
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 PART I

2 SECTION 1. In 1965, the State condemned the ahupua'a o
3 Kahana for use as a state park, making it the only landowner in
4 the State of Hawai'i, outside of the Robinson family on Ni'ihau,
5 to own an intact ahupua'a. An ahupua'a, a triangular slice of
6 land running from the mountains to the ocean, was the major land
7 division used by pre-contact Hawaiians, as it included all of
8 the elements necessary for their existence: the uplands, the
9 lowlands, the shore, and the ocean.

10 While the families living in Kahana at the time of the
11 condemnation were of varied ethnic backgrounds, many of them
12 were native Hawaiian, and the people of Kahana in general lived
13 a simple, subsistence lifestyle in harmony with native Hawaiian
14 values and traditions. The people of Kahana lobbied the
15 legislature after the condemnation to allow them to stay in
16 Kahana and preserve this rural native Hawaiian-influenced
17 lifestyle. In 1970, a governor's task force proposed the



1 concept of a living park that would allow the families to stay
2 and in some way participate in the park. The governor
3 recommended the concept to the department of land and natural
4 resources. The residents were allowed to stay on the land under
5 revocable leases.

6 The State determined that as a condition of their lease
7 each Kahana family would contribute twenty-five hours of
8 interpretive services per month to the park, to preserve,
9 restore, and share the history and rural lifestyle of the
10 ahupua`a with the public.

11 Act 5, Session Laws of Hawaii 1987, authorized the
12 department of land and natural resources to issue long-term
13 residential leases to persons who had lived continuously in
14 Kahana valley or had permits allowing them to reside on certain
15 parcels of land within Kahana valley. As a condition of holding
16 a lease, these qualified persons agreed to participate in
17 interpretive programs in Kahana valley state park.

18 The purpose of this part is to:

19 (1) Establish a two-year moratorium on evictions of
20 persons who at the time of the enactment of this Act,
21 reside in Kahana valley state park, have participated
22 in interpretive programs for Kahana valley state park,



1 and have continuously lived there since before 1987 or
2 hold or have held a long-term lease or permit to
3 reside there;

4 (2) Authorize the board of land and natural resources to
5 negotiate and enter into long-term residential leases
6 within state parks with qualified persons; and

7 (3) Establish the planning council to assist in the
8 development and implementation of a master plan for
9 Kahana valley state park.

10 SECTION 2. (a) Notwithstanding any other law to the
11 contrary, including chapter 171, Hawaii Revised Statutes, there
12 is established a two-year moratorium from the effective date of
13 this Act on the eviction of persons who at the time of the
14 enactment of this Act:

15 (1) Reside in Kahana valley state park;

16 (2) Have participated in interpretive programs for Kahana
17 valley state park; and

18 (3) Have:

19 (A) Continuously lived there since before 1987; or

20 (B) Held a long-term lease or permit to reside there.

21 (b) For a two-year period from the effective date of this
22 Act, the board of land and natural resources is authorized to



1 enter into negotiations and execute long-term leases with
2 qualified applicants for residential sites:

3 (1) Within any state park with acreage greater than five
4 thousand acres but not more than six thousand acres;

5 (2) For long-term residential leases with a term not
6 exceeding fifty years; and

7 (3) With persons who:

8 (A) Have participated in interpretive programs within
9 the state park; and

10 (B) (i) Have continuously resided in the state park
11 since 1987; or

12 (ii) Hold or have held a long-term lease or
13 permit to reside within the state park.

14 SECTION 3. (a) The department of land and natural
15 resources, together with the Kahana planning council, shall
16 develop a Kahana living park master plan and submit a report on
17 the Kahana living park master plan, including any recommended
18 legislation, to the legislature no later than twenty days prior
19 to the convening of the 2011 regular session. The Kahana living
20 park master plan shall include:

21 (1) A comprehensive management plan for a culturally
22 sensitive and ahupua'a-based entity;



- 1 (2) A list of priorities and guidelines to promote
2 cooperation between government agencies and residents
3 of Kahana valley state park with respect to managing
4 the ahupua'a, its people, and its resources; and
- 5 (3) Any proposed legislation necessary to implement the
6 Kahana living park master plan.
- 7 (b) There is established within the department of land and
8 natural resources for administrative purposes the Kahana
9 planning council consisting of seven members:
- 10 (1) One member shall be the president of the Kahana Valley
11 Association or the president's designee;
- 12 (2) Two members shall be lease holders or residents in
13 Kahana valley state park, designated by the president
14 of the Kahana Valley Association;
- 15 (3) One member shall be a faculty member from the
16 University of Hawai'i at Manoa, department of urban
17 and regional planning, to be designated by the faculty
18 chairperson of the department;
- 19 (4) One member shall be a member of the senate, to be
20 designated by the senate president;



