

1 bequest, or intestate succession and with the prior approval of
2 the board of land and natural resources; provided that transfer
3 or assignment by conveyance, devise, or bequest shall be limited
4 to a member or members of the occupier's or lessee's family[-]
5 or in the case of a homestead lease, to any person or persons
6 designated as a trustee of a land trust.

7 For the purposes of this section[~~,"family"~~]:

8 "Family" means the spouse, reciprocal beneficiary,
9 children, parents, siblings, grandparents, grandchildren,
10 nieces, nephews, a parent's siblings, children of a parent's
11 siblings, and grandchildren of a parent's siblings, of the
12 occupier or lessee.

13 "Land trust" means a trust created for the purposes of
14 managing and holding the homestead leasehold estate for the
15 benefit of the lessee and lessee's family members. The lessee
16 may be the trustee of the trust.

17 All the successors shall be subject to the performance of
18 the unperformed conditions of the certificate of occupation or
19 the homestead lease."

20 **PART II**

21 SECTION 3. Section 188-36, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§188-36 Hawaii marine laboratory refuge. (a) It is
2 unlawful for any person within the Hawaii marine laboratory
3 refuge to take any aquatic life. Nothing in this section shall
4 apply to any officer, faculty member, employee, or student of
5 the University of Hawaii or licensee of the board of regents of
6 the University of Hawaii, while employed in catching or taking
7 aquatic life for scientific purposes.

8 (b) The Hawaii marine laboratory refuge consists of the
9 reefs and bay waters surrounding the island of Moku-o-loe
10 located in Kaneohe Bay, island of Oahu, from the high water mark
11 on the island extending outward to [±]twenty-five feet beyond
12 the outer edges of the reefs.[±]

13 All laws enacted for the protection of aquatic life or
14 wildlife shall likewise apply to the Hawaii marine laboratory
15 refuge, except that no person or persons, other than those
16 designated by this section, shall be authorized to catch or take
17 aquatic life in the refuge.

18 (c) The Hawaii marine laboratory refuge shall continue
19 only as long as the regents of the University of Hawaii maintain
20 the Hawaii marine laboratory on the island of Moku-o-loe, island
21 of Oahu.



1 The current lack of an accurate public land inventory
2 threatens the successful implementation of legislation proposed
3 during the 2011 regular session. For instance, the
4 establishment of a public school lands trust and the exchange of
5 lands held by the department at Sand Island, respectively, will
6 be hindered unless there is an accurate inventory of public
7 lands. The department of land and natural resources must
8 complete an inventory of public lands for our State to move
9 forward.

10 The Hawaii supreme court has repeatedly held that the
11 legislature has a constitutional obligation to clarify the
12 amount of revenues derived from the public land trust that
13 should be annually transferred to the office of Hawaiian affairs
14 for the benefit of native Hawaiians. Delayed for years, work on
15 a comprehensive and accurate inventory must begin immediately to
16 ensure that the State meets its fiduciary responsibilities as
17 the trustee of the public land trust pursuant to section 5(f) of
18 the Admission Act.

19 The department of land and natural resources has already
20 collected a substantial amount of information about lands that
21 are in the public land trust. The focus of this measure is the
22 further study or review of the trust status of those lands to



1 which state agencies hold title and the disposition of those
2 lands, to verify the accuracy of or make amendments to their
3 trust status as indicated in the department's existing database
4 of public land trust lands.

5 The purpose of this part is to facilitate the establishment
6 of a comprehensive information system for inventorying and
7 maintaining information about the lands of the public land trust
8 described in section 5(f) of the Admission Act and article XII,
9 section 4 of the Hawaii State Constitution.

10 SECTION 5. (a) For purposes of this part:

11 "Ceded lands" means those lands ceded to the United States
12 by the Republic of Hawaii under the joint resolution of
13 annexation approved on July 7, 1898.

14 "Department" means the department of land and natural
15 resources unless the context clearly indicates otherwise.

16 "Public land trust" means that public land trust
17 established in section 5(f) of the Admission Act.

18 (b) The department shall initiate and coordinate all
19 efforts to establish a public land trust information system.
20 The information system shall consist of a complete and accurate
21 inventory of all lands in the public land trust to which state



1 agencies hold title or over which they maintain management
2 control.

3 (c) Beginning July 1, 2011, the department shall identify
4 all of the lands that are to be included in the public land
5 trust inventory. After interviewing representatives of each of
6 the four counties of the city and county of Honolulu, Kauai,
7 Maui, and Hawaii, and conducting discussions with the office of
8 Hawaiian affairs, the department of Hawaiian home lands, the
9 department of transportation, the attorney general, the director
10 of finance, and other state agencies holding title to public
11 land trust lands or to which lands of the public land trust have
12 been set aside, the department shall also determine what other
13 information would be useful to include in the inventory. At
14 minimum, the department of land and natural resources shall
15 determine whether the following kinds of information about each
16 parcel of land in the operating inventory would be useful:

- 17 (1) The parcel's location by metes and bounds, tax map key
18 number, or both;
- 19 (2) The parcel's size rounded to the nearest acre;
- 20 (3) The date the parcel was acquired;
- 21 (4) If conveyed out of the public land trust, the date the
22 parcel was conveyed;



- 1 (5) Whether the parcel was acquired by the State pursuant
2 to section 5(b) or 5(e) of the Admission Act or Public
3 Law 88-233, or in exchange for a parcel of land
4 acquired by the State pursuant to those laws;
- 5 (6) Whether the parcel is a subdivided portion of a larger
6 parcel acquired by the State pursuant to section 5(b)
7 or 5(e) of the Admission Act or Public Law 88-233, or
8 in exchange for a parcel of land acquired by the State
9 pursuant to those laws;
- 10 (7) Whether the parcel or any portion of the parcel is
11 ceded land, and the extent to which the parcel
12 consists of ceded land;
- 13 (8) The name of the state or county agency holding title
14 to the parcel;
- 15 (9) Whether the parcel has been set aside and the name of
16 the state or county agency to which the parcel has
17 been set aside;
- 18 (10) The parcel's current state land use, state land
19 classifications pursuant to section 171-10, Hawaii
20 Revised Statutes, and county zoning designations;



