



1 the sale or other disposition of the lands, natural  
2 resources, minerals and income derived from whatever  
3 sources for native Hawaiians and Hawaiians, including  
4 all income and proceeds from that pro rata portion of  
5 the trust referred to in section 4 of this article for  
6 native Hawaiians; to formulate policy relating to  
7 affairs of native Hawaiians and Hawaiians; and to  
8 exercise control over real and personal property set  
9 aside by state, federal or private sources and  
10 transferred to the board for native Hawaiians and  
11 Hawaiians. The board shall have the power to exercise  
12 control over the Office of Hawaiian Affairs through  
13 its executive officer, the administrator of the Office  
14 of Hawaiian Affairs, who shall be appointed by the  
15 board."

16 By Act 273, Session Laws of Hawaii 1980, the legislature  
17 provided that "[t]wenty per cent of all funds derived from the  
18 public land trust, . . . shall be expended by the office of  
19 Hawaiian affairs . . . for the purposes of this chapter." This  
20 legislative directive has led to a series of lawsuits concerning  
21 the practical application of the twenty per cent apportionment

1 the legislature established to implement article XII, sections 4  
2 and 6, of the Constitution of the State of Hawaii.

3 In *Trustees of the Office of Hawaiian Affairs v. Yamasaki*,  
4 69 Haw. 154, 737 P.2d 446 (1987), the Hawaii supreme court  
5 concluded that the issue of how the apportionment is formulated  
6 is a political question for the legislature to determine.

7 In response to the *Yamasaki* decision, the legislature  
8 enacted Act 304, Session Laws of Hawaii 1990, to clarify the  
9 extent and scope of the twenty per cent portion.

10 On September 12, 2001, the Hawaii supreme court ruled in  
11 *Office of Hawaiian Affairs v. State of Hawaii*, 96 Haw. 388, 31  
12 P.3d 901 (2001), that Act 304 was effectively repealed by its  
13 own terms, so that once again, it was necessary for the  
14 legislature to specify the apportionment to be managed and  
15 administered by the office of Hawaiian affairs.

16 In its decision, the Hawaii supreme court affirmed  
17 *Yamasaki*, observing:

18 "[T]he State's obligation to native Hawaiians is  
19 firmly established in our constitution. *How* the State  
20 satisfies that constitutional obligation requires  
21 policy decisions that are primarily within the  
22 authority and expertise of the legislative branch. As

1 such, it is incumbent upon the legislature to enact  
2 legislation that gives effect to the right of native  
3 Hawaiians to benefit from the ceded lands trust. See  
4 Haw. Const. art. XVI, §7 . . . [W]e trust that the  
5 legislature will re-examine the State's constitutional  
6 obligation to native Hawaiians and the purpose of HRS  
7 § 10-13.5 and enact legislation that most effectively  
8 and responsibly meets those obligations."

9 *Office of Hawaiian Affairs v. State of Hawaii*, 96 Haw. at 401,  
10 31 P.3d at 914 (citations omitted).

11 The legislature recognizes the prior negotiations between  
12 the office of Hawaiian affairs and the prior governors and  
13 present governor toward meeting the State's obligation to native  
14 Hawaiians as set forth in our constitution. The legislature  
15 finds that the issue has evolved into two principal aspects, one  
16 regarding a resolution of the past obligations (i.e., from  
17 November 7, 1978 to present), and the other regarding a  
18 resolution of the future obligations (i.e. from present to the  
19 final reconciliation of the claims of the native Hawaiian  
20 people).

21 This legislature finds that the appropriate approach to a  
22 resolution of these issues is to either:

1 (1) Provide the framework for the State to negotiate a  
2 "global settlement" which shall include the past and  
3 future obligations of the State to the native Hawaiian  
4 people; or

5 (2) Make progress toward meeting a part of the State's  
6 past obligations to native Hawaiians by addressing the  
7 additional amount of income and proceeds that the  
8 office of Hawaiian affairs is to receive from the  
9 public trust pursuant to article XII, sections 4 and 6  
10 of the Hawaii Constitution, for the period from  
11 November 7, 1978 to July 1, 2008.

