

A Bill for an Act Relating to the Acquisition of Land Having Value as a Resource to the State.

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

SECTION 1. Purpose. The State has provided for the regulation of land use and development throughout the State under the provisions of the land use law, and has provided through that law for the controlled regulation of land use and development of lands which have natural, environmental, recreational, scenic or historic value. However, these lands, though protected by the land use law, may in many instances require placement under public ownership and management in order that they can be made accessible to all of the people of the State. The purpose of this Act is to provide for the acquisition and management of such lands in those instances in which such acquisition and management are considered necessary by the State.

SECTION 2. Definitions. As used in this Act:

“Board” means the board of land and natural resources.

“Department” means the department of land and natural resources.

“Land” means the earth, water, and air, above, below, or on the surface, and includes easements and rights in land, and any improvement on land.

“Land having value as a resource to the State” includes land having natural, environmental, recreational, scenic, or historic value, and may also include park and trail systems which provide access to any such land.

SECTION 3. Resource land acquisition plan. The department may prepare and from time to time revise a plan for the acquisition of land having value as a resource to the State. This plan shall guide the board in acquiring such land in the exercise of its powers under this Act. In preparing this plan the department may institute studies relating to the need for such land, and shall consider any plan relating to the acquisition of such land which has been prepared by any state or county agency.

SECTION 4. Authority to acquire and convey. (a) Subject to the approval of the governor, the board may acquire, by purchase, gift or the exercise of the power of eminent domain as authorized by chapter 101, any land having value as a resource to the State. Such acquisition is hereby declared to be for a public use.

(b) The board may, subject to chapter 171 and with the approval of the governor, sell, lease, or otherwise convey any such land subject to terms and conditions which it deems appropriate and which will insure that the transferee will not use the land in a manner which is inconsistent with the purposes for which it was acquired by the board. Such terms and conditions shall run with the land and shall be binding on the transferee's heirs, successors, and assigns. The board may seek enforcement of such terms and conditions in any court of appropriate jurisdiction.

SECTION 5. Fund for the environment. (a) A fund for the environment, hereinafter called "Fund," is hereby established.

(b) The proceeds from the sale of any general obligation bonds, authorized and issued for purposes of this Act, shall be deposited in or credited to the Fund.

(c) Any net proceeds or revenue from the operation, management, sale, lease, or other disposition of land or the improvements on such land, acquired or constructed by the board under the provisions of this Act, shall also be deposited in or credited to the Fund.

SECTION 6. Acquisition of land. The board shall prepare an annual program for the purchase or acquisition by eminent domain of land having value as a resource to the State.

SECTION 7. Administration and management. The board shall, subject to chapter 171, administer, maintain, and manage any land acquired under the provisions of this Act, may charge such fees for the use of any such land as it considers to be reasonable, and may construct on such land any improvement which it deems to be necessary to carry out the purposes of this Act. The board may adopt and from time to time amend regulations implementing the provisions of this Act.

SECTION 8. Development of land acquired by the board. On the land acquired under this Act, the board may undertake any development which is consistent with the land use law and all other laws applicable to the land and development.

For purposes of this section, "development" includes (1) any building or mining operation; (2) any material change in use, intensity of use, or appear-

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ance of any structure or land, or (3) the division of land into two or more parcels.

SECTION 9. Grants to counties. Subject to the approval of the governor, the board may make grants to counties from available funds for the purchase or acquisition by eminent domain of land having value as a resource to the State and approved for purchase or acquisition by the board. Any land so acquired by any county may, subject to chapter 171, be sold, leased, or otherwise disposed of with the prior written approval of the board.

SECTION 10. Proceeds of sale, lease or other disposition. Whenever any such land is sold by any county, that portion of the net proceeds (sale price less actual expenses of sale) of such sale equal to the proportion which the grant by the State bears to the original cost of the land or other property shall be paid to the State. In the event any such land or other property is leased, rented, or otherwise disposed of, that portion of the rental or proceeds equal to the proportion that the grant by the State bears to the original cost of the land or other property shall be paid to the State.

SECTION 11. General powers. In carrying out its functions under this Act the board may do all things necessary, useful, and convenient in connection with the acquisition, administration, maintenance, and management of lands having value as a resource to the State, subject to all applicable laws, and may provide any necessary assistance to any county in the acquisition of land having value as a resource to the State. The authority to acquire land which is conferred by this Act is in addition and supplemental to any authority to acquire land which is conferred on the board by any other Act.

SECTION 12. Federal and other grants. The board and any county may comply with any condition, regulation, restriction, or requirement imposed by the United States or any other governmental agency, or by any person in any program providing grants or other funds for the acquisition of land having value as a resource to the State.

SECTION 13. Effective date. This Act shall take effect upon its approval.

(Approved May 15, 1973.)