

S.B. NO. 2783

JAN 25 2012

A BILL FOR AN ACT

RELATING TO THE PUBLIC TRUST LANDS.

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

1 SECTION 1. In 1978, the Constitution of the State of
2 Hawaii was amended to include article XII, sections 4, 5, and 6,
3 which established the office of Hawaiian affairs and its board
4 of trustees.

5 Sections 4, 5, and 6 of the State Constitution provide:

6 SECTION 4. The lands granted to the State of
7 Hawaii by Section 5(b) of the Admission Act and
8 pursuant to Article XVI, Section 7, of the State
9 Constitution, excluding therefrom lands defined as
10 "available lands" by Section 203 of the Hawaiian Homes
11 Commission Act, 1920, as amended, shall be held by the
12 State as a public trust for native Hawaiians and the
13 general public.

14 SECTION 5. There is hereby established an Office
15 of Hawaiian Affairs. The Office of Hawaiian Affairs
16 shall hold title to all the real and personal property
17 now or hereafter set aside or conveyed to it which
18 shall be held in trust for native Hawaiians and

S.B. NO. 2783

1 Hawaiians. There shall be a board of trustees for the
2 Office of Hawaiian Affairs elected by qualified voters
3 who are Hawaiians, as provided by law. The board
4 members shall be Hawaiians. There shall be not less
5 than nine members of the board of trustees; provided
6 that each of the following Islands have one
7 representative: Oahu, Kauai, Maui, Molokai and
8 Hawaii. The board shall select a chairperson from its
9 members.

10 SECTION 6. The board of trustees of the Office
11 of Hawaiian Affairs shall exercise power as provided
12 by law: to manage and administer the proceeds from
13 the sale or other disposition of the lands, natural
14 resources, minerals and income derived from whatever
15 sources for native Hawaiians and Hawaiians, including
16 all income and proceeds from that pro rata portion of
17 the trust referred to in section 4 of this article for
18 native Hawaiians; to formulate policy relating to
19 affairs of native Hawaiians and Hawaiians; and to
20 exercise control over real and personal property set
21 aside by state, federal or private sources and
22 transferred to the board for native Hawaiians and
23 Hawaiians. The board shall have the power to exercise

1 control over the Office of Hawaiian Affairs through
2 its executive officer, the administrator of the Office
3 of Hawaiian Affairs, who shall be appointed by the
4 board.

5 In Trustees of the Office of Hawaiian Affairs v. Yamasaki,
6 69 Haw. 154, 737 P.2d 446 (1987), the Hawaii Supreme Court
7 concluded that the issue of what constitutes the portion of the
8 income and proceeds derived from the public land trust for the
9 office of Hawaiian affairs pursuant to article XII, section 6 of
10 the Hawaii Constitution, is a political question for the
11 legislature to determine.

12 In response to the Yamasaki decision, the legislature
13 enacted Act 304, Session Laws of Hawaii 1990, to clarify the
14 extent and scope of the State's obligation to provide a portion
15 of the funds derived from the public land trust to the office of
16 Hawaiian affairs.

17 On September 12, 2001, the Hawaii Supreme Court ruled in
18 Office of Hawaiian Affairs v. State of Hawaii, 96 Haw. 388, 31
19 P.3d 901 (2001), that Act 304 was effectively repealed by its
20 own terms, so that it was necessary for the legislature to
21 specify what portion of which funds, from which lands the office
22 of Hawaiian affairs was to receive under the State Constitution.

1 In its decision, the Supreme Court affirmed Yamasaki,
2 observing:

3 [T]he State's obligation to native Hawaiians is firmly
4 established in our constitution. How the State satisfies
5 that constitutional obligation requires policy decisions
6 that are primarily within the authority and expertise of
7 the legislative branch. As such, it is incumbent upon the
8 legislature to enact legislation that gives effect to the
9 right of native Hawaiians to benefit from the ceded lands
10 trust. See Haw. Const. art. XVI, §7. . . .

11 . . . we trust that the legislature will re-examine the
12 State's constitutional obligation to native Hawaiians and
13 the purpose of HRS § 10-13.5 and enact legislation that
14 most effectively and responsibly meets those obligations.
15 Office of Hawaiian Affairs v. State of Hawaii, 96 Haw. at 401,
16 31 P.3d at 914 (citations omitted)

17 One of the purposes of this Act is to resolve and
18 extinguish, finally and completely, any and all claims, disputes
19 and controversies the office of Hawaiian affairs, or any other
20 person or entity claiming by, through, or under the office, has
21 asserted or raised, or could otherwise assert or raise, relating
22 to the portion of the income and proceeds from the public land
23 trust lands under sections 4 and 6 of article XII of the State

S.B. NO. 2783

1 Constitution or any related statute or act, the office of
2 Hawaiian affairs received between November 7, 1978, up to and
3 including June 30, 2012.

