

ACT 239

H. B. 842.

A Bill for an Act Authorizing Suit Against the State of Hawaii by James Tamura for Claimed Damages Caused by the Granting to Him of Land to be Used for Residential Purposes which Land was Zoned for Agricultural Purposes by the Land Use Commission.

WHEREAS, James Jitsuo Tamura purchased Lot 63, Panaewa House Lots, consisting of 1.96 acres at Waiakea, South Hilo, Hawaii, designated as tax key number 2-2-52-8, by transfer from P. W. Pereira in March, 1962; and

WHEREAS, James Jitsuo Tamura was issued Grant No. S-14,183 for such land by the department of land and natural resources on April 24, 1964; and

WHEREAS, James Jitsuo Tamura in taking such land may have been misled by the State, its officers, employees, or agents into believing that the subject land could be subdivided into houselots; and

WHEREAS, Grant No. S-14,183 requires the subject land to be used for residential purposes for a period of ten years from the date of issuance of the grant; and

WHEREAS, the land in question was temporarily zoned for agricultural purposes on April 21, 1962 and permanently so zoned on August 23, 1964 and is presently so zoned by the land use commission; and

WHEREAS, misrepresentations concerning the use to which the land could be put may have been made by state officers, employees, or agents and the grant to James Jitsuo Tamura may have been inconsistent with the

zoning for the property whereby he may have suffered damages; now, therefore,

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. James Jitsuo Tamura is hereby authorized to sue the State of Hawaii in an appropriate state court to recover damages which are allegedly due to misrepresentations or a contract inconsistent with zoning made or given by the State or its officers, employees or agents or due to the requirements of Grant No. S-14,183 that the land comprised of 1.96 acres and designated as tax key number 2-2-52-8 be used for residential purposes notwithstanding the fact that the subject land is zoned for agricultural purposes by the land use commission. For the purpose of this Act and the adjudication of any such claim, the immunity of the State to suit is hereby waived, and said James Jitsuo Tamura may proceed against the State as in the case of any other defendant, subject to the same procedures and defenses, except for the defense of immunity from suit or of the statute of limitations, the provisions of which are hereby expressly waived; provided that nothing contained herein shall be construed as an admission of liability on the part of the State.

SECTION 2. The claimant James Jitsuo Tamura shall commence the action authorized by this Act in an appropriate state court within two years from the effective date of this Act.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 6, 1967.)