12 Part I of this Act is this legislature's attempt to reach a  
13 "global settlement" of the past and future obligations of the  
14 State to the native Hawaiian people. The legislature finds that  
15 the proposal previously made by Governor Ben Cayetano on March  
16 31, 1999, is a sensible and appropriate proposal for a "global  
17 settlement" and is re-offered to the office of Hawaiian affairs.  
18 Part II of this Act sets forth the legislature's approach to  
19 alternatively address the issue regarding past obligations only,  
20 the legislature finds that the dollar value of \$200,000,000  
21 represents the amount agreed to between the office of Hawaiian  
22 affairs and the present governor regarding the resources that

1 should be provided to the office of Hawaiian affairs for the  
2 period between November 7, 1978, and July 1, 2008. This Act  
3 also authorizes the office of Hawaiian affairs to elect to  
4 accept either (i) a \$200,000,000 monetary payment, subject to  
5 payment terms and conditions set forth herein, (ii) conveyance  
6 of certain public lands up to but not more than \$200,000,000 in  
7 value, or (iii) a combination of monetary payment and conveyance  
8 of land not to exceed \$200,000,000 in value. It is also  
9 understood that the legislature's attempt to address the issue  
10 regarding past obligations in this Act is an expression of  
11 legislative policy and not a settlement or a contract. This Act  
12 is a legislative act without distinction from any other  
13 legislative act. As it is neither a settlement nor a contract,  
14 it can give rise to no lawsuits or claims to enforce it, nor to  
15 any claim in the future that any future legislation is barred in  
16 any way, or leads to liability in any way in the event this Act  
17 conflicts with a settlement, settlement agreement, or contract.

18 Part I

19 SECTION 2. (a) As a full and complete settlement of all  
20 of the claims of the native Hawaiian people against the State  
21 pursuant to article XII, sections 4 and 6, of the Constitution  
22 of the State of Hawaii, the legislature authorizes and instructs

1 the governor to offer on behalf of the State to the office of  
2 Hawaiian affairs a "global settlement" as set forth in  
3 subsection (b). The office of Hawaiian affairs shall either  
4 accept or reject the "global settlement" proposal contained in  
5 subsection (b) on or before January 1, 2010, by written notice  
6 to the governor, the president of the senate, and speaker of the  
7 house of representatives. If the office of Hawaiian affairs  
8 fails to notify the State by January 1, 2010, the "global  
9 settlement" proposal shall be deemed to have been rejected.

10 (b) The "global settlement" proposal shall include the  
11 following:

12 (1) Payment by the State of \$251,000,000 to the office of  
13 Hawaiian affairs pursuant to a payment plan agreed to  
14 by the office of Hawaiian affairs and the State and in  
15 accordance with sections 4 and 5;

16 (2) The suspension of the \$15,100,000 annual payment to  
17 the office of Hawaiian affairs commencing from the  
18 effective "agreed to" date between the State and the  
19 office of Hawaiian affairs; and

20 (3) Conveyance of public lands from the State to the  
21 office of Hawaiian affairs equal to twenty per cent of  
22 the approximately 1.8 million acres of public trust

1 lands presently inventoried by the State; provided  
2 that the twenty per cent shall be measured by acreage,  
3 unless otherwise mutually agreed to between the State  
4 and the office of Hawaiian affairs.

5 (c) The specific public lands that are to be conveyed by  
6 the State to the office of Hawaiian affairs pursuant to  
7 subsection (b) (3) shall be determined by negotiation between the  
8 governor and the office of Hawaiian affairs; provided, however,  
9 the negotiations shall be done with reasonable diligence, in  
10 good faith, and shall be completed on or before January 1, 2015,  
11 unless mutually extended by the State and the office of Hawaiian  
12 affairs.

13 (d) Upon the execution of a settlement agreement under  
14 this part, the governor shall include in the governor's  
15 financial plan for the ensuing fiscal years, the payments to be  
16 made and the financial impact of any revenue lost due to the  
17 conveyance of any land to the office of Hawaiian affairs  
18 pursuant to the settlement agreement.