4 Another purpose of this Act is to effectively and
5 responsibly fulfill the constitutional obligation to native
6 Hawaiians under article XII, sections 4 and 6, of the State
7 Constitution between November 7, 1978, up to and including June
8 30, 2012, by re-examining the amount of money the office of
9 Hawaiian affairs received under article XII, section 6 of the
10 Constitution, determining whether the office received what it
11 should have received as its share of the income and proceeds
12 from public land trust lands between 1978 and 2012, and
13 providing additional resources to the office in the form of fee
14 simple title to certain parcels of land to completely and
15 finally fulfill the State's constitutional obligations relating
16 to the office of Hawaiian affairs' portion of the income and
17 proceeds from the public land trust lands under article XII,
18 sections 4 and 6, of the State Constitution or any related
19 statute or act, between November 7, 1978, up to and including
20 June 30, 2012.

21 The legislature recognizes that the governor and the office
22 of Hawaiian affairs have reached an agreement with respect to
23 conveyances of land and all issues relating to the office of

S.B. NO. 2783

1 Hawaiian affairs' portion of the income and proceeds from the
2 public land trust lands under sections 4 and 6 of article XII of
3 the Constitution, between November 7, 1978, up to and including
4 June 30, 2012.

5 The legislature finds that the agreement between the State
6 and the office of Hawaiian affairs represents a joint
7 recommendation as to the policy the legislature should adopt, to
8 satisfy the State's constitutional obligations to native
9 Hawaiians under article XII, sections 4 and 6 of the
10 Constitution for the period between November 7, 1978, up to and
11 including June 30, 2012, relating to the office of Hawaiian
12 affairs' portion of the income and proceeds from the public land
13 trust lands. Conveyance of the fee simple interest to the lands
14 the governor and the trustees of the office of Hawaiian affairs
15 identified for conveyance will allow the State to effectively
16 and responsibly meet said constitutional obligations to native
17 Hawaiians.

18 This Act, therefore, is an expression of legislative
19 policy, not a settlement or a contract. This legislation is a
20 legislative act without distinction from any other legislative
21 act. As it is neither a settlement nor a contract, it can give
22 rise to no lawsuits or claims other than an action to compel
23 compliance with this Act's terms, nor to any claim that any

S.B. NO. 2783

1 future legislation is barred in any way, or leads to liability
2 in any way, because it somehow conflicts with a settlement,
3 settlement agreement, contract, or the provisions of this Act.

4 SECTION 2. Notwithstanding any other law to the contrary,
5 the fee simple interest to the following parcels of land with
6 the existing improvements thereon (hereinafter "the Properties")
7 (but not including submerged land, accreted land, or any land
8 makai of the shoreline), is conveyed to the office of Hawaiian
9 affairs as grantee, as of July 1, 2012, as is, where is:

- 10 (1) Lots 1, 2, 3, 4, 5, 6(portion), and 9 of File Plan
11 2471 filed at the Bureau of Conveyances, State of
12 Hawaii, on February 23, 2010;
13 (2) TMK (1) 2-1-15-61; and
14 (3) TMK (1) 2-1-15-51.

15 As directed by the attorney general, the appropriate
16 boards, agencies, officers, and employees of the State shall (1)
17 prepare and execute deeds warranting title only, and such other
18 instruments appropriate and necessary to convey fee title and
19 interest to the above-listed parcels with all existing
20 improvements, to the office of Hawaiian affairs, as grantee, and
21 (2) record the deeds and such other instruments within a
22 reasonable period of time after the effective date of this Act,
23 in the land court or bureau of conveyances, as appropriate. The

1 aforesaid executed deeds and other instruments shall be
2 delivered to the office by the State no later than _____ days
3 after they are recorded. As these are conveyances in which the
4 State and its agencies are the only parties, the tax imposed by
5 section 247-1, Hawaii Revised Statutes, shall not apply to them.