- 1 (11) A description of all natural resources, including
- 2 minerals and water, found on or appurtenant to the
- 3 parcel;
- 4 (12) A description of every easement, covenant, regulatory
- 5 condition, or other benefit or servitude to which the
- 6 parcel is entitled or subject; and
- 7 (13) A description of all leases, uses, or other
- 8 disposition to which the parcel has been put.
- 9 (d) The department shall also conduct an investigation
- 10 into the most appropriate means of establishing and maintaining
- 11 the public land trust information system, including:
 - 12 (1) The type of hardware and software appropriate for
 - 13 storing and maintaining the information system;
 - 14 (2) Whether the information system should be established
 - 15 as a geographic information system;
 - 16 (3) The tasks needing to be performed to complete and
 - 17 establish the information system;
 - 18 (4) The sequence in which the tasks needing to be
 - 19 performed should be completed;
 - 20 (5) Whether and to what extent state and county agencies
 - 21 holding title to public land trust lands or to which
 - 22 public land trust lands have been set aside should



- 1 continue maintaining separate inventories of the
2 public land trust lands;
- 3 (6) Whether a single agency should be responsible for
4 maintaining the public land trust information system;
- 5 (7) To which agency the responsibility should be delegated
6 if a single agency concept is chosen; and
- 7 (8) The extent to which other agencies should be required
8 to cooperate and assist in that effort.

9 (e) The department shall identify existing sources of
10 data, information, and resources that can be incorporated into
11 or used to establish the public land trust inventory and public
12 land trust information system, including existing inventories of
13 the ceded lands and the public land trust lands established or
14 maintained by the federal government, the office of Hawaiian
15 affairs, the department of Hawaiian home lands, the University
16 of Hawaii, the department of transportation, the Hawaii housing
17 finance and development corporation, other state agencies, the
18 counties, or private entities.

- 19 (f) The department shall:
- 20 (1) Estimate the total cost of establishing the public
21 land trust information system;



- 1 (2) Identify possible sources of funding to defray that
- 2 cost; and
- 3 (3) Identify the factors to be considered in prioritizing
- 4 the expenditures to be made in each fiscal year,
- 5 if an incremental or phased implementation process is used to
- 6 complete the system.

7 SECTION 6. All state and county agencies shall assist the

8 department in facilitating the establishment of the public land

9 trust information system and shall comply with any and all

10 requests the department of land and natural resources may make

11 for any information and services pertinent to the completion of

12 the information system.

13 SECTION 7. All state agencies shall report to the

14 department of land and natural resources:

- 15 (1) By August 1, 2011, each and every parcel of land, or
- 16 part of a parcel of land, to which the reporting
- 17 agency holds title or that has been set aside to the
- 18 reporting agency, regardless of whether the land is
- 19 within the public land trust, is ceded land, or both;
- 20 (2) By August 1, 2011, on the disposition or transfer of
- 21 any parcel of land, or part of a parcel of land, to



1 which the agency holds title, and provide documents
2 pertinent to that disposition or transfer; and

3 (3) By January 1, 2012, any inaccuracy discovered in the
4 information provided to the department pursuant to
5 paragraph (1) or (2) and include:

6 (A) A description of how the inaccuracy will be
7 corrected; and

8 (B) Copies of all documents related to the correction
9 of those inaccuracies.

10 SECTION 8. (a) The department of land and natural
11 resources shall submit a progress report to the legislature no
12 later than twenty days prior to the convening of the regular
13 sessions of 2012 and 2013. The progress report shall:

14 (1) Indicate what is necessary to complete the public land
15 trust inventory and the public land trust information
16 system; and

17 (2) Include any proposed legislation that the department
18 deems necessary to facilitate the expeditious
19 completion and support of the inventory and
20 information system.

21 (b) The inventory and information system shall be
22 completed and operational by December 31, 2013, unless the



1 department advises the legislature otherwise in a progress
2 report.

3 SECTION 9. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2011-2012 and
6 the same sum or so much thereof as may be necessary for fiscal
7 year 2012-2013 for the establishment and maintenance of a
8 computerized, comprehensive statewide public land trust
9 inventory database and funding for one staff position for a
10 database and application developer; provided that no funds
11 appropriated shall be expended unless matched on a dollar-for-
12 dollar basis by the office of Hawaiian affairs and paid to the
13 department.

14 The sums appropriated shall be expended by the department
15 of land and natural resources for the purposes of this part.

16 **PART IV**

17 SECTION 10. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 11. This Act shall take effect upon its approval.
20



Report Title:

Public Land; 999-Year Homestead Lease; Assignment; Land Trust; Coconut Island; Information System; DLNR; Appropriation

Description:

Part I allows 999-year homestead leases to be assigned to land trusts that are created for managing and holding the homestead leasehold estate for the benefit of the lessee and lessee's family members; part II authorizes exemptions from state and county permits for the Hawaii marine laboratory refuge for repair and maintenance of its facilities on Coconut island; part III requires the department of land and natural resources to initiate and coordinate all efforts to establish a public lands information system; requires all state agencies to report certain information to the department; requires the department to submit a progress report to the legislature; appropriates funds for a comprehensive statewide public land trust inventory database and funding for one staff position for a database and application developer. (SD1)

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