19 SECTION 3. The acceptance by the office of Hawaiian  
20 affairs of the "global settlement" set forth in section 2 shall  
21 be in full satisfaction and resolution of all controversies at  
22 law and in equity, known or unknown, now existing or hereafter



1 arising, established or inchoate, arising out of or in any way  
2 related to any right the office of Hawaiian affairs or any other  
3 person or entity may have to income, proceeds, or any other  
4 tangible right, item, or benefit from the public land trust  
5 lands under sections 4 and 6 of article XII of the state  
6 constitution or any related statute or act; thus, upon the  
7 acceptance of the "global settlement," each and every claim or  
8 suit that is predicated in any way upon an act or omission that  
9 arises out of or is in any way related to any right the office  
10 of Hawaiian affairs or any other person or entity may have to  
11 the income, proceeds, or any other tangible right, item, or  
12 benefit from the public land trust lands under sections 4 and 6  
13 of article XII of the state constitution or any related statute  
14 or act shall be forever barred and may not be brought by the  
15 office of Hawaiian affairs or by any other person or entity.

16 The passage of this Act shall have the effect of *res*  
17 *judicata* as to all persons, claims, and issues that arise and  
18 defenses that have been at issue, or that could have been, or  
19 could in the future be, at issue, whether brought against the  
20 State or its departments, agencies, officials, and employees,  
21 directly or indirectly, by subrogation, derivative or third  
22 party action, tender, federal action, or by any other means

1 whatsoever arising out of or in any way related to any right the  
2 office of Hawaiian affairs or any other person or entity may  
3 have to the income, proceeds, or any other tangible right, item,  
4 or benefit from the public land trust lands under sections 4 and  
5 6 of article XII of the state constitution or any related  
6 statute or act.

7 SECTION 4. The \$251,000,000 monetary payment to the office  
8 of Hawaiian affairs, together with interest at the rate set  
9 forth in section 478-2, Hawaii Revised Statutes, shall be  
10 subject to the appropriation of funds by the legislature and the  
11 approval of a payment plan, which may include the funding of the  
12 \$251,000,000 monetary payment through the issuance of general  
13 obligation bonds that is authorized pursuant to section 5. If  
14 the State chooses to pay the \$251,000,000 to the office of  
15 Hawaiian affairs over a period of time, those payments shall be  
16 made with interest and in equal annual payments commencing from  
17 a date agreed to in good faith by the State and the office of  
18 Hawaiian affairs.

19 SECTION 5. The director of finance is authorized to issue  
20 general obligation bonds in the sum of \$251,000,000 or so much  
21 thereof as may be necessary and the same sum or so much thereof  
22 as may be necessary for fiscal year 2009-2010 is appropriated in

1 accordance to the good faith agreement by and between the State  
2 and the office of Hawaiian affairs for the purpose of making the  
3 payment described in section 4.

4 The sum appropriated shall be expended by the department of  
5 budget and finance for the purposes of this part.

6 SECTION 6. The real property conveyances made under  
7 section 2(b)(3) and the funds paid under part I of this Act,  
8 regardless of the means of financing, shall be deemed income and  
9 proceeds from the public land trust as if they had been paid out  
10 of the income and proceeds from the public land trust pursuant  
11 to article XII, section 4 and article XII, section 6 of the  
12 state constitution.

13 SECTION 7. Notwithstanding any other law to the contrary,  
14 the State and the state officials who may have participated in  
15 the preparation of the provisions or the enactment of this Act,  
16 including the office of Hawaiian affairs, each of the members of  
17 its board of trustees, and its staff, shall not be subject to  
18 suit because of their participation, except if an action is  
19 brought to enforce the provisions of this part, in which case  
20 the action shall be brought only against the State and any state  
21 official as necessary to enforce the provisions of this part.

22 Part II

1 SECTION 8. Part II of this Act shall take effect only upon  
2 the rejection by the office of Hawaiian affairs of its option to  
3 accept a "global settlement" of the past and future obligations  
4 of the State to the native Hawaiian people pursuant to article  
5 XII, sections 4 and 6 of the Hawaii constitution as provided for  
6 in part I.

7 SECTION 9. Upon the rejection of the "global settlement"  
8 described in part I of this Act, the office of Hawaiian affairs  
9 shall elect to receive from the State resources valued at  
10 \$200,000,000. The \$200,000,000 in resources shall be paid to  
11 the office of Hawaiian affairs either by:

- 12 (1) Monetary payments in the manner set forth in section  
13 10;
- 14 (2) Conveyance of certain parcels of land with the  
15 existing improvements thereon in the manner set forth  
16 in section 11; or
- 17 (3) A combination of monetary payments and conveyance of  
18 land and improvements totaling not more than  
19 \$200,000,000 in value.

