

ACT 159

H.B. NO. 2309

A Bill for an Act Relating to Land Exchange in North Kona, Hawaii.

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

SECTION 1. The legislature finds that it is in the public interest to enter into a land exchange with Earl E. Bakken involving private lands located on the coast of Kiholo Bay, North Kona District, on the island of Hawaii for public lands located inland of Kiholo Bay, North Kona, Hawaii.

These private lands, found at the location identified as TMK (3) 7-1-02:02, have significant recreational, environmental, and cultural value to the people of Hawaii. This shoreline property has an extensive coastal strand, mature vegetation, and anchialine pools adjacent to a fine black sand beach fronting Kiholo Bay. This private parcel is surrounded by public lands and the legislature finds that public acquisition of this private parcel would effect a consolidation of holdings of public lands and improve access from mauka public lands to the shoreline.

Kiholo Bay is a significant and productive marine ecosystem and is a major area for green sea turtles to rest and feed. The significant environmental value of the bay was recognized by the State, when it designated Kiholo Bay as a fishery management area, with specific restrictions to protect the sea turtles.

The legislature finds that the general area of Kiholo Bay has historical importance as the location of an historical fishing village that was once the abode of Kamanawa, who along with his twin brother, Kame'eiamoku, are the two great chiefs and supporters of King Kamehameha who appear on the official shield of the Hawaiian Kingdom. The great Kiholo Fishpond, built for King Kamehameha, was located in this area, before it was destroyed by lava in the 1850's.

Earl E. Bakken has proposed to exchange these private lands for a nine-acre parcel of public land at the location identified as a portion of TMK (3) 7-1-02:08, inland of Kiholo Bay, North Kona, Hawaii. These public lands are of significantly less public value as they have very limited recreational resources, and are located inland of the important and productive coastal ecosystem. This parcel of public land is located inland and adjacent to the Bakken's current residence, a single-family home. The land is to be used for a caretaker's residence.

This land exchange is consistent with the State's commitment to expand public recreational resources along the shoreline through obtaining coastal lands of significant recreational, environmental and cultural value. This land exchange would also provide the State with additional land on Kiholo Bay that will afford the State greater flexibility in the sequencing and rate of development of a state park at Kiholo Bay.

The purpose of this Act is to allow the exchange of private and public lands located in North Kona, Hawaii.

SECTION 2. Notwithstanding section 171-50(b), Hawaii Revised Statutes, the legislature approves the land exchange involving private lands at Kiholo Bay, North Kona, Hawaii owned by Earl E. Bakken identified as TMK (3) 7-1-02:02 and public lands located inland of Kiholo Bay, North Kona, Hawaii, identified as a portion of TMK (3) 7-1-02:08; provided that:

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- (1) The public lands shall be less than or of substantially equal “fair market” value to that of the private lands;
- (2) The “fair market” value of the private lands and the public land shall be separately determined by a disinterested qualified appraiser or appraisers, and the cost shall be borne equally between the owner and the board of land and natural resources; and
- (3) No payment by the State shall be required should the private lands exceed the value of the public lands, but any difference in the value of the public lands over the private lands shall be paid to the State at the time of the exchange; provided that no exchange shall be made should the value of the public lands exceed one hundred twenty per cent of the value of the private lands.

SECTION 3. Notwithstanding section 171-50(c), Hawaii Revised Statutes, the legislature approves the land exchange involving private lands at Kiholo Bay, North Kona, Hawaii, owned by Earl E. Bakken at the location identified as TMK (3) 7-1-02:02, and public lands located inland of Kiholo Bay, North Kona, Hawaii at the location identified as a portion of TMK (3) 7-1-02:08 provided that the following conditions are met:

- (1) An exchange deed shall be executed between the parties and contain the following:
 - (A) The location and area of the parcels of land to be exchanged;
 - (B) The value of the lands to be conveyed by the State and Earl E. Bakken;
 - (C) The name or names of the appraisers involved; and
 - (D) The date of the appraisal or appraisals which shall not be more than six months prior to the date of the final approval of the land exchange by the board of land and natural resources;
- (2) All of the right, title, and interest in the approximately three acres located at TMK (3) 7-1-02:02 obtained from Earl E. Bakken shall be conveyed in fee simple by deed to the State of Hawaii; and
- (3) The lands transferred to the State by Earl E. Bakken under this Act shall assume the same public land status as designated under Section 5 of the Admissions Act as the lands transferred to Earl E. Bakken by the State.

SECTION 4. This Act shall take effect upon its approval; provided that the authority granted to enter into a land exchange agreement by this Act shall be repealed on June 30, 2001. Any agreement executed between the State and Earl E. Bakken pursuant to this Act prior to July 1, 2001, shall remain in force and effect regardless of this Act’s repeal.

(Approved June 5, 2000.)