

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1           SECTION 1. The legislature finds that the department of  
2 land and natural resources requires more flexibility to  
3 negotiate and enter into long-term residential leases for state  
4 park land. Long-term lessees can provide valuable caretaking  
5 services for state parks. For example, the Kahana Valley State  
6 Park is a model for such endeavors.

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

15           While the families living in Kahana at the time of the  
16 condemnation were of varied ethnic backgrounds, many of them  
17 were native Hawaiian, and the people of Kahana in general lived



1 a simple, subsistence lifestyle in harmony with native Hawaiian  
2 values and traditions. The people of Kahana lobbied the  
3 legislature after the condemnation to allow them to stay in  
4 Kahana and preserve this rural native Hawaiian-influenced  
5 lifestyle. In 1970, a governor's task force proposed the  
6 concept of a living park that would allow the families to stay  
7 and in some way participate in the park. The governor  
8 recommended the concept to the department of land and natural  
9 resources. The residents were allowed to stay on the land under  
10 revocable leases.

11 The State determined that each Kahana family would  
12 contribute twenty-five hours of interpretive services per month  
13 to the park, to preserve, restore, and share the history and  
14 rural lifestyle of the ahupua'a with the public.

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



1           The lessees have not only acted as caretakers of the  
2 valley, but also shared their knowledge of the valley and  
3 interpreted the significance of the valley's resources for the  
4 public's benefit and enjoyment. The authority to issue leases  
5 pursuant to Act 5 expired on January 1, 1992.

6           The purpose of this Act is to:

- 7           (1) Authorize the department of land and natural resources  
8           to issue long-term residential leases to qualified  
9           persons, on the condition that lessees participate in  
10          the state park's caretaking programs; and  
11          (2) Establish an advisory committee with representatives  
12          from specific, interested organizations to facilitate  
13          operations and compliance with the state park  
14          residential leases.

15          SECTION 2. Notwithstanding any other law to the contrary,  
16 including chapter 171, Hawaii Revised Statutes, the department  
17 of land and natural resources is authorized to negotiate and  
18 enter into long-term residential leases for sites in state parks  
19 with acreage greater than five thousand acres but not more than  
20 six thousand acres, with the lease term not to exceed beyond  
21 fifty years, with persons who reside and have continuously



1 resided in the same state park since before 1987 and have served  
2 as caretakers of the state park.

3 The lands eligible for long-term residential lease  
4 negotiations under the provisions of this Act are limited to  
5 those determined eligible by the department of land and natural  
6 resources.

7 SECTION 3. The lessees agreement to participate in, and  
8 become an essential part of, the caretaking programs in the  
9 state park as directed by the department of land and natural  
10 resources shall be considered valuable consideration for a lease  
11 granted pursuant to this Act. The department of land and  
12 natural resources shall establish a monitoring system and  
13 enforcement mechanism to ensure compliance with these  
14 agreements, which shall work in conjunction with the state park  
15 advisory committee as established pursuant to this Act.

16 SECTION 4. The leases under this Act shall be exempt from  
17 all statutes, ordinances, charter provisions, and rules of any  
18 governmental agency related to zoning and construction standards  
19 for subdivisions, the development and improvement of land, and  
20 the construction of units thereon; provided that the department  
21 of land and natural resources finds the exemptions are



1 consistent with the purposes of this Act and the leases meet  
2 minimum requirements of health and safety.

3 SECTION 5. There is established a state park advisory  
4 committee, which shall advise the department of land and natural  
5 resources on matters related to the management of leases under  
6 this Act, including eligibility requirements for applicants for  
7 leases and the monitoring of lessee compliance with  
8 participation in the interpretive programs.

9 The advisory committee shall consist of seven members  
10 appointed without regard to section 26-34, Hawaii Revised  
11 Statutes, as follows:

- 12 (1) One member representing the department of land and  
13 natural resources, as designated by the chairperson of  
14 the board of land and natural resources;
- 15 (2) Two members who are lease holders, as designated by  
16 the chairperson of the board of land and natural  
17 resources;
- 18 (3) One member of the Native Hawaiian Legal Corporation,  
19 as designated by the corporation;
- 20 (4) Two members of the public, as designated by the  
21 governor; and



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1           (5) One member of the board of trustees of the office of  
2           Hawaiian affairs, as designated by the board.

3           SECTION 6. The authority granted by section 2 of this Act  
4 shall expire:

5           (1) When all leases have been negotiated and recorded in  
6           the bureau of conveyances for all parcels meeting the  
7           criteria in this Act; or

8           (2) On June 30, 2014;

9 whichever occurs first.

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

11

INTRODUCED BY:

*C. White*



**Report Title:**

State Parks; Residential Leases; Advisory Committee

**Description:**

Authorizes the department of land and natural resources to issue residential leases in state parks; establishes an advisory committee to monitor compliance with the leases.