20 SECTION 10. (a) By written notice to the governor, the  
21 president of the senate, and speaker of the house of  
22 representatives on or before January 1, 2010, the office of

1 Hawaiian affairs may elect to receive from the State  
2 \$200,000,000 in monetary payment and forego the conveyance of  
3 any of the parcels of land described in section 11. Any failure  
4 of the office of Hawaiian affairs to notify the governor, the  
5 president of the senate, and speaker of the house of  
6 representatives in a timely fashion shall be deemed a rejection  
7 by the office of Hawaiian affairs of its right to receive  
8 \$200,000,000 in monetary payment as set forth in this section.

9 (b) The \$200,000,000 monetary payment to the office of  
10 Hawaiian affairs, together with interest at the rate set forth  
11 in section 478-2, Hawaii Revised Statutes, shall be subject to  
12 the appropriation of funds by the legislature and the approval  
13 of a payment plan which may include the funding of the  
14 \$200,000,000 monetary payment through the issuance of general  
15 obligation bonds that is authorized pursuant to subsection (c).  
16 If the State chooses to structure the \$200,000,000 monetary  
17 payment to the office of Hawaiian affairs over a period of time,  
18 the structured payments shall be made with interest and in equal  
19 annual payments commencing from a date agreed to in good faith  
20 by the State and the office of Hawaiian affairs.

21 (c) The director of finance is authorized to issue general  
22 obligation bonds in the sum of \$200,000,000 or so much thereof

1 as may be necessary and the same sum or so much thereof as may  
2 be necessary is appropriated for fiscal year 2009-2010 in  
3 accordance to the good faith agreement by and between the State  
4 and the office of Hawaiian affairs for the purpose of making the  
5 payment described in this section.

6 The sum appropriated shall be expended by the department of  
7 budget and finance for the purposes of this part.

8 SECTION 11. (a) If the office of Hawaiian affairs rejects  
9 its right to accept the \$200,000,000 monetary payment described  
10 in section 10, the State shall convey to the office of Hawaiian  
11 affairs, subject to the rights of the office of Hawaiian affairs  
12 set forth in section 13, including but not limited to the right  
13 to inspect and reject any or all of the properties described in  
14 this section, and also subject to the limitations set forth in  
15 section 14, the fee simple interest in the following parcels of  
16 land with the existing improvements thereon, including submerged  
17 land, accreted land, or any land makai of the shoreline:

18 (1) Kakaako Makai: Lots 2, 3, 4, 5, and 9 as identified  
19 on the final Kakaako park subdivision map dated  
20 October 15, 2007, and approved by the city and county  
21 of Honolulu department of planning and permitting on

- 1 November 9, 2007; except TMK: 2-1-058:41 and 2-1-  
2 058:110;
- 3 (2) Kahana Valley and Beach Park: TMK: (1) 5-2-01:1, 5-2-  
4 02: all, and 5-2-5:1 and 21 as described in Act 5,  
5 Session Laws of Hawaii 1987 and TMK: (1) 5-2-05:3;
- 6 (3) La Mariana and Pier 60: TMK: (1) 1-2-23:52, (1) 1-2-  
7 23:67, (1) 1-2-23:30, and (1) 1-2-23:55;
- 8 (4) Accreted peninsula and land filled bordered by Kalihi  
9 stream and Moanalua stream: TMK: (1) 1-1-3:3;
- 10 (5) Heeia meadowlands: TMK: (1) 4-6-16:01 and (1) 4-6-  
11 16:02;
- 12 (6) Mauna Kea: Mauna Kea Scientific Reserve: TMK: 3-4-4-  
13 015: 9 and 12; Mauna Kea Ice Age Natural Area Reserve:  
14 a 143.5 acre square parcel around Puu Pohaku, located  
15 to the west of the summit area and a 3,750 acre  
16 triangular-shaped parcel extends from approximately  
17 10,070 feet (3,069 meters) up to 13,230 feet (4,033  
18 meters) at the upper tip of the parcel;
- 19 (7) State-owned fishponds statewide: as identified in the  
20 Hawaiian Fishponds: Fishpond Database, developed  
21 pursuant to a grant/cooperative agreement from the  
22 National Oceanic and Atmospheric Administration,

