
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 kuleana land may face undue
3 hardships.

4 The purpose of this Act is to create a more equitable
5 process to resolve disputes and hardships stemming from quiet
6 title actions filed against owners of kuleana lands by
7 authorizing the office of Hawaiian affairs to intervene in such
8 actions.

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

13 SECTION 2. Section 10-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§10-5 Board of trustees; powers and duties.** The board
16 shall have the power in accordance with law to:



- 1 (1) Manage, invest, and administer the proceeds from the
2 sale or other disposition of lands, natural resources,
3 minerals, and income derived from whatever sources for
4 native Hawaiians and Hawaiians, including all income
5 and proceeds from that pro rata portion of the trust
6 referred to in section 10-3;
- 7 (2) Exercise control over real and personal property set
8 aside to the office by the State of Hawaii, the United
9 States of America, or any private sources, and
10 transferred to the office for native Hawaiians and
11 Hawaiians;
- 12 (3) Collect, receive, deposit, withdraw, and invest money
13 and property on behalf of the office;
- 14 (4) Formulate policy relating to the affairs of native
15 Hawaiians and Hawaiians, provided that such policy
16 shall not diminish or limit the benefits of native
17 Hawaiians under article XII, section 4, of the state
18 Constitution;
- 19 (5) Otherwise act as a trustee as provided by law;
- 20 (6) Delegate to the administrator, its officers and
21 employees such powers and duties as may be proper for



1 the performance of the powers and duties vested in the
2 board;

3 (7) Provide grants to individuals, and public or private
4 organizations to better the conditions of native
5 Hawaiians and Hawaiians consistent with the standards
6 set forth in section 10-17;

7 (8) Make available technical and financial assistance and
8 advisory services to any agency or private
9 organization for native Hawaiian and Hawaiian
10 programs, and for other functions pertinent to the
11 purposes of the office of Hawaiian affairs. Financial
12 assistance may be rendered through contractual
13 arrangements as may be agreed upon by the board and
14 any such agency or organization; [~~and~~]

15 (9) Intervene in actions to quiet title pursuant to
16 section 669-1(f); and

17 [~~+9~~] (10) Adopt and use a common seal by which all
18 official acts shall be authenticated."

19 SECTION 3. Section 669-1, Hawaii Revised Statutes, is
20 amended to read as follows:



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

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



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

5 (d) Action under subsection (a) or (b) shall be brought in
6 the circuit court of the circuit in which the property is
7 situated.

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



1 properly published notice of the action in the office's periodic
2 bulletin.

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

9 (f) The office of Hawaiian affairs may intervene upon
10 official action of the board of trustees in any action brought
11 under this section when any portion of the land claimed by the
12 plaintiff is kuleana land as defined in section 669-2(e)."

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on March 15, 2094.



Report Title:

Action for Quiet Title; Kuleana Land; Office of Hawaiian Affairs; Intervention

Description:

Authorizes the Office of Hawaiian Affairs to intervene upon official action of the board of trustees in any action to quiet title in which any portion of the land claimed by the plaintiff is kuleana land. Takes effect 3/15/2094. (SD1)

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