

REVENUES GENERATED FROM GENERAL ADMINISTRATIVE PENALTIES IMPOSED UNDER CHAPTER 183, HAWAII REVISED STATUTES

PURPOSE

This report complies with Section 183-5, Hawaii Revised Statutes (HRS), and covers specific topics relating to the protection of the State Forest Reserve System (FRS). Act 174, Session Laws of Hawaii (SLH) 2006, in part amended Chapter 183, HRS, by adding a new section entitled, “General Administrative Penalties.” This section authorizes the Board of Land and Natural Resources (Board) or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The Department of Land and Natural Resources (Department) is also required to submit an annual report to the Hawaii State Legislature outlining revenues generated by these administrative penalties. This annual report covers the period from July 1, 2018 to June 30, 2019.

BACKGROUND

The administrative penalties for violations of Chapter 183, HRS, became effective in June of 2006, by way of Act 174, SLH 2006. This Act authorizes the Board or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The Department sought this particular change to HRS due to a notable increase in the occurrence and severity of violations, particularly the theft or unpermitted harvest of highly valuable koa timber resources from the FRS. The Department appreciates the attention that this report and related laws have drawn to this important issue.

Prior to Act 174, SLH 2006, the existing language within Chapter 183, HRS, created a situation whereby certain penalties for violations, particularly large-scale theft of timber or other resources on FRS lands, did not effectively deter illegal harvesting because the potential value of the resources taken far exceeded any penalties that could be imposed by the State upon a violator. With the enactment of Act 174, SLH 2006, a framework for effective enforcement of penalties and timely prosecution of those in violation of Chapter 183, HRS, and associated rules was established.

Act 174, SLH 2006, has helped to protect public resources by, among other things:

- 1) Allowing the Board of Land and Natural Resources to set and collect administrative penalties, including bringing legal action to recover fines, fees, and other costs resulting from violations of Chapter 183, HRS, and associated rules;
- 2) Increasing the criminal fine amount for timber trespass, including the removal of any timber within the FRS; and
- 3) Establishing specific administrative penalty levels for repeat offenders or violations of varying severity.

The Department does note that from the onset of the Act, the value of forest products, including koa and now sandalwood, has significantly increased. Thus, the penalties and fines are now out of date with the current value of the resources. Further, there have been several reports of theft

or attempted thefts in the past two years across both public and private forest lands of these valuable forest resources.

The Administration submitted proposals for updating the penalties and fines of Chapter 183, HRS, as part of its legislative packages for the 2016, 2017, and 2019 regular legislative sessions. The Department will be tracking its 2019 Regular Session bills in hopes they will be heard and voted on by the legislature in the 2020 session.

REVENUES GENERATED

The Board of Land and Natural Resources issued two administrative fines in fiscal year 2019, each \$2,500 for first violations, for conducting commercial operations in a forest reserve without a permit. At the end of the fiscal year, payment on the fines had not been received and thus no revenue was generated during this reporting period. However, the Department anticipates receiving payment on the administrative fines in early fiscal year 2020.

RECOMMENDATION

This law is very important for the protection of public resources within the State FRS. However, the Department believes that amending fines for destroying or harvesting trees and plants on lands within the FRS to an amount up to three times the market value at the time and place of the violation for each tree or plant and the cost of restoration or replacement of the habitat would provide a stronger deterrent for unauthorized and illegal use of public resources.