1 Project No. R/AQ-60 (sponsored by the University of  
2 Hawaii Sea Grant College Program, SOEST, under  
3 Institutional Grant No. NA36RG0507 Year 31 from NOAA  
4 Office of Sea Grant, Department of Commerce);

5 (8) Waikiki Yacht Club: (1)-23037006;

6 (9) AAFES Property: (1)-21058006; and

7 (10) Kalaeloa Makai: (1)-9-1-31:1;

8 The lands described in this section shall be held in trust  
9 pursuant to article XII, sections 4, 5, and 6, of the Hawaii  
10 constitution, and shall be subject to all laws, including  
11 section 171-58, Hawaii Revised Statutes, except as otherwise  
12 provided in this Act.

13 Because these are conveyances in which the State and its  
14 agencies are the only parties, the tax imposed by section 247-1,  
15 Hawaii Revised Statutes, shall not apply.

16 The property conveyed shall be subject to all encumbrances,  
17 whether or not of record, rights of native tenants, leases,  
18 contracts, agreements, permits, easements, profits, licenses,  
19 rights-of-way, or other instruments applicable to any land  
20 conveyed by this section effective or ongoing on the effective  
21 date of this Act, which shall remain in full force and effect.

22 The Mauna Kea parcels, as listed in subsection (a)(6), shall be



1 subject to Decision and Order of the Circuit Court of the Third  
2 Circuit, Civil No. 04-1-397 (January 7, 2007); provided that  
3 upon the completion of the requisite action, the board of land  
4 and natural resources shall cease to manage the parcels  
5 transferred by this Act. These encumbrances may be set forth in  
6 the instruments conveying the property to the office of Hawaiian  
7 affairs or set forth in a license or similar agreement, a  
8 memorandum of which may be recorded concurrently with the  
9 instruments conveying the property to the office of Hawaiian  
10 affairs. Effective upon conveyance of the property to the  
11 office of Hawaiian affairs pursuant to this Act, every reference  
12 to the current titleholder or the head of the department or  
13 agency in each such instrument, if the title-holder is a  
14 department or an agency, shall be construed to be a reference to  
15 the office of Hawaiian affairs or its board of trustees.

16 After the conveyances of real property are made pursuant to  
17 this section, the real property shall be subject to all laws,  
18 except as otherwise provided in this Act. The office of  
19 Hawaiian affairs shall administer the real properties in  
20 accordance with its duties under the Hawaii constitution and as  
21 provided by law.

1 (b) The office of Hawaiian affairs shall cooperate with  
2 other state agencies to designate and grant such access rights  
3 and easements as may be reasonably necessary for the benefit and  
4 use of adjoining properties owned by the State. Each of the  
5 instruments creating such access rights or granting such  
6 easements shall provide that the office of Hawaiian affairs, or  
7 any successor owner of the servient property, shall have the  
8 right to reasonably relocate any such access areas or easements  
9 so granted. The cost of initially identifying such access areas  
10 or designating and granting any such easements shall not be the  
11 responsibility of the office of Hawaiian affairs. The cost of  
12 relocating any such access areas or easements shall be paid by  
13 the office of Hawaiian affairs or any such successor owner, as  
14 the case may be. Each of the instruments creating such access  
15 rights or granting such easements shall also provide that the  
16 office of Hawaiian affairs shall only be responsible for a  
17 reasonable share of the cost of maintaining any of those access  
18 areas and easement areas, as the case may be, and that the  
19 office, its tenants, licensees, concessionaires, successors, and  
20 assigns shall not be liable for injuries or damages arising from  
21 the use of the access areas or easement areas by other state  
22 agencies or their invitees.

1 (c) Notwithstanding subsection (b), the office of Hawaiian  
2 affairs shall not be required to approve any access rights or  
3 grant any access easements to other state agencies that would  
4 materially diminish the value of the servient property or that  
5 would materially interfere with the use of the servient property  
6 by the office of Hawaiian affairs or any lessee, tenant,  
7 licensee, concessionaire, or other lawful occupant of the  
8 property, unless otherwise provided by law.