6 For purposes of this section and this Act, "as is, where
7 is" means that the office of Hawaiian affairs is accepting the
8 Properties in their existing condition as of March 1, 2012, the
9 close of the office's period for due diligence, without
10 representations or warranties of any kind or nature. Except as
11 set forth in the aforesaid deeds, the State makes no warranty or
12 representation of any kind or nature, either express or implied,
13 or arising by operation of law, including, but not limited to,
14 any warranty of quantity, quality, condition, habitability,
15 reliability, merchantability, workmanlike construction,
16 suitability or fitness for a particular purpose, about the
17 parcels of real property described in this section, any building
18 or other improvement located on those parcels of land, any
19 environmental contamination or conditions of those parcels of
20 land, and the soil conditions related to those parcels of land.

21 The office of Hawaiian affairs has completed all due
22 diligence investigations of the parcels necessary to satisfy
23 itself as to the physical, environmental, economic and legal

S.B. NO. 2783

1 conditions relating to the parcels of land, and has indicated
2 that it relied solely on the information it secured from its due
3 diligence, and not on any information provided by or on behalf
4 of the State to determine whether it wished to accept and
5 acquire title to those parcels of land. All claims and
6 liabilities against the State, if any, which the office of
7 Hawaiian affairs has, may have had, or may have in the future,
8 regarding any injury, loss, cost, damage or liability, including
9 reasonable attorney's fees, concerning the physical,
10 environmental, soil, economic and legal conditions of the
11 Properties, are released, waived and extinguished.

12 The Properties are and shall remain (even after conveyance
13 to the office) under the jurisdiction and authority of the
14 Hawaii community development authority, with respect to zoning,
15 land use conditions and all other matters over which the
16 authority has jurisdiction and authority to act. If in the
17 future, the jurisdiction and authority over zoning and land use
18 conditions over the Properties is transferred to, changed to, or
19 vested in another department of agency of the State, then the
20 Properties shall be under the jurisdiction and authority of such
21 other department or agency.

22 The conveyances required to be made by this section shall
23 not and do not include the rights of native tenants, or any of

S.B. NO. 2783

1 the State's rights to minerals and metallic mines, including all
2 geothermal rights, submerged lands, surface or ground water, or
3 the State's regulatory and ownership rights (if any) over, or to
4 historic properties, aviation artifacts, burial sites, and
5 prehistoric and historic remains under chapter 6E, Hawaii
6 Revised Statutes.

7 The Properties conveyed shall be and remain subject to all
8 encumbrances (whether or not of record), the rights of native
9 tenants, leases, contracts, agreements, permits, easements,
10 profits, licenses, rights-of-way or other instruments applicable
11 to any of the Properties effective or on-going on the effective
12 date of this Act unless they expire or are terminated pursuant
13 to their respective terms. These rights and encumbrances shall
14 be set forth in the deeds conveying the Properties to the office
15 or set forth in a license or similar agreement, a memorandum of
16 which may be recorded concurrently with the deeds conveying the
17 Properties to the office. Effective July 1, 2012, every
18 reference to the present title-holder or the head of the
19 department or agency in each such instrument, if the title-
20 holder is a department or an agency, shall be construed as a
21 reference to the office of Hawaiian affairs or its board of
22 trustees.

S.B. NO. 2783

1 The Properties shall be subject to all laws, except
2 sections 206E-8, 206E-10, 206E-34, Hawaii Revised Statutes, and
3 as otherwise provided in this Act, provided that the Hawaii
4 community development authority may acquire by condemnation,
5 pursuant to chapter 101, Hawaii Revised Statutes, easements,
6 rights-of-way, rights of entry, or other rights of access in
7 favor of lands adjoining the Properties conveyed that are under
8 the control and management of public agencies, provided the
9 office of Hawaiian affairs is paid just compensation for the
10 same. The office of Hawaiian affairs shall administer the
11 Properties in accordance with its duties under the Hawaii
12 Constitution and as provided by law.

13 The instruments of conveyance executed and recorded
14 pursuant to this Act shall specify that the office of Hawaiian
15 affairs and any successor owner of any of the Properties shall
16 cooperate with the State and its agencies to designate and grant
17 such access rights and easements to the State or its agencies as
18 may be reasonably necessary for the benefit and use of
19 properties owned by the State or its agencies and which are
20 adjacent to one or more of the Properties. Each of the
21 instruments creating such access rights or granting such
22 easements shall provide that the office, or any successor owner
23 of the servient property, shall have the right to reasonably

1 relocate any such access areas or easements so granted. The
2 cost of initially identifying such access areas or designating
3 and granting any such easements shall be paid by the State. The
4 cost of relocating any such access areas or easements shall be
5 paid by the office or any such successor owner, as the case may
6 be. Each of the instruments creating such access rights or
7 granting such easements also shall provide that the State and
8 its agencies shall be responsible for only a reasonable share of
9 the cost of maintaining any such access areas and easement
10 areas, as the case may be, and that the office, its tenants,
11 licensees, concessionaires, successors, and assigns shall not be
12 liable for injuries or damages arising from the use of such
13 access areas or easement areas and caused by the acts or
14 omissions of the State, its agencies or employees, or their
15 invitees.

