
A BILL FOR AN ACT

RELATING TO ACTIONS FOR QUIET TITLE.

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

1 SECTION 1. Section 669-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§669-1 Object of action. (a) Action may be brought by
4 any person against another person who claims, or who may claim
5 adversely to the plaintiff, an estate or interest in real
6 property, for the purpose of determining the adverse claim.

7 (b) Action for the purpose of establishing title to a
8 parcel of real property of five acres or less may be brought by
9 any person who has been in adverse possession of the real
10 property for not less than twenty years. Action for the purpose
11 of establishing title to a parcel of real property of greater
12 than five acres may be brought by any person who had been in
13 adverse possession of the real property for not less than twenty
14 years prior to November 7, 1978, or for not less than earlier
15 applicable time periods of adverse possession. For purposes of
16 this section, any person claiming title by adverse possession
17 shall show that such person acted in good faith. Good faith



1 means that, under all the facts and circumstances, a reasonable
2 person would believe that the person has an interest in title to
3 the lands in question and such belief is based on inheritance, a
4 written instrument of conveyance, or the judgment of a court of
5 competent jurisdiction.

6 (c) Action brought to claim property of five acres or less
7 on the basis of adverse possession may be asserted in good faith
8 by any person not more than once in twenty years, after November
9 7, 1978.

10 (d) Action under subsection (a) or (b) shall be brought in
11 the circuit court of the circuit in which the property is
12 situated.

13 (e) Action may be brought by any person to quiet title to
14 land by accretion; provided that no action shall be brought by
15 any person other than the State to quiet title to land accreted
16 along the ocean after May 20, 2003, except that a private
17 property owner whose eroded land has been restored by accretion
18 may also bring such an action for the restored portion. The
19 person bringing the action shall prove by a preponderance of the
20 evidence that the accretion is natural and permanent and that
21 the land accreted before or on May 20, 2003. The person



1 bringing the action shall supply the office of environmental
2 quality control with notice of the action for publication in the
3 office's periodic bulletin in compliance with section 343-
4 3(c)(4). The quiet title action shall not be decided by the
5 court unless the office of environmental quality control has
6 properly published notice of the action in the office's periodic
7 bulletin.

8 As used in this section, "permanent" means that the
9 accretion has been in existence for at least twenty years. The
10 accreted portion of land shall be considered within the
11 conservation district. Land accreted after May 20, 2003, shall
12 be public land except as otherwise provided in this section.
13 Prohibited uses are governed by section 183-45.

14 (f) In any action brought under this section when the land
15 claimed by the plaintiff is kuleana land:

16 (1) Upon the request of a defendant, the court shall order
17 the parties into mandatory mediation to reach a
18 resolution of the action;

19 (2) Upon the request of defendants in separate actions
20 that are commenced by the plaintiff, or by the
21 plaintiffs for the same real party in interest, for



1 kuleana lands in the same circuit of the circuit court
2 in which the property is situated, the court shall
3 consolidate the separate actions into a single action;

4 (3) The plaintiff shall not seek and shall not be awarded
5 the extinguishment or alienation of the defendant's
6 access to the land for native Hawaiian cultural and
7 traditional practices; and

8 (4) The plaintiff shall not recover costs, expenses, or
9 attorney's fees from the defendant.

10 For purposes of this chapter, "kuleana land" means that land
11 granted to native tenants pursuant to L 1850, p. 202, entitled
12 "An Act Confirming Certain Resolutions of the King and Privy
13 Council, Passed on the 21st Day of December, A.D. 1849, Granting
14 to the Common People Allodial Titles for Their Own Lands and
15 House Lots, and Certain Other Privileges", as originally enacted
16 and as amended."

17 SECTION 2. Section 669-2, Hawaii Revised Statutes, is
18 amended by amending subsection (e) to read as follows:

19 "(e) In any action brought under section 669-1, the
20 [~~office of Hawaiian affairs~~] Office of Hawaiian Affairs shall be



1 joined as a defendant, by service upon the [~~office of Hawaiian~~
2 ~~affairs,~~] Office of Hawaiian Affairs, when:

- 3 (1) The land claimed by the plaintiff is kuleana land; and
- 4 (2) The plaintiff has reason to believe that an owner of
- 5 an inheritable interest in the kuleana land died
- 6 intestate or died partially intestate and there is or
- 7 was no taker under article II of the Hawaii [~~uniform~~
- 8 ~~probate code.~~] Uniform Probate Code.

9 [~~For purposes of this subsection, "kuleana land" means that~~
10 ~~land granted to native tenants pursuant to L 1850, p. 202,~~
11 ~~entitled "An Act Confirming Certain Resolutions of the King and~~
12 ~~Privy Council, Passed on the 21st Day of December, A.D. 1849,~~
13 ~~Granting to the Common People Allodial Titles for Their Own~~
14 ~~Lands and House Lots, and Certain Other Privileges", as~~
15 ~~originally enacted and as amended.] "~~

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

scm

[Handwritten signatures]



H.B. NO. 860

Report Title:

Action for Quiet Title; Kuleana Land

Description:

Provides that: (1) actions for quiet title of kuleana lands shall be subject to mandatory mediation; (2) court cases by the same plaintiff that seeks quiet title for separate kuleana lands within the same court circuit shall be consolidated; (3) defendant's access for cultural and traditional practices shall not be alienated or extinguished; and (4) plaintiff shall not recover costs, expenses, or attorney's fees from the defendant.

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

