
A BILL FOR AN ACT

RELATING TO PUBLIC LAND.

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

1 SECTION 1. Section 171-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§171-2 Definition of public lands[-]; sale.** (a) "Public
4 lands" means all lands or interest therein in the State classed
5 as government or crown lands previous to August 15, 1895, or
6 acquired or reserved by the government upon or subsequent to
7 that date by purchase, exchange, escheat, or the exercise of the
8 right of eminent domain, or in any other manner; including lands
9 accreted after May 20, 2003, and not otherwise awarded,
10 submerged lands, and lands beneath tidal waters that are
11 suitable for reclamation, together with reclaimed lands that
12 have been given the status of public lands under this chapter,
13 except:

14 (1) Lands designated in section 203 of the Hawaiian Homes
15 Commission Act, 1920, as amended;

16 (2) Lands set aside pursuant to law for the use of the
17 United States;

18 (3) Lands being used for roads and streets;



- 1 (4) Lands to which the United States relinquished the
2 absolute fee and ownership under section 91 of the
3 Hawaiian Organic Act prior to the admission of Hawaii
4 as a state of the United States unless subsequently
5 placed under the control of the board of land and
6 natural resources and given the status of public lands
7 in accordance with the state constitution, the
8 Hawaiian Homes Commission Act, 1920, as amended, or
9 other laws;
- 10 (5) Lands to which the University of Hawaii holds title;
- 11 (6) Lands to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title;
- 14 (7) Lands to which the Hawaii community development
15 authority in its corporate capacity holds title;
- 16 (8) Lands 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 (9) Lands that are set aside by the governor to the Aloha
21 Tower development corporation; lands leased to the
22 Aloha Tower development corporation by any department



1 or agency of the State; or lands to which the Aloha
2 Tower development corporation holds title in its
3 corporate capacity;

4 (10) Lands that are set aside by the governor to the
5 agribusiness development corporation; lands leased to
6 the agribusiness development corporation by any
7 department or agency of the State; or lands to which
8 the agribusiness development corporation in its
9 corporate capacity holds title;

10 (11) Lands to which the high technology development
11 corporation in its corporate capacity holds title; and

12 (12) Lands which are set aside by the governor to the
13 public land development corporation; lands leased to
14 the public land development corporation by any
15 department or agency of the State; or lands to which
16 the public land development corporation holds title in
17 its corporate capacity.

18 (b) Notwithstanding any law to the contrary, all
19 dispositions in fee simple of public land as defined in
20 subsection (a) shall be subject to the prior approval of the
21 legislature by concurrent resolution to be adopted by at least a
22 two-thirds majority vote of the members to which each house is



1 entitled in any regular or special session at which the
2 resolution is submitted for approval of the disposition."

3 SECTION 2. Section 171-41, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The board may sell public land in fee simple for
6 commercial, industrial, or other business uses with the prior
7 approval of the governor and subject to [~~disapproval by two-~~
8 ~~thirds vote of either the senate or the house of representatives~~
9 ~~or by majority vote of both~~] approval by the legislature
10 pursuant to section 171-2(b), in any regular or special session
11 next following the date of disposition; provided the above
12 restrictions shall not apply to any sale of land initially
13 acquired for highway purposes with participating federal funds
14 and which land is later found to be in excess of the need for
15 highway purposes."

16 SECTION 3. Section 171-42, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§171-42 Hotel and resort uses.** Public land may be leased
19 for hotel or resort development, if the department of business,
20 economic development, and tourism finds that the land possesses
21 the amenities for a successful hotel and resort development and
22 that the advantages of its placement for such use outweigh those



1 inherent in free public use in its natural state. Where the
2 land being disposed of for hotel or resort use is divisible into
3 more than one economic unit, the division shall be made prior to
4 disposition, provided that firm use controls shall be imposed to
5 assure that the development of each unit is compatible with the
6 others. Provisions for community operations of shopping areas,
7 golf courses, and other similar facilities shall be encouraged,
8 with special assessments for the maintenance of these community
9 facilities. Where public land disposed of for hotel or resort
10 use is adjacent to any beach, waterway, or historic monument or
11 landmark, the disposition shall be subject to reservations of
12 public right-of-way or public access at all times to such beach,
13 waterway, historic monument, or landmark.

