

## ACT 144

S.B. NO. 105

A Bill for an Act Relating to Kikala-Keokea.

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

SECTION 1. The legislature finds that the destruction of Kalapana by lava flow displaced a tightly knit community with a truly Hawaiian lifestyle. In 1938, the United States Congress enacted Public Law 680, the Kalapana Extension Act, providing that native Hawaiian residents of the area were to be provided with leases for homesites and that fishing was to be permitted only by native Hawaiian residents of the area or adjacent villages, and by visitors under their guidance.

The continuation of the unique way of life of the Hawaiian residents of Kalapana was disrupted by volcanic eruptions and lava flows which began on January 3, 1983, destroying one of the last Hawaiian settlements on the island of Hawaii.

The legislature recognized this tragedy by enacting Act 314, Session Laws of Hawaii 1991, as amended, authorizing the department of land and natural resources to negotiate long-term leases with qualified, displaced Kalapana families to maintain their heritage in the Kikala-Keokea homestead area adjacent to the Kalapana-Kapoho Beach road. The site allows the Kalapana families to develop the land in a manner that will enable them to continue their traditional way of life by raising small animals, planting sustenance crops, growing herbal medicines and gathering additional food resources from the nearby ocean and uplands.

Act 314 also stipulated that the department of land and natural resources or its designated agency subdivide and create a residential subdivision in the Kikala-Keokea homestead area that will be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, the development and improvement of land, and the

construction of units thereon; provided that it meets the minimum requirements of health and safety.

Prior to the expiration of Act 314, the department of land and natural resources entered into lease arrangements with forty-eight of the fifty-eight families who met both of the eligibility criteria set forth under the Act. However, the forty-eight Hawaiian families have not been able to use their leases since the project does not meet the minimum standards due to a lack of water.

The purpose of this Act is to:

- (1) Transfer funds that were previously appropriated for a low-interest loan program under Act 242, Session Laws of Hawaii 1991, from the former housing finance and development corporation's (now housing and community development corporation of Hawaii) housing finance revolving fund to the department of land and natural resources for deposit into the infrastructure development fund for the development of infrastructure at the Kikala-Keokea homestead area;
- (2) Establish a new infrastructure development fund to be administered by the department of land and natural resources for the development of infrastructure at Kikala-Keokea, and appropriate \$1,750,000 from the infrastructure development fund to be matched by the office of Hawaiian affairs on a dollar-for-dollar basis, up to a maximum of \$1,350,000, so that the leases can be honored and the community reestablished; and
- (3) Upon fulfillment of the purposes set forth in paragraphs (1) and (2), require that all unexpended or unencumbered moneys that were appropriated by the legislature or remaining in the infrastructure development fund be transferred to the credit of the Kikala-Keokea housing revolving fund, which is created to provide low interest loans for home construction for Kikala-Keokea leaseholders who have been denied loans from traditional financial institutions. The Kikala-Keokea housing revolving fund is to be administered by the housing and community development corporation of Hawaii.

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§171- Infrastructure development fund; establishment.** (a) There is established in the state treasury the infrastructure development fund to be administered by the department of land and natural resources. Funds transferred or appropriated by the legislature and moneys received or collected by the department of land and natural resources, as authorized by the legislature, shall be deposited into the infrastructure development fund.

(b) The infrastructure development fund shall be used to provide funding for infrastructure development in the Kikala-Keokea area on the island of Hawaii to benefit residents of Kalapana who have been dispossessed of their homes and lands as a result of the continued volcanic eruptions on the island of Hawaii, which began on January 3, 1983. Proceeds of this fund may be used for necessary expenses in the administration of the fund.

(c) Upon fulfillment of the purposes of this section, any unexpended or unencumbered funds appropriated by the legislature or remaining in the infrastructure development fund as of the close of business on June 30, 2004, shall not lapse into that fund or to the credit of the general fund, but shall be transferred to the credit of the Kikala-Keokea housing revolving fund established in section 201G- as of that date; provided that any unexpended or unencumbered moneys that were provided by the office of Hawaiian affairs and deposited into the infrastructure development fund for the purpose of infrastructure development shall be refunded to the

office of Hawaiian affairs upon the completion of the fund's intended purpose. No funds shall be transferred until all funding commitments entered into by the department of land and natural resources to complete the design and construction of infrastructure improvements have been executed."

SECTION 3. Chapter 201G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§201G- Kikala-Keokea housing revolving fund; established.** (a) There is established in the state treasury the Kikala-Keokea housing revolving fund to provide low interest loans for home construction for Kikala-Keokea leaseholders who have been denied loans from traditional financial institutions. The revolving fund shall be administered by the housing and community development corporation of Hawaii.

(b) The rate of interest on loans executed pursuant to this section shall not exceed three per cent per year and interest earnings on loans made pursuant to this section may be used for administrative and other expenses necessary for administering the loan program. Guidelines shall be established by the housing and community development corporation of Hawaii with respect to loan terms and loan qualification criteria. Moneys appropriated for the purposes of this section shall be deposited into the Kikala-Keokea housing revolving fund; provided that upon fulfillment of the purposes of this section, all unencumbered moneys shall lapse into the state general fund.

(c) The housing and community development corporation of Hawaii shall adopt rules in accordance with chapter 91 to effectuate the purposes of this section."

SECTION 4. Act 242, Session Laws of Hawaii 1991, appropriated funds to the housing finance revolving fund under the housing finance and development corporation, currently known as the housing and community development corporation of Hawaii. The director of finance shall transfer \$1,750,000 appropriated to the housing finance revolving fund under Act 242, Session Laws of Hawaii 1991, as of the close of business on June 30, 2001, to the credit of the infrastructure development fund established in section 2 of this Act. Encumbered moneys shall continue to be encumbered until paid out or released from prior encumbrances.

SECTION 5. There is appropriated out of the infrastructure development fund the sum of \$1,750,000 or so much thereof as may be necessary for fiscal year 2001-2002 for the development of infrastructure at the Kikala-Keokea subdivision on the island of Hawaii; provided that no funds shall be released