9 (d) The conveyances made by this section shall not include  
10 any of the State's rights to minerals or surface or ground  
11 water. As directed by the attorney general, the appropriate  
12 boards, agencies, officers, and employees of the State shall:

13 (1) Execute instruments of conveyance as may be necessary  
14 and proper to the office of Hawaiian affairs, as  
15 grantee, to convey the interest and title of the State  
16 and its boards and commissions to these lands and  
17 improvements in fee simple; and

18 (2) Record the instruments in the land court or bureau of  
19 conveyances, as appropriate.

20 (e) This section shall not limit the power of the  
21 legislature to enact any laws.

1 (f) The office of Hawaiian affairs shall transfer  
2 management and control of all parcels, as described in  
3 subsection (a), to the sovereign native Hawaiian entity upon its  
4 recognition by the United States and the State. All terms,  
5 conditions, agreements, and laws affecting the parcels, as  
6 described in subsection (a), shall remain in effect until  
7 expressly terminated.

8 SECTION 12. The real property conveyances made under this  
9 part shall be deemed income and proceeds from the lands in the  
10 public trust referred to in article XII, sections 4 and 6, of  
11 the Hawaii constitution, as if they had been paid out of the  
12 income and proceeds from trust lands pursuant to article XII,  
13 sections 4 and 6, of the Hawaii constitution. With regard to  
14 any properties conveyed to the office of Hawaiian affairs under  
15 this part that are part of the public land trust referred to in  
16 article XII, sections 4 and 6, of the Hawaii constitution,  
17 nothing in this part shall remove those properties from that  
18 public land trust.

19 SECTION 13. (a) The State shall reasonably cooperate with  
20 and assist the office of Hawaiian affairs in its investigation  
21 and study of the properties. During regular business hours, the  
22 State shall make available to the office of Hawaiian affairs and

1 its authorized representatives the State's files that contain  
2 any of the following regarding properties to be conveyed to the  
3 office pursuant to this Act:

4 (1) Copies of soil reports, site plans, engineering  
5 reports, archaeological and historical studies, plans,  
6 and surveys, including shoreline surveys;

7 (2) Zoning entitlement and other land use documents and  
8 records including, without limitation, all current  
9 governmental permits, approvals, and authorizations;

10 (3) Copies of notices from governmental agencies regarding  
11 any violations of laws or ordinances;

12 (4) Copies of all leases and all correspondence with any  
13 lessees under any of the leases;

14 (5) Copies of licenses and concession agreements and all  
15 correspondence with any of the parties to the licenses  
16 and concession agreements;

17 (6) Copies of any other agreements affecting or relating  
18 to any of the property, and correspondence with any of  
19 the parties to any other relevant agreements;

20 (7) Copies of any existing surveys, maps, and aerial  
21 photographs; and

1 (8) Copies of all plans and other documents relating to  
2 any improvements on any of the property.

3 (b) The State shall permit the office of Hawaiian affairs  
4 and its authorized representatives to enter upon and conduct  
5 reasonable physical inspections of the property to be conveyed  
6 to the office of Hawaiian affairs under this Act, including  
7 subsurface investigations under the property and inspections of  
8 the buildings and other improvements located upon the property;  
9 provided that all entries and inspections shall be conducted in  
10 a manner that reasonably minimizes interference with the use of  
11 the property by the occupants of the property.

12 (c) The office of Hawaiian affairs shall have until the  
13 later of:

14 (1) July 1, 2010; or

15 (2) Six months after the State has provided the office  
16 with access to all the documents and property  
17 described in subsections (a) and (b);

18 to conduct a due diligence investigation of the property to be  
19 conveyed to the office of Hawaiian affairs pursuant to this Act.

20 (d) The specific public lands that are to be conveyed by  
21 the State to the office of Hawaiian affairs pursuant to this  
22 part shall be determined by negotiation between the governor and

1 the office of Hawaiian affairs; provided, however, the  
2 negotiations shall be done with reasonable diligence, in good  
3 faith, and shall be completed on or before January 1, 2015,  
4 unless mutually extended by the State and the office of Hawaiian  
5 affairs.

6 (e) The office of Hawaiian affairs may elect in its sole  
7 discretion to reject any or all of the properties to be conveyed  
8 to it pursuant to this Act by written notice to the State given  
9 by January 1, 2010, or six months after the State has provided  
10 the office of Hawaiian affairs with access to all the documents  
11 and property described in subsection (a), whichever is later.