14 The board of land and natural resources may, with the prior
15 approval of the governor, and subject to ~~[disapproval by the~~
16 ~~legislature by two thirds vote of either the senate or the house~~
17 ~~of representatives or by majority vote of both,]~~ approval by the
18 legislature pursuant to section 171-2(b), in any regular session
19 next following the date of disposition, sell in fee simple or
20 lease with option to purchase, raw, unimproved public land for
21 hotel and resort use; provided that:



- 1 (1) The board first finds that the land is suitable for
2 resort development and that its use for resort
3 purposes will promote the economic development of the
4 State;
- 5 (2) The purchaser submits development plans for the area
6 to be purchased which conform with applicable county
7 or city and county zoning and subdivision
8 requirements;
- 9 (3) The board finds upon independent study of these plans
10 that the proposed development is compatible with the
11 developments in the area in general and consistent
12 with good sound planning;
- 13 (4) The purchaser agrees to construct, improve, and put in
14 all off-site and on-site improvements as may be
15 required by the board which may include any or all of
16 the following--all major and minor auxiliary roads and
17 highways as well as all local streets, all connecting
18 water lines and mains to existing lines and mains, all
19 necessary sewer lines, sewage treatment, or disposal
20 plants, all pumping stations, all reservoirs, golf
21 courses, recreational areas, shopping centers, and all



1 other improvements necessary to develop the raw land
2 into an economic resort enterprise;

3 (5) The purchaser agrees to complete all improvements
4 within the time limitations set by the board;

5 (6) The title to the land shall remain in the State until
6 the purchaser has made all payments required in the
7 terms of the sale and has constructed the improvements
8 as agreed; provided that where the purchaser finds it
9 necessary to secure a loan to finance the construction
10 of the improvements the board may issue a patent or
11 deed upon the execution in favor of the State of a
12 performance and payment bond conditioned upon the
13 payment of an amount equal to one hundred per cent of
14 the improvement cost. The bond shall by its terms
15 inure to the benefit of the State;

16 (7) The board shall sell for resort uses only that portion
17 of the public lands in the proposed resort area which
18 it finds to be absolutely necessary to give the
19 purchaser self-sustaining economic operations;
20 provided that no public land shall be included in the
21 sale for these purposes which will not actually be



1 improved and used in the resort area for resort
2 purposes; and

3 (8) The lessee with an option to purchase shall not be
4 permitted to exercise the option until the lessee has
5 complied with all the terms and conditions of the
6 lease, including but not limited to the construction
7 or erection of improvements as may be required by the
8 board.

9 In any disposition under this section the board shall give
10 consideration to the needs of the public for beach area above
11 the high water mark.

12 Upon a finding by the board that the public interest
13 demands it, the board may lease, lease with option to purchase,
14 or sell in fee simple such public lands by negotiation; subject
15 to the provisions contained in this section and to such other
16 terms and conditions contained in this chapter."

17 SECTION 4. Section 171-50, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) Legislative [~~disapproval~~] approval. Any exchange of
20 public land for private land shall be subject to [~~disapproval~~]
21 approval by the legislature [~~by two thirds vote of either the~~
22 ~~senate or the house of representatives or by majority vote of~~



1 both] pursuant to section 171-2(b), in any regular or special
2 session following the date of the board of land and natural
3 resources' approval in principle of the exchange. The state
4 department or agency shall submit for introduction to the
5 legislature a resolution for review of action on any exchange to
6 be consummated by the board wherein exchange deeds will be
7 executed by the parties together with the following information:

- 8 (1) The specific location and size in square feet or in
9 other precise measure of the parcels of land to be
10 exchanged;
- 11 (2) The value of the lands to be conveyed by the State and
12 the private party;
- 13 (3) The name or names of the appraiser or appraisers;
- 14 (4) The date of the appraisal valuation;
- 15 (5) The purpose for which the lands are being exchanged;
- 16 (6) A detailed summary of any development plans for the
17 land to be exchanged; and
- 18 (7) A statement of whether the land is, or is not, land
19 that was classed as government or crown lands previous
20 to August 15, 1895, or was acquired by the State in
21 exchange for such lands, and a detailed explanation of



1 how the state department or agency made this
2 determination.

