

State of Hawaii
Department of the Attorney General



**REPORT ON
LITIGATION DEPOSITS TRUST FUND TRANSACTIONS
AND
COLLECTIONS MADE ON BEHALF OF OTHER
DEPARTMENTS AND AGENCIES**

For Fiscal Year 2006 - 2007

*Submitted to
The Twenty-Fourth State Legislature
Regular Session of 2008*

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Overview of the Litigation Deposits Trust Fund

The Litigation Deposits Trust Fund, appropriation number T-909-N, was established pursuant to Act 178, Session Laws of Hawaii 2002, to account for moneys received through any civil action in which the State is a party where the settlement amount is \$100,000 or higher. Pursuant to section 28-16, Hawaii Revised Statutes, the trust fund is administered by the Department of the Attorney General, which must annually report to the Legislature (1) the transactions, by subsidiary account, that take place in the fund for each fiscal year, and (2) a summary of the collections made in any amount on behalf of other departments and agencies specifying the appropriate number of transactions and amount collected for each department and agency.

During Fiscal Year (FY) 2006-2007, the following significant transactions occurred in the trust fund:

- The Department received \$1,250,000 from the St. Paul Fire and Marine Insurance Company the State's declaratory judgment action against its excess insurer. The State sought a declaratory judgment to the effect that the excess insurer owed the State excess insurance coverage on the Delos Reyes v. State of Hawaii. That action arose out of the Kakaako Improvement Project when the Department of Transportation failed to turn off the electricity and a worker, employed by the general contractor for the project, was seriously burned. The State paid \$1,500,000 to settle the suit, but the excess carrier refused to provide any settlement moneys. The State sued the insurer, and the insurer settled with the State for \$1,250,000. Part of the funds (\$72,012.37) was used in FY 2005-2006 to reimburse the Department's Legal Services program for expenses that were incurred on this case. The remaining funds of \$1,195,765.17 (including \$17,777.40 in interest income) were transferred to the Department of Transportation special fund in FY 2006-2007.
- The department received \$1,145,000 during FY 2004-2005 from Hawaiian Dredging (\$900,000), Media Five (\$75,000), Shigemura – structural engineer (\$45,000), and Muroda – civil engineer (\$125,000) and in fiscal 2007 we received \$75,000 from Ernest Hirata & Associates – geotechnical engineer as a result of mediation and settlement of the case of State of Hawaii v. Hawaiian Dredging. During FY 2006-2007 we transferred \$1,314,862.60 to the Department of Business, Economic Development, and Tourism, Hawaii Housing Finance and Development Corporation, including the settlement receipts plus accumulated interest income.

The case involved recovery of damages caused to a State-sponsored housing development, Construction Turnkey Agreement Kauhale Aupuni O'Kuliouou, built for the State Department of Business, Economic Development, and Tourism by Hawaiian Dredging. The project was completed in 1981 and was conveyed to the State, which in turn sold these housing units to qualified purchasers. From the date

of completion, the homeowners experienced progressive movement of their homes and land. Heavy rains on December 12 and 13, 1987, caused significant movement and movement worsened during heavy rains of December 31, 1987. The state repurchased seventeen homes and relocated the residents. The State filed suit on March 21, 2000, against the developers.

Financial Data for Fiscal Years 2005-2006 and 2006-2007:

	FY 2005-2006	FY 2006-2007	FY 2007-2008
Beginning Cash Balance	\$1,322,626.64	\$2,369,240.04	\$3,328.21
Beginning Encumbrances	0.00	0.00	0.00
Revenues	1,222,285.73	151,595.81	
Expenditures	175,672.33	2,517,507.64	
Transfers			
Ending Cash Balance	\$2,369,240.04	\$3,328.21	

See following page for the details of the revenue and expenditure for this account for FY 2006-2007.

Department of the Attorney General
 Status of Appropriation Account
 By Source Code and Object Code
 as of 06/30/2007

Appropriation: T-909-N
 Account Title: LITIGATION DEPOSITS TRUST FUND

Revenue by Source Code:

T-07-909-N

Source Code	Description	Cumulative Revenue	Revenue
0288	INVESTMENT POOL ACCOUNT	76,595.81	76,595.81
0787	MISCELLANEOUS INCOME	75,000.00	75,000.00
Total Revenue:		<u>151,595.81</u>	<u>151,595.81</u>

Expenditure by Object Code:

Object Code	Description	Cumulative Expenditures	Expenditure
9000	REFUNDS	2,510,627.91	2,510,627.91
9200	AGENCY AND CLEARING ACCOUNTS	6,879.73	6,879.73
Total Expenditure:		<u>2,517,507.64</u>	<u>2,517,507.64</u>

Collections Made on Behalf of Other Departments and Agencies

Section 28-16(e)(2), Hawaii Revised Statutes, requires the Department to prepare a report on “summary of the collections made in any amount on behalf of other departments and agencies specifying the appropriate number of transactions and amount collected for each department and agency.” This report for fiscal year 2006-2007 is as follows:

<u>Department/Agency</u>	<u>Collected Amount</u>	<u>Number of Transactions</u>
Child Support Enforcement Agency	\$1,276,954	472
Department of Agriculture	10,842	34
Department of Business, Economic Development, & Tourism	35,732	42
Department of Human Resources Development	65,102	12
Department of Human Services	7,644,881	635
Department of Transportation	3,085,296	202
Hawaii Health Systems Corporation	3,200,968	15,237
Department of Taxation	3,705,072	1,296
Miscellaneous (Departments of Accounting and General Services, Attorney General, Education, Health, and Public Safety and the University of Hawaii)	156,304	379
TOTAL	<u>\$19,181,181</u>	<u>18,309</u>