
A BILL FOR AN ACT

RELATING TO KULEANA LANDS.

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

1 SECTION 1. The legislature finds that article XII,
2 section 7, of the Hawaii State Constitution requires the State
3 to "protect all rights, customarily and traditionally exercised
4 for subsistence, cultural and religious purposes and possessed
5 by ahupua'a tenants who are descendants of native Hawaiians who
6 inhabited the Hawaiian Islands prior to 1778, subject to the
7 right of the State to regulate such rights." In Act 195,
8 Session Laws of Hawaii 2011, the State recognized the native
9 Hawaiian people as the only indigenous, aboriginal, maoli people
10 of Hawaii.

11 The legislature finds that the State has a constitutional
12 duty to protect the title to kuleana lands granted to native
13 Hawaiians over one hundred fifty years ago, kuleana claims that
14 were approved by the land commission, and land titles with a
15 royal patent of confirmation which are based on claims to a
16 right to the land before 1848.



1 The purpose of this Act is to require that claimants of
2 kuleana land and original land titles that are land commission
3 awards with a royal patent of confirmation that are still held
4 by lineal descendants of original awardees or purchasers to hold
5 title to a greater than fifty per cent interest in each parcel
6 of the quiet title action.

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

9 "**§669-1 Object of action.** (a) ~~[Action]~~ Subject to this
10 chapter, action may be brought by any person against another
11 person who claims, or who may claim adversely to the plaintiff,
12 an estate or interest in real property, for the purpose of
13 determining the adverse claim.

14 (b) Action for the purpose of establishing title to a
15 parcel of real property of five acres or less may be brought by
16 any person who has been in adverse possession of the real
17 property for not less than twenty years. Action for the purpose
18 of establishing title to a parcel of real property of greater
19 than five acres may be brought by any person who had been in
20 adverse possession of the real property for not less than twenty
21 years prior to November 7, 1978, or for not less than earlier



1 applicable time periods of adverse possession. For purposes of
2 this section, any person claiming title by adverse possession
3 shall show that [~~such~~] the person acted in good faith.

4 For the purposes of this section, [~~Good~~] good faith means
5 that, under all the facts and circumstances, a reasonable person
6 would believe that the person has an interest in title to the
7 lands in question and [~~such~~] the belief is based on inheritance,
8 a written instrument of conveyance, or the judgment of a court
9 of competent jurisdiction.

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

14 (d) Action under subsection (a) or (b) shall be brought in
15 the circuit court of the circuit in which the property is
16 situated.

17 (e) Action may be brought by any person to quiet title to
18 land by accretion; provided that no action shall be brought by
19 any person other than the State to quiet title to land accreted
20 along the ocean after May 20, 2003, except that a private
21 property owner whose eroded land has been restored by accretion



1 may also bring ~~[such]~~ an action for the restored portion. The
2 person bringing the action shall prove by a preponderance of the
3 evidence that the accretion is natural and permanent and that
4 the land accreted before or on May 20, 2003. The person
5 bringing the action shall supply the office of environmental
6 quality control with notice of the action for publication in the
7 office's periodic bulletin in compliance with section
8 343-3(c)(4). The quiet title action shall not be decided by the
9 court unless the office of environmental quality control has
10 properly published notice of the action in the office's periodic
11 bulletin.

12 (f) Action may be brought by any person to quiet title to
13 kuleana lands or land titles that are land commission awards
14 with a royal patent of confirmation held by lineal descendants
15 of original awardees or purchasers; provided that the claimant
16 holds title to a greater than fifty per cent interest in each
17 parcel of the action.

18 (g) The plaintiff shall bear the cost of any fees
19 associated with resolving quiet title disputes and may only
20 recover costs, expenses, or attorney's fees from the defendant
21 as the court may deem equitable under the circumstances.



1 (h) As used in this section [~~,"permanent"~~]:

2 "Kuleana land" shall have the same meaning as in section
3 669-2.

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

10 SECTION 3. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

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 upon its approval.



Report Title:

Real Property; Kuleana Land; Quiet Title

Description:

Requires that claimants seeking to quiet title of kuleana land and original land titles that are land commission awards with a royal patent of confirmation which are based on claims to a right to the land before 1848 shall own more than fifty per cent of the land. Requires that the plaintiff bear the costs associated with resolving quiet title disputes. (SD1)

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