3 A copy of the draft resolution shall also be submitted to
4 the office of Hawaiian affairs at least three months prior to
5 the convening of a regular or special session of the legislature
6 to allow the office to determine whether the land was classed as
7 government or crown lands previous to August 15, 1895, or was
8 acquired by the State in exchange for such lands."

9 SECTION 5. Section 171-50.2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§171-50.2 Exchanges for conversion of leasehold lands to**
12 **fee simple ownership.** The board may exchange public lands for
13 private lands to be condemned or involuntarily sold pursuant to
14 chapter 516. Such exchange shall be requested by the executive
15 director of the Hawaii housing finance and development
16 corporation, and shall be effected in conformity with section
17 171-50; provided that such exchange shall be subject to
18 legislative [~~disapproval,~~] approval pursuant to section 171-
19 2(b); provided further that the private lands conveyed to the
20 State shall be disposed of pursuant to chapter 516; and provided
21 further that lands exchanged need not be of like-kind or



1 comparable use; provided further that no lands classified as
2 conservation shall be exchanged for private lands."

3 SECTION 6. Section 171-51, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§171-51 **Quitclaim.** The board of land and natural
6 resources may, after giving public notice as required in section
7 171-16(d):

- 8 (1) Quitclaim public lands by deed or land patent in
9 exchange for deeds of private lands by way of
10 compromise or equitable settlement of rights of
11 claimants without auction;
- 12 (2) Execute quitclaim deeds quitclaiming any and all
13 interests of the State in private land for the purpose
14 of perfecting title to such private land in private
15 individuals who have defective titles; provided that
16 no quitclaim may issue where the title to private land
17 is subject to reversion to the State or to a right of
18 entry by the State upon breach of condition subsequent
19 or where the title to the private land is conveyed by
20 the State for specific uses or purposes; provided
21 further that no exchange or quitclaim may be entered
22 into or made where the interest of the State arises by



1 reason of any provision in a deed or patent issued by
2 the State, which prescribes the specific use to which
3 the land may be put or the specific purpose for which
4 the land was conveyed; provided further that any
5 exchange or quitclaim shall be subject to
6 [~~disapproval~~] approval by the legislature [~~by a two-~~
7 ~~thirds vote of either the senate or the house of~~
8 ~~representatives or by majority vote of both,~~] pursuant
9 to section 171-2(b), in any regular or special session
10 next following the date of the exchange or quitclaim."

11 SECTION 7. Section 171-95, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) In any disposition to public utilities under this
14 section:

15 (1) The sale price or lease rental shall be no less than
16 the value determined in accordance with section 171-
17 17(b); provided that such sale price or lease rental
18 may be on a nominal basis, if the board finds that
19 such easement is required in connection with a
20 government project;

21 (2) The board shall provide that in case the land ceases
22 to be used at any future time for the use for which



1 the disposition was made, the board shall have the
2 right to repurchase the land at the original sale
3 price or fair market value, whichever is lower, and to
4 purchase improvements thereon at the depreciated value
5 or fair market value, whichever is lower;

6 (3) Disposition shall not be made to any public utility if
7 the utility has suitable lands of its own;

8 (4) The disposition to public utilities shall be subject
9 to ~~[disapproval]~~ approval by the legislature ~~[by two-~~
10 ~~thirds vote of either the senate or the house of~~
11 ~~representatives or by majority vote of both,]~~ pursuant
12 to section 171-2(b), in any regular or special session
13 next following the date of the disposition; and

14 (5) For the purposes of this section, the definition of
15 "public utility" as defined in section 269-1 is hereby
16 incorporated herein by reference."

17 SECTION 8. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



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

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INTRODUCED BY:

Scott. Orr

[Signature]

[Signature]

[Signature]

Guthrie Yvelin

[Signature]

[Signature]

Mele Carroll

[Signature]

Della A. Belle Hi

[Signature]

[Signature]

Jakashi Orr

Cindy Evans

John M. [Signature]

[Signature]

[Signature]

[Signature]

Karen [Signature]

[Signature]

Nicole E. Loven

Tom Brown

[Signature]

Beth Lukumote

Jessica Woolley



H.B. NO. 1292

Report Title:

Public Land; Alienation; Legislative Approval

Description:

Requires legislative approval of any sale, exchange, gift, or transfer of public land.

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