12 (f) Upon receipt of written notice from the office of  
13 Hawaiian affairs as and by the date provided in subsection (e)  
14 that any or all of the property, including but not limited to  
15 any one or more lot or tax map key parcel, to be conveyed to the  
16 office of Hawaiian affairs is rejected, then the property  
17 identified by the office of Hawaiian affairs shall not be  
18 conveyed to the office of Hawaiian affairs pursuant to this Act.

19 (g) The State shall convey to the office of Hawaiian  
20 affairs any property that has not been rejected by the office of  
21 Hawaiian affairs as provided in subsection (e) by not later than  
22 thirty days after the date by which the office of Hawaiian

1 affairs was required to notify the State of any rejection as  
2 provided in subsection (e).

3 (h) Upon the execution of a settlement agreement under  
4 this part, the governor shall include in the governor's  
5 financial plan for the ensuing fiscal years, the payments to be  
6 made and the financial impact of any revenue lost due to the  
7 conveyance of any land to the office of Hawaiian affairs  
8 pursuant to the settlement agreement.

9 SECTION 14. The combined value of the properties conveyed  
10 to the office of Hawaiian affairs pursuant to part II shall not  
11 exceed \$200,000,000. The value of the properties shall be equal  
12 to the real property tax assessed value immediately before  
13 conveyance, adjusted by twenty per cent offsets payable to the  
14 office of Hawaiian affairs on all ceded lands disposed of by the  
15 State.

16 SECTION 15. To the extent that the combined value of the  
17 properties conveyed to the office of Hawaiian affairs does not  
18 exceed \$200,000,000, the difference between the combined value  
19 and \$200,000,000 shall be paid to the office of Hawaiian  
20 affairs, together with interest at the rate set forth in section  
21 478-2, Hawaii Revised Statutes, in five equal annual payments  
22 commencing on January 1, 2011, and ending on January 1, 2015.



1 SECTION 16. The legislature finds that the public interest  
2 is best served by the legislature deferring temporarily a re-  
3 examination of what amount of income and proceeds from the lands  
4 in the public trust referred to in article XII, section 4, of  
5 the Hawaii constitution should be provided to the office of  
6 Hawaiian affairs annually beginning on July 1, 2008. In this  
7 light, the annual amount will, for the time being, continue to  
8 be set by Act 178, Session Laws of Hawaii 2006, which stated:

9 ". . . [U]ntil further action is taken by the  
10 legislature for this purpose, the income and proceeds  
11 from the pro rata portion of the public land trust  
12 under XII, section 6, of the state constitution for  
13 expenditure by the office of Hawaiian affairs for the  
14 betterment of the conditions of native Hawaiians for  
15 each fiscal year beginning with fiscal year 2005-2006  
16 shall be \$15,100,000."

17 SECTION 17. Section 171-2, Hawaii Revised Statutes, as  
18 amended to read as follows:

19 "**§171-2 Definition of public lands.** "Public lands" means  
20 all lands or interest therein in the State classed as government  
21 or crown lands previous to August 15, 1895, or acquired or  
22 reserved by the government upon or subsequent to that date by

1 purchase, exchange, escheat, or the exercise of the right of  
2 eminent domain, or in any other manner; including accreted lands  
3 not otherwise awarded, submerged lands, and lands beneath tidal  
4 waters which are suitable for reclamation, together with  
5 reclaimed lands which have been given the status of public lands  
6 under this chapter, except:

- 7 (1) Lands designated in section 203 of the Hawaiian Homes  
8 Commission Act, 1920, as amended;
- 9 (2) Lands set aside pursuant to law for the use of the  
10 United States;
- 11 (3) Lands being used for roads and streets;
- 12 (4) Lands to which the United States relinquished the  
13 absolute fee and ownership under section 91 of the  
14 Hawaiian Organic Act prior to the admission of Hawaii  
15 as a state of the United States unless subsequently  
16 placed under the control of the board of land and  
17 natural resources and given the status of public lands  
18 in accordance with the State Constitution, the  
19 Hawaiian Homes Commission Act, 1920, as amended, or  
20 other laws;
- 21 (5) Lands to which the University of Hawaii holds title;