16 SECTION 3. The passage of this Act is in full
17 satisfaction, resolution, and discharge of any and all claims,
18 disputes, controversies, actions, causes of action, demands,
19 claims for relief, liability, liabilities, costs, compensations,
20 injuries, losses, damages or expenses of any kind or nature,
21 whether known or unknown, contingent or uncertain, patent or
22 latent, whether at law or in equity, now existing or hereafter
23 arising, established or inchoate, including any claim or action

S.B. NO. 2783

1 under chapter 661, Hawaii Revised Statutes, or for breach of
2 trust under chapter 673, Hawaii Revised Statutes, that have been
3 asserted or could have been asserted, or could be asserted in
4 the future against the State by the office of Hawaiian affairs
5 or any other person or entity claiming by, through, or under the
6 office, in any manner arising out of, growing out of, connected
7 with or traceable either directly or indirectly to, concerning
8 or in any way related to any right the office of Hawaiian
9 affairs or any other person or entity claiming by, through, or
10 under the office may have or may have had to the portion of
11 income and proceeds, or any other tangible right, item, or
12 benefit related to said income and proceeds, from the public
13 land trust lands under sections 4 and 6 of article XII of the
14 Constitution or any related statute or act, between November 7,
15 1978, up to and including June 30, 2012.

16 All claims, disputes, controversies, actions, causes of
17 action, demands, claims for relief, liabilities, costs,
18 compensations, injuries, losses, damages or expenses of any kind
19 or nature, whether known or unknown, contingent or uncertain,
20 patent or latent, whether at law or in equity, now existing or
21 hereafter arising, established, or inchoate, including any claim
22 or action under chapter 661, Hawaii Revised Statutes, or for
23 breach of trust under chapter 673, Hawaii Revised Statutes, that

S.B. NO. 2783

1 have been asserted or could have been asserted, or could be
2 asserted in the future against the State by the office or any
3 other person or entity claiming by, through, or under the
4 office, in any manner arising out of, growing out of, connected
5 with or traceable either directly or indirectly to, concerning
6 or in any way related to, any right the office of Hawaiian
7 affairs or any other person or entity claiming by, through, or
8 under the office may have or may have had to the portion of
9 income and proceeds, or any other tangible right, item, or
10 benefit related to said income and proceeds, from the public
11 land trust lands under sections 4 and 6 of article XII of the
12 Constitution or any related statute or act, between November 7,
13 1978, up to and including June 30, 2012, are released, waived,
14 and forever discharged and extinguished.

15 Each and every claim or suit that is predicated in any way
16 upon an act or omission that arises out of or is in any way
17 related to any right the office of Hawaiian affairs, or any
18 other person or entity claiming by, through or under the office
19 may have or may have had to the income and proceeds, or any
20 other tangible right, item, benefit or claim or action under
21 chapter 661, Hawaii Revised Statutes, or for breach of trust
22 under chapter 673, Hawaii Revised Statutes, related to said
23 income and proceeds, from the public land trust lands under

S.B. NO. 2783

1 sections 4 and 6 of article XII of the Constitution or any
2 related statute or act, between November 7, 1978, up to and
3 including June 30, 2012, is forever extinguished and barred and
4 may not be brought by the office, or by any other person or
5 entity claiming by, through, or under the office.

6 The passage of this Act shall have the effect of *res*
7 *judicata*, collateral estoppel, and claim and issue preclusion as
8 to the office of Hawaiian affairs and all persons and entities
9 claiming by, through, or under the office, and all claims,
10 issues and defenses which have been at issue, or which could
11 have been, or could in the future be, at issue, including any
12 claim or action under chapter 661, Hawaii Revised Statutes, or
13 for breach of trust under chapter 673, Hawaii Revised Statutes,
14 whether brought against the State or its departments, agencies,
15 officials, or employees, directly or indirectly, by subrogation,
16 derivative or third party action, tender, federal action, or by
17 any other means whatsoever, arising out of or in any way related
18 to any right the office of Hawaiian affairs, or any other person
19 or entity claiming by, through, or under the office, to the
20 portion of income and proceeds, and/or any other tangible right,
21 item, or benefit related to said income and proceeds, from the
22 public land trust lands under sections 4 and 6 of article XII of

S.B. NO. 2783

1 the Constitution or any related statute or act between November
2 7, 1978, up to and including June 30, 2012.

