain, appraise, inventory, safeguard, maintain,
13 advertise, or sell property seized, detained, or
14 forfeited pursuant to this chapter or of any other
15 necessary expenses incident to the seizure, detention,
16 or forfeiture of such property and such contract
17 services and payments to reimburse any federal, state,
18 or county agency for any expenditures made to perform
19 the foregoing functions;

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



- 1 (c) The payment of supplemental sums to state and county
- 2 agencies for law enforcement purposes;
- 3 (d) The payment of expenses arising in connection with
- 4 programs for training and education of law enforcement
- 5 officers;
- 6 (e) The payment of expenses arising in connection with
- 7 enforcement pursuant to the drug nuisance abatement
- 8 unit in the department of the attorney general; and
- 9 (f) The payment of expenses arising in connection with the
- 10 law enforcement officer independent review board in
- 11 the department of the attorney general."

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

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

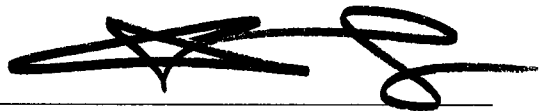



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect on July 1, 2020;
4 provided that the amendments made to section 712A-16, Hawaii
5 Revised Statutes, shall not be repealed when that section is
6 repealed and reenacted on June 30, 2022, by Act 161, Session
7 Laws of Hawaii 2016.

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INTRODUCED BY:

JAN 10 2020



H.B. NO. 1632

Report Title:

ATG; Non-General Funds; Reclassification; Abolish

Description:

Reclassifies the antitrust trust fund, 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.

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