

# S.B. NO. 2714

JAN 25 2010

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## A BILL FOR AN ACT

RELATING TO LANDS CONTROLLED BY THE STATE.

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

1           SECTION 1. The legislature has determined that Act 176,  
2 Session Laws of Hawaii 2009, which imposes legislative oversight  
3 on sales and gifts of most state-owned lands, should apply only  
4 to ceded lands and should not apply to lands controlled by the  
5 State that are not lands that were government or crown lands  
6 prior to August 15, 1895, or lands exchanged for such lands  
7 subsequent to that date. Accordingly, this Act repeals those  
8 portions of Act 176 that changed the law regarding lands  
9 controlled by the State that are not ceded lands, and the  
10 legislative oversight prescribed by Act 176 shall continue to be  
11 applicable only to lands that are ceded lands.

12           SECTION 2. Section 171-64.7, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) This section applies to all lands or interest therein  
15 owned or under the control of state departments and agencies  
16 classed as government or crown lands previous to August 15,  
17 1895, [~~or acquired or reserved by the government upon or~~  
18 ~~subsequent to that date by purchase, exchange, escheat, or the~~

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

6 ~~(1) Land set aside pursuant to law for the use of the~~  
7 ~~United States;~~

8 ~~(2) Land to which the United States relinquished the~~  
9 ~~absolute fee and ownership under section 91 of the~~  
10 ~~Organic Act prior to the admission of Hawaii as a~~  
11 ~~state of the United States;~~

12 ~~(3) Land to which the University of Hawaii holds title;~~

13 ~~(4) Land to which the Hawaii housing finance and~~  
14 ~~development corporation in its corporate capacity~~  
15 ~~holds title;~~

16 ~~(5) Land to which the department of agriculture holds~~  
17 ~~title by way of foreclosure, voluntary surrender, or~~  
18 ~~otherwise, to recover moneys loaned or to recover~~  
19 ~~debts otherwise owed the department under chapter 167;~~

20 ~~(6) Land that is set aside by the governor to the Aloha~~  
21 ~~Tower development corporation; or land to which the~~

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1           ~~Aloha Tower development corporation holds title in its~~  
2           ~~corporate capacity;~~  
3           ~~(7) Land that is set aside by the governor to the~~  
4           ~~agribusiness development corporation; or land to which~~  
5           ~~the agribusiness development corporation in its~~  
6           ~~corporate capacity holds title; and~~  
7           ~~(8) Land to which the high technology development~~  
8           ~~corporation in its corporate capacity holds title.]~~


9           and lands exchanged subsequent to August 15, 1895, for lands  
10           classed as government or crown lands previous to August 15,  
11           1895."

12           SECTION 3. Statutory material to be repealed is bracketed  
13           and stricken. New statutory material is underscored.

14           SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



BY REQUEST

**Report Title:**

Lands Controlled by the State

**Description:**

Restores the law with regard to non-ceded lands controlled by the State, to what it was prior to the passage of Act 176, Session Laws of Hawaii 2009.

JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO LANDS  
CONTROLLED BY THE STATE.

PURPOSE: To restore the law with regard to non-ceded lands controlled by the State, to what it was prior to the passage of Act 176, Session Laws of Hawaii 2009.

MEANS: Amend section 171-64.7(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Act 176, Session Laws of Hawaii 2009 (Act 176), which imposes legislative oversight and approval on sales and gifts of certain state-owned lands, should apply only to those lands that were government or crown lands prior to August 15, 1895. For all other state-owned lands, the law should revert to what was in effect prior to the passage of Act 176.

Act 176, which requires legislative oversight and approval of certain state land sales and gifts, has created operational difficulties for departments and agencies of the State that need to sell or gift state-owned lands in a timely and efficient manner. The lengthy and time-consuming legislative approval process required under Act 176 has affected the viability of numerous departmental and agency land transactions and properties, including, but not limited to: the sale of residences foreclosed upon by state agencies; sales, gifts or dedications due to public/private development projects (like affordable housing); lease to fee conversions; sales of land located outside the State; sales of affordable housing units that are purchased under the 201H buy back provisions and re-sold to eligible homebuyers; shared equity properties that revert back to the State;

lands acquired through a loan default that is sold to replenish the loan fund; and transactions involving federal and county governments, including land dedications.

By limiting the Act 176 legislative approval process to state-owned lands that were government or crown lands prior to August 15, 1895, this bill recognizes the original intent of Act 176 and reduces the operational difficulties of agencies and departments by improving their ability to sell or gift state-owned lands in a timely and efficient manner. Accordingly, the sale or gift of state-owned lands whose disposition was the primary impetus for passage of Act 176 would still receive review through the current legislative approval process.

Impact on the public: This bill benefits the public by enabling the timely and efficient sale and gift of state-owned lands.

Impact on the department and other agencies: This bill benefits departments and agencies of the State by allowing them to sell or gift non-ceded state-owned lands without needing to go through a legislative review and approval process. This measure also allows the Legislature to focus on those land transactions that are the proper domain for legislative review.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Departments and agencies of the State that sell or gift non-ceded lands controlled by the State.

EFFECTIVE DATE: Upon approval.