3 The office of Hawaiian affairs shall not, cannot, and is
4 forever prohibited and barred, now and in the future, from (1)
5 asserting, arguing, or claiming that the office was entitled to
6 more receipts than it received pursuant to Act 178, Session Laws
7 of Hawaii 2006, or any other duly enacted law establishing the
8 portion of the income and proceeds from the public land trust
9 lands the office of Hawaiian affairs is to receive under
10 sections 4 and 6 of article XII of the Constitution, between
11 November 7, 1978, up to and including June 30, 2012, (2)
12 bringing an action for breach of trust under chapter 673, Hawaii
13 Revised Statutes, to contest or claim a larger portion of the
14 income and proceeds, and/or any other tangible right, item, or
15 benefit related to said income and proceeds, from the public
16 land trust lands under sections 4 and 6 of article XII of the
17 Constitution for itself or its beneficiaries, or (3) asserting,
18 arguing, or claiming that section 673-9, Hawaii Revised
19 Statutes, does not bar a suit to contest or make a claim
20 relating to the portion of the income and proceeds from the
21 public land trust lands the office of Hawaiian affairs receives
22 or is to receive under sections 4 and 6 of article XII of the
23 Constitution. The prohibition and bar imposed by the

S.B. NO. 2783

1 immediately preceding sentence shall be applicable to any and
2 all money transferred, or in the future to be transferred, to
3 the office of Hawaiian affairs pursuant to Act 178, Session Laws
4 of Hawaii 2006, or any other law enacted to give effect to the
5 provisions of article XII, sections 4 and 6 of the Constitution
6 relating to the office's portion of the income and proceeds from
7 the public land trust lands under sections 4 and 6 of article
8 XII of the Constitution, including, but not limited to, receipts
9 from general leases, revocable permits, and licenses for the use
10 of improved and unimproved parcels of public land trust lands,
11 rents and fees for agricultural uses, rents and fees for retail,
12 office, warehouse, medical and other uses of space in state-
13 owned buildings and facilities, receipts from the sale of wood,
14 rock, and other natural resources on public land trust lands,
15 landing, docking and parking fees, rents and fees from the
16 State's in-bond duty free, park, and other concessions, rents,
17 fees, and reimbursements collected at state-operated hospitals
18 and medical facilities, and fees and rents from the State's
19 affordable housing development and rental public housing
20 projects.

21 SECTION 4. To the extent that the State has made any
22 waiver of sovereign immunity for a suit, claim, cause of action,
23 or right of action regarding the amount of the income and

S.B. NO. 2783

1 proceeds the office of Hawaiian affairs is to receive from the
2 public land trust lands pursuant to article XII, sections 4 and
3 6 of the Hawaii Constitution, that waiver is withdrawn.

4 SECTION 5. The State, while not admitting the validity of
5 any claims, hereby resolves and satisfies all controversies and
6 claims described in section 3 of this Act by the conveyance of
7 the Properties described in section 2 of this Act.

8 SECTION 6. The Properties conveyed by this Act shall be
9 deemed income and proceeds from the public land trust, as if the
10 Properties had been paid out of the income and proceeds from the
11 public land trust pursuant to article XII, section 6 of the
12 State Constitution.

13 SECTION 7. Notwithstanding any other law to the contrary,
14 the State, and the state officials who may have participated in
15 the preparation of the provisions or the enactment of this Act,
16 including the office of Hawaiian affairs, each of the members of
17 its board of trustees, and its staff, shall not be subject to
18 suit because of their participation, except if an action is
19 brought to compel compliance with a provision of this Act, in
20 which case the action shall be brought only against the State or
21 the office of Hawaiian affairs, or any official necessary to
22 compel compliance with a provision of this Act.

S.B. NO. 2783

1 SECTION 8. If any provision of chapter 673, Hawaii Revised
2 Statutes, is inconsistent with any provision of this Act, then
3 the provisions of this Act shall prevail.

