

JAN 18 2019

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# 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. The legislature finds that defendants in quiet  
2 title actions for certain parcels of land may face undue  
3 hardships.

4           The purpose of this Act is to create a more equitable and  
5 timely process to resolve disputes and hardships stemming from  
6 quiet title actions filed against owners of kuleana lands.

7           The intent of the legislature is that nothing in this Act  
8 shall be interpreted so as to diminish or restrict native  
9 Hawaiian rights under article XII, section 7, of the Hawaii  
10 State Constitution.

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

13           "§669-1 Object of action. (a) Action may be brought by  
14 any person against another person who claims, or who may claim  
15 adversely to the plaintiff, an estate or interest in real  
16 property, for the purpose of determining the adverse claim.



1           (b) Action for the purpose of establishing title to a  
2 parcel of real property of five acres or less may be brought by  
3 any person who has been in adverse possession of the real  
4 property for not less than twenty years. Action for the purpose  
5 of establishing title to a parcel of real property of greater  
6 than five acres may be brought by any person who had been in  
7 adverse possession of the real property for not less than twenty  
8 years prior to November 7, 1978, or for not less than earlier  
9 applicable time periods of adverse possession. For purposes of  
10 this section, any person claiming title by adverse possession  
11 shall show that such person acted in good faith. Good faith  
12 means that, under all the facts and circumstances, a reasonable  
13 person would believe that the person has an interest in title to  
14 the lands in question and such belief is based on inheritance, a  
15 written instrument of conveyance, or the judgment of a court of  
16 competent jurisdiction.

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



1 (d) Action under subsection (a) or (b) shall be brought in  
2 the circuit court of the circuit in which the property is  
3 situated.

4 (e) Action may be brought by any person to quiet title to  
5 land by accretion; provided that no action shall be brought by  
6 any person other than the State to quiet title to land accreted  
7 along the ocean after May 20, 2003, except that a private  
8 property owner whose eroded land has been restored by accretion  
9 may also bring such an action for the restored portion. The  
10 person bringing the action shall prove by a preponderance of the  
11 evidence that the accretion is natural and permanent and that  
12 the land accreted before or on May 20, 2003. The person  
13 bringing the action shall supply the office of environmental  
14 quality control with notice of the action for publication in the  
15 office's periodic bulletin in compliance with section 343-  
16 3(c)(4). The quiet title action shall not be decided by the  
17 court unless the office of environmental quality control has  
18 properly published notice of the action in the office's periodic  
19 bulletin.

20 As used in this section, "permanent" means that the  
21 accretion has been in existence for at least twenty years. The



1 accreted portion of land shall be considered within the  
2 conservation district. Land accreted after May 20, 2003, shall  
3 be public land except as otherwise provided in this section.  
4 Prohibited uses are governed by section 183-45.

5 (f) In any action brought under this section when any  
6 portion of the land claimed by the plaintiff is kuleana land as  
7 defined in section 669-2(e):

8 (1) Upon the request of any defendant at the time the  
9 action was brought, the court shall order the parties  
10 to enter into mandatory mediation with a view of  
11 resolving the action, including any issues that may  
12 need to be preliminarily established through an action  
13 commenced under chapter 668A;

14 (2) Upon the request of defendants in separate actions  
15 that are commenced:

16 (A) By the plaintiff; or

17 (B) By multiple plaintiffs for the same real party in  
18 interest,

19 for kuleana lands in the same circuit of the circuit  
20 court in which the property is situated, the court may





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1           consolidate the separate actions into a single action;  
2           and  
3           (3) The plaintiff shall bear the reasonable costs of  
4           mediation under paragraph (1) and may only recover  
5           costs, expenses, or attorney's fees from the defendant  
6           as the court may deem equitable under the  
7           circumstances."

8           SECTION 3. New statutory material is underscored.

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

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INTRODUCED BY:   




# S.B. NO. 749

**Report Title:**

Action for Quiet Title; Kuleana Land

**Description:**

Provides that where a quiet title action involves kuleana land, at the request of any defendant at the time the action was brought, the court shall order mandatory mediation with a goal of resolving the dispute, including any issues that might need to be preliminarily established through an action commenced under chapter 668A, HRS. Allows the court to consolidate separate actions commenced by the same plaintiff or multiple plaintiffs for the same real property in interest. Requires the plaintiff in a quiet title action involving kuleana land to bear the costs of required mediation and only recover costs, expenses, or attorney's fees from the defendant as the court may deem reasonable and equitable under the circumstances.

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

