
A BILL FOR AN ACT

RELATING TO THE KAHO'OLAWA REHABILITATION TRUST FUND.

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

1 SECTION 1. The Kaho'olawe Island Reserve Commission issued
2 the Kaho'olawe Island Reserve Strategic Plan 2009-2013 (Strategic
3 Plan) in September 2008. The Strategic Plan emphasizes the
4 following goals:

5 (1) To increase the size, diversity, and sustainability of
6 the trust fund by raising funds through grants,
7 partnerships, contributions from corporations, and
8 private individuals, entering into appropriate
9 strategic alignments and operating agreements that
10 generate revenue without commercial activity on-
11 island, and to manage the organization's budget in a
12 manner that protects the trust fund;

13 (2) To develop and implement a culturally appropriate
14 five-year plan to access and stabilize cultural sites,
15 archeological sites, and burial sites, and provide for
16 appropriate access and cultural practices;



- 1 (3) To develop and maintain a culturally appropriate,
2 environmentally sustainable infrastructure to provide
3 and maintain an appropriate on-island presence for the
4 purposes of managing and protecting the Kaho‘olawe
5 Island Reserve (Reserve);
- 6 (4) To systematically restore the natural resources of the
7 Reserve, including the island and its surrounding
8 waters;
- 9 (5) To create a five-year written plan to expand the
10 volunteer base and relationships with individuals and
11 organizations in concert with the Protect Kaho‘olawe
12 ‘Ohana for the purposes of cultural, natural resource,
13 and marine resource restoration, conservation, and
14 other native Hawaiian traditional and customary
15 practices;
- 16 (6) To develop and implement a measurable education and
17 communication program to deepen understanding for the
18 children and people of Hawai‘i and the world of the
19 natural, cultural, historical, and spiritual
20 significance of Kaho‘olawe, and to aid in the fund
21 development process;



1 (7) To establish a written and measurable enforcement
2 program and network to protect Kaho'olawe and its
3 waters from illegal, inappropriate, and unsafe use;
4 and

5 (8) To prepare for the transition of the Reserve to the
6 future native Hawaiian sovereign entity.

7 The legislature finds that in order to support the goals of
8 the Strategic Plan, additional funds are required for the
9 Kaho'olawe rehabilitation trust fund.

10 SECTION 2. Chapter 6K, Hawaii Revised Statutes, is amended
11 by adding a new section to be appropriately designated and to
12 read as follows:

13 "§6K- Molokini recreational activity surcharge. (a)
14 Any ocean recreational activity business operator that operates
15 a tour at Molokini island, including a tour of the reefs and
16 reef lands off the shore of the island, shall collect a
17 surcharge of \$1 from each customer for each activity tour
18 provided to the customer.

19 (b) Each ocean recreational activity business operator may
20 retain two per cent of the amount of surcharges collected to
21 offset administrative expenses associated with collecting the
22 surcharge.



1 (c) The ocean recreational activity business operator
2 shall remit to the Kaho'olawe rehabilitation trust fund,
3 established pursuant to section 6K-9.5, within sixty days after
4 the end of the calendar month in which the surcharge is
5 collected, an amount that represents the total surcharges
6 collected during the calendar month less amounts retained for
7 administrative expenses incurred by the ocean recreational
8 activity business operator, as provided in subsection (b).

9 (d) The surcharges collected by the ocean recreational
10 activity business operator pursuant to this section shall not be
11 subject to any tax, fee, or assessment, and shall not be
12 considered revenue of the operator.

13 (e) Each customer who is subject to this section shall be
14 liable to the State for the surcharge until the surcharge has
15 been paid to the ocean recreational activity business operator.
16 Ocean recreational activity business operators shall have no
17 liability to remit surcharges that have not been paid by
18 customers. An ocean recreational activity business operator
19 shall have no obligation to take any legal action to enforce the
20 collection of the surcharge for which any customer is billed.
21 However, the department may initiate a collection action against



1 the customer. If the department prevails in a collection
2 action, reasonable attorney's fees and costs shall be awarded.

3 (f) For the purposes of this section, "ocean recreational
4 activity business operator" means any person who operates any
5 commercial enterprise or establishment, including sole
6 proprietorships, joint ventures, partnerships and corporations,
7 or any other legally cognizable entity, whether for profit or
8 not for profit, which:

- 9 (1) Engages in a recreational activity that is primarily
- 10 conducted in or on the ocean, including kayaking,
- 11 snorkeling, scuba diving, surfing, and windsurfing; or
- 12 (2) Provides instruction or guidance to any patron
- 13 regarding the use of equipment associated with an
- 14 ocean recreational activity."

15 SECTION 3. Section 6K-9.5, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) There is created in the state treasury a trust fund
18 to be designated as the Kaho'olawe rehabilitation trust fund to
19 be administered by the department with the prior approval of the
20 commission. Subject to Public Law 103-139, and this chapter:

- 21 (1) All moneys received from the federal government for
- 22 the rehabilitation and environmental restoration of



1 the island of Kaho'olawe or other purposes consistent
 2 with this chapter;
 3 (2) Any moneys appropriated by the legislature to the
 4 trust fund;
 5 (3) Any moneys received from grants, donations, or the
 6 proceeds from contributions; [and]
 7 (4) Moneys raised pursuant to the surcharge levied under
 8 section 6K- ; and
 9 ~~[-(4)]~~ (5) The interest or return on investments earned from
 10 moneys in the trust fund,
 11 shall be deposited in the trust fund and shall be used to
 12 fulfill the purposes of this chapter."

13 SECTION 4. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2010.
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INTRODUCED BY:

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Report Title:

Molokini; Kaho'olawe Rehabilitation Trust Fund; Surcharge

Description:

Imposes a surcharge on ocean recreational activity tours at Molokini island, including the reefs and reef lands off the shore of the island, to be deposited in the Kaho'olawe rehabilitation trust fund.

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