4 SECTION 9. (a) The provisions of this Act are not
5 severable to the extent that if any provision of either section
6 2 or section 3 of this Act is held invalid or unenforceable by a
7 final judgment of the Hawaii Supreme Court or the United States
8 Supreme Court that resolves all issues, this Act in its entirety
9 shall be invalid, all interests in the Properties conveyed
10 pursuant to the provisions of section 2 of this Act, shall be
11 conveyed back to their respective grantors by the office of
12 Hawaiian affairs.

13 (b) There is no waiver of sovereign immunity to bring any
14 suit, claim, cause of action, or right of action to invalidate
15 section 2 or 3 of this Act, or to enjoin their implementation or
16 application, and to the extent any waiver of sovereign immunity
17 for such a suit, claim, cause of action, or right of action
18 exists, that waiver is withdrawn.

19 (c) Nothing in this Act limits the legislature's exclusive
20 authority to enact laws.

21

S.B. NO. 2783

1 SECTION 10. This Act shall take effect on July 1, 2012.

2

3

INTRODUCED BY:

A.S.T.

4

BY REQUEST

5

S.B. NO. 2783

Report Title:

Office of Hawaiian Affairs' Portion of Income and Proceeds from the Public Trust Lands between November 7, 1978 through June 30, 2012

Description:

Conveys Kakaako Makai lands to Office of Hawaiian Affairs, and resolves all disputes and controversies, and extinguishes, discharges and bars all claims, suits, and actions relating to OHA's portion of income and proceeds from the public trust lands for the period November 7, 1978 through June 30, 2012

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO THE PUBLIC TRUST LANDS.

PURPOSE: This bill resolves all remaining differences and fulfills the State's constitutional obligation with respect to the Office of Hawaiian Affairs' ("OHA") portion of the income and proceeds from the public trust lands under article XII, sections 4 and 6 of the State Constitution, for the period November 7, 1978, up to and including June 30, 2012.

MEANS:

- (1) Reviewing what portion of the income and proceeds of the public trust lands OHA received or is expected to receive pursuant to article XII, section 6 of the State Constitution between November 7, 1978 and June 30, 2012;
- (2) Determining whether OHA received or will receive what the Legislature intended OHA to receive for that period;
- (3) Conveying fee simple title to lands at Kakaako presently owned in fee by the Hawaii Community Development Authority ("HCDA") and preliminarily valued by the State at approximately \$200 million, to OHA on or after July 1, 2012;
- (4) Prescribing that all claims, disputes, controversies, actions, causes of action, suits, demands, claims for relief, liabilities, costs, compensations, injuries, losses, damages or expenses of any kind or nature relating to OHA's portion of income and proceeds from the public trust lands under sections 4 and 6 of article XII of the State Constitution for the period November

7, 1978 up to and including June 30, 2012, are released, waived, barred, discharged, and extinguished.

JUSTIFICATION: In Office of Hawaiian Affairs v. State of Hawaii, 96 Haw. 388, 401, 31 P.3d 901, 914 (2001) (citations omitted), the Hawaii Supreme Court said:

[T]he State's obligation to native Hawaiians is firmly established in our constitution. How the State satisfies that constitutional obligation requires policy decisions that are primarily within the authority and expertise of the legislative branch. As such, it is incumbent upon the legislature to enact legislation that gives effect to the right of native Hawaiians to benefit from the ceded lands trust. See Haw. Const. art. XVI, §7. . . .

. . . we trust that the legislature will re-examine the State's constitutional obligation to native Hawaiians and the purpose of HRS § 10-13.5 and enact legislation that most effectively and responsibly meets those obligations.

Impact on the public: Finally, and completely resolve claims that have remained outstanding and controverted almost as long as article XII, sections 4 and 6 has been part of the State Constitution.

Impact on the department and other agencies: Approximately 25-30 acres of HCDA owned land at Kakaako Makai will be conveyed in fee to OHA as soon after July 1, 2012 as reasonably possible. These lands presently generate approximately \$1.1 million in revenue for HCDA from leases, permits, licenses, and fees. HCDA will continue to own and manage approximately 80 acres in the area, including Kewalo Basin, the area occupied by the University of Hawaii's Medical School

Complex, the Children's Museum, Kakaako Waterfront Park, and the area adjacent to the Diamond Head boundary of the Park. HCDA does not object to conveying the lands designated for transfer to OHA in this bill.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

OTHER AFFECTED
AGENCIES: OHA; HCDA; DLNR; DOT; HHSC; HFDC.

EFFECTIVE DATE: July 1, 2012.