- 1           (6) Lands to which the Hawaii housing finance and  
2           development corporation in its corporate capacity  
3           holds title;
- 4           (7) Lands to [~~which~~] that the Hawaii community development  
5           authority in its corporate capacity holds title;
- 6           (8) Lands to which the department of agriculture holds  
7           title by way of foreclosure, voluntary surrender, or  
8           otherwise, to recover moneys loaned or to recover  
9           debts otherwise owed the department under chapter 167;
- 10          (9) Lands [~~which~~] that are set aside by the governor to  
11          the Aloha Tower development corporation; lands leased  
12          to the Aloha Tower development corporation by any  
13          department or agency of the State; or lands to which  
14          the Aloha Tower development corporation holds title in  
15          its corporate capacity;
- 16          (10) Lands which are set aside by the governor to the  
17          agribusiness development corporation; lands leased to  
18          the agribusiness development corporation by any  
19          department or agency of the State; or lands to which  
20          the agribusiness development corporation in its  
21          corporate capacity holds title; [~~and~~]

1 (11) Lands to which the high technology development  
2 corporation in its corporate capacity holds title[~~---~~];  
3 and

4 (12) Land conveyed to the office of Hawaiian affairs  
5 pursuant to Act , Session Laws of Hawaii 2009."

6 SECTION 18. Section 206E-32, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§206E-32 District; established, boundaries.** The Kakaako  
9 community development district is established. The district  
10 shall include that area bounded by King Street; Piikoi Street  
11 from its intersection with King Street to Ala Moana Boulevard;  
12 Ala Moana Boulevard, inclusive, from Piikoi Street to its  
13 intersection with the Ewa boundary of Ala Moana Park also  
14 identified as the Ewa boundary of tax map key 2-3-37:01; the Ewa  
15 boundary of tax map key 2-3-37:01 from its intersection with Ala  
16 Moana Boulevard to the shoreline; the shoreline from its  
17 intersection with the property line representing the Ewa  
18 boundary of property identified by tax map key 2-3-37:01 to the  
19 property line between Pier 2 and Pier 4; the property line  
20 between Pier 2 and Pier 4 from its intersection with the  
21 shoreline to Ala Moana Boulevard; Ala Moana Boulevard from its  
22 intersection with the property line between lands identified by

1 Pier 2 and Pier 4 to Punchbowl Street; and Punchbowl Street to  
2 its intersection with King Street; provided that the following  
3 parcels at Pier 1 and Pier 2 shall be deleted from the Kakaako  
4 community development district boundaries and conveyed to the  
5 department of land and natural resources to be set aside for the  
6 department of transportation and the foreign-trade zone division  
7 of the department of business, economic development, and  
8 tourism, to ensure continued maritime and foreign commerce use:  
9 all of lot 3 and parcels 2, 3-A, A, and B of the Forrest Avenue  
10 subdivision, as shown on the map filed with the bureau of  
11 conveyances of the State of Hawaii as file plan 2335; and lots  
12 A-1 and A-2, as shown on map 2, filed in the office of the  
13 assistant registrar of the land court of the State of Hawaii  
14 with land court application 1328; and provided further that all  
15 existing easements affecting and appurtenant to the parcels to  
16 be deleted from the Kakaako community development district  
17 boundaries shall not be affected by this change.

18 The district shall also include that parcel of land  
19 identified by tax map key 2-1-14:16, situated mauka of Pier 6  
20 and Pier 7 and makai of Nimitz Highway, being the site for the  
21 existing Hawaiian Electric power plant and related facilities.



1 of Hawaiian affairs is to receive from the public trust pursuant  
2 to article XII, sections 4 and 6, of the Hawaii Constitution,  
3 that waiver is withdrawn.

4 SECTION 21. In printing this Act, the revisor of statutes  
5 shall substitute in sections 171-2 and 206E-32, Hawaii Revised  
6 Statutes, of sections 18 and 19, the corresponding act number of  
7 this Act.

8 SECTION 22. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 23. This Act shall take effect upon approval.

**Report Title:**

Office of Hawaiian Affairs; Public Land Trust

**Description:**

Resolves claims and disputes relating to the portion of income and proceeds from the lands of the public land trust for use by the office of Hawaiian affairs between 11/7/1978 and 7/1/2008; conveys certain parcels of real property in fee simple to the office of Hawaiian affairs. (SD1)