- 1 (5) One member shall be a member of the house of
- 2 representatives, to be designated by the speaker of
- 3 the house of representatives; and
- 4 (6) One member shall be the chairperson of the board of
- 5 land and natural resources or the chairperson's
- 6 designee.
- 7 (c) The duties of the planning council shall be to:
- 8 (1) Complete the Kahana living park master plan as
- 9 required by subsection (a);
- 10 (2) Provide input for the Kahana living park master plan
- 11 to advise and assist residents in the management of
- 12 the Kahana valley state park;
- 13 (3) Determine the location for long-term residents' homes;
- 14 (4) Establish criteria for eligibility for future issuance
- 15 of long-term leases, including:
- 16 (A) Participation in interpretive programs;
- 17 (B) Lineal descendents of Kahana valley families
- 18 prior to 1965;
- 19 (C) Lineal descendents of Kahana valley lessees; and
- 20 (D) Whether, and under what circumstances, leases may
- 21 be assigned, or new long-term leases issued, to
- 22 third parties;



1 (5) Increase community participation and input into the
2 Kahana living park master plan for the enhancement of
3 community education and cultural awareness of the
4 Kahana valley state park; and

5 (6) Work with the community to implement the Kahana living
6 park master plan.

7 (d) The members of the Kahana planning council shall
8 select a chairperson from among the planning council members and
9 shall be reimbursed for expenses, including travel expenses,
10 necessary for the performance of their duties.

11 PART II

12 SECTION 4. The Hawaiian Homes Commission Act, 1920, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§ . Commercial projects. Notwithstanding the provisions
16 of sections 171-36(a)(2) and 171-95(a)(2), the department may
17 negotiate leases for commercial projects that have been or shall
18 be developed pursuant to a land disposition authorized under
19 section 204(a)(2) with a qualified developer, or a project
20 developer agreement authorized under section 220.5 with a
21 qualified developer, whether the project developer agreement is
22 existing or entered into pursuant to this section. As part of



1 this process, the department of Hawaiian home lands may enter
2 into consultation with the beneficiaries of the trust. The
3 initial term of the lease of commercial property and any
4 extensions thereof may be for a period in excess of sixty-five
5 years; provided that the aggregate of the initial term and any
6 extensions of the term shall in no event exceed ninety-nine
7 years. Upon expiration of the negotiated term of the lease, the
8 lease may be offered for public auction as provided in this
9 title; provided that the previous lease holder shall be offered
10 the right of first refusal in accordance with the terms of the
11 lease; and provided further that the lease holder shall agree to
12 match the highest bid offered at the public auction.

13 As used in this section, "consultation with the
14 beneficiaries of the trust" means a process, as established by
15 the department, of engaging those beneficiaries residing within
16 the geographical area of the property subject to the lease in a
17 process that provides for the timely dissemination of
18 information and the gathering of input and allows for a
19 reasonable time and reasonable access to relevant information
20 for evaluation and consideration."

21 SECTION 5. The provisions of the amendments made by this
22 part to the Hawaiian Homes Commission Act, 1920, as amended, are



1 declared to be severable, and if any sections, sentence, clause,
2 or phrase, or the application thereof to any person or
3 circumstances is held ineffective because there is a requirement
4 of having the consent of the United States to take effect, then
5 that portion only shall take effect upon the granting of consent
6 by the United States and the effectiveness of the remainder of
7 these amendments or the application thereof shall not be
8 affected.

9 PART III

10 SECTION 6. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 7. If any provision of this Act, or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act, which can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 8. New statutory material is underscored.

20 SECTION 9. This Act shall take effect on July 1, 2009.



Report Title:

Kahana Valley State Park; Hawaiian Homes Commission Act, 1920

Description:

Establishes a 2-year moratorium on evictions of residents from Kahana valley state park; authorizes DLNR to negotiate and execute long-term residential leases with qualified persons in state parks; establishes the planning council to create and implement a living park master plan for Kahana valley state park; and allows DHHL to enter into commercial leases for terms in excess of 65 years but not exceeding 99 years, giving the commercial lessee a right of first refusal following a public auction at the termination of the lease; provided that the commercial lessee shall match the highest lease rental bid offered. (SB638 HD1)

