
A BILL FOR AN ACT

RELATING TO CEDED LANDS.

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

1 SECTION 1. Chapter 171, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§171- Limitation on sale and transfers. The State
5 shall not dispose of any lands in the public land trust, as
6 described in section 171-18(a), whether by lease with option to
7 purchase, sale, or exchange, except as provided in section 171-
8 18(d); provided that the State may dispose of lands in the
9 public land trust pursuant to section 171-18(c), if one of the
10 following conditions is met:

11 (1) The claims of the native Hawaiian people, as defined
12 in the United States Apology Resolution, Pub. L. No.
13 103-150, 107 Stat. 1510 (1993), have been resolved;

14 (2) The legislature finds pursuant to a concurrent
15 resolution adopted by at least two-thirds majority
16 vote of the members to which each house is entitled



1 that the State no longer supports reconciliation
2 between the State and the native Hawaiian people; or
3 (3) The approval by the legislature of the disposition of
4 the public land trust lands by lease with option to
5 purchase, sale, or exchange pursuant to section 171-
6 18(c) occurs after December 31, 2014."

7 SECTION 2. Section 171-13, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§171-13 Disposition of public lands.** Except as otherwise
10 provided by law and subject to other provisions of this chapter,
11 the board may:

12 (1) Dispose of public land in fee simple, by lease, lease
13 with option to purchase, license, or permit; provided
14 that no disposition of public lands, whether by lease
15 with option to purchase, sale, or exchange, shall
16 violate section 171-18; and

17 (2) Grant easement by direct negotiation or otherwise for
18 particular purposes in perpetuity on [~~such~~] terms as
19 may be set by the board, subject to reverter to the
20 State upon termination or abandonment of the specific
21 purpose for which it was granted[7]; provided the sale



1 price of [~~such~~] the easement shall be determined
2 pursuant to section 171-17(b).

3 No person shall be eligible to purchase or lease public lands,
4 or to be granted a license, permit, or easement covering public
5 lands, who has had during the five years preceding the date of
6 disposition a previous sale, lease, license, permit, or easement
7 covering public lands cancelled for failure to satisfy the terms
8 and conditions thereof."

9 SECTION 3. Section 171-18, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§171-18 Public land trust.** (a) All funds derived from
12 the sale or lease or other disposition of public lands shall be
13 appropriated by the laws of the State; provided that all
14 proceeds and income from the sale, lease, or other disposition
15 of lands ceded to the United States by the Republic of Hawaii
16 under the joint resolution of annexation, approved July 7, 1898
17 (30 Stat. 750), or acquired in exchange for lands so ceded, and
18 returned to the State of Hawaii by virtue of section 5(b) of the
19 Act of March 18, 1959 [~~(73 Stat. 6)~~], (73 Stat. 4), and all
20 proceeds and income from the sale, lease, or other disposition
21 of lands retained by the United States under sections 5(c) and
22 5(d) of the Act and later conveyed to the State under section



1 5(e) shall be held as a public trust for the support of the
2 public schools and other public educational institutions, for
3 the betterment of the conditions of native Hawaiians as defined
4 in the Hawaiian Homes Commission Act, 1920, as amended, for the
5 development of farm and home ownership on as widespread a basis
6 as possible, for the making of public improvements, and for the
7 provision of lands for public use.

8 (b) Notwithstanding any law to the contrary, all funds,
9 proceeds, and income from the disposition of public trust lands
10 as described in subsection (a), whether by lease with option to
11 purchase, sale, or exchange, shall be deposited into the public
12 trust as set forth in subsection (a). The funds, proceeds, and
13 income shall be held and used solely for the acquisition of
14 lands, to be set aside for the purposes set forth in subsection
15 (a), with respect to lands ceded to the United States under the
16 joint resolution of annexation or acquired in exchange for lands
17 so ceded and returned to the State, and lands retained under
18 section 5(c) and 5(d) of the Act of March 18, 1959 (73 Stat. 4),
19 in order that the public land trust be maintained and not
20 diminished.

21 (c) Notwithstanding any law to the contrary, the State,
22 its political subdivisions, boards, agencies, departments, and



1 entities created pursuant to state law, may hold or manage
2 public land trust lands, as described in subsection (a), by
3 lease, permit, license, easement, exchange, or set aside. In
4 addition, upon the occurrence of an event as described in
5 section 171- (1), (2), or (3), the State, its political
6 subdivisions, boards, agencies, departments, and any other state
7 entity may dispose of public land trust lands, whether by lease
8 with option to purchase, sale, or exchange; provided that all of
9 the following conditions are met:

10 (1) The State establishes a compelling state interest for
11 the disposition;

12 (2) There is no reasonable alternate means to accomplish
13 the compelling state interest;

14 (3) The disposition is limited to accomplishing the
15 compelling state interest; and

16 (4) The disposition is approved by the legislature by
17 concurrent resolution adopted by at least two-thirds
18 majority vote of the members to which each house is
19 entitled.

20 (d) The conditions described in subsection (c) (1) to (4)
21 shall not prevent the State from:

22 (1) Disposing of remnants, as defined in section 171-52;



- 1 (2) Providing easements to public utilities and government
- 2 agencies pursuant to section 171-95; or
- 3 (3) Engaging in land exchanges pursuant to sections 171-50
- 4 and 171-51."

5 SECTION 4. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun, before its effective date.

8 SECTION 5. If any provision of this Act, or the
9 application thereof to any person or circumstance is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act, which can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Ceded Lands; Public Land Trust; Management

Description:

Prohibits the sale or transfer of ceded lands until the unrelinquished claims of the native Hawaiian people are resolved, reconciliation between the State and the native Hawaiian people is no longer supported, or December 31, 2014, whichever occurs first; requires 2/3 approval of Legislature and compelling state interest for the sale or transfer of ceded lands, when one of the foregoing conditions occurs. Proceeds to be used to acquire property to be held in public trust. Effective upon approval. (SB1085 HD1)

