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# 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 subsection 171-18(a), whether by lease with option  
7 to purchase, sale, or exchange, except as provided in subsection  
8 171-18(d); provided that the State may dispose of lands in the  
9 public land trust pursuant to subsection 171-18(c), provided  
10 that one of the 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 of the disposition of the public lands  
4           trust land by lease with option to purchase, sale, or  
5           exchange occurs after December 31, 2014."

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

8           "**§171-13 Disposition of public lands.** Except as otherwise  
9 provided by law and subject to other provisions of this chapter,  
10 the board may:

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

16           (2) Grant easement by direct negotiation or otherwise for  
17           particular purposes in perpetuity on [~~such~~] terms as  
18           may be set by the board, subject to reverter to the  
19           State upon termination or abandonment of the specific  
20           purpose for which it was granted, provided the sale  
21           price of [~~such~~] the easement shall be determined  
22           pursuant to section 171-17(b).

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

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

9 "**§171-18 Public land trust.** (a) All funds derived from  
10 the sale or lease or other disposition of public lands shall be  
11 appropriated by the laws of the State; provided that all  
12 proceeds and income from the sale, lease, or other disposition  
13 of lands ceded to the United States by the Republic of Hawaii  
14 under the joint resolution of annexation, approved July 7, 1898  
15 (30 Stat. 750), or acquired in exchange for lands so ceded, and  
16 returned to the State of Hawaii by virtue of section 5(b) of the  
17 Act of March 18, 1959 [~~(73 Stat. 6)~~,] (73 Stat. 5) and all  
18 proceeds and income from the sale, lease, or other disposition  
19 of lands retained by the United States under sections 5(c) and  
20 5(d) of the Act and later conveyed to the State under section  
21 5(e) shall be held as a public trust for the support of the  
22 public schools and other public educational institutions, for

1 the betterment of the conditions of native Hawaiians as defined  
2 in the Hawaiian Homes Commission Act, 1920, as amended, for the  
3 development of farm and home ownership on as widespread a basis  
4 as possible, for the making of public improvements, and for the  
5 provision of lands for public use.

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

19 (c) Notwithstanding any law to the contrary, the State,  
20 its political subdivisions, boards, agencies, departments, and  
21 entities created pursuant to state law, may hold or manage  
22 public land trust lands, as described in subsection (a), by

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

8 (1) The State establishes a compelling state interest for  
9 the disposition;

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

12 (3) The disposition is limited to accomplishing the  
13 compelling state interest; and

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

18 (d) The conditions described in subsection (c)(1) through  
19 (4) shall not prevent the State from:

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

21 (2) Providing easements to public utilities and government  
22 agencies pursuant to section 171-95; or

1           (3) Engaging in land exchanges pursuant to sections 171-50  
2                   and 171-51."

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

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

12           SECTION 6. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14           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 until December 31, 2014, whichever occurs first; establishes a process for the sale or transfer of ceded lands, to be implemented only when one of the foregoing conditions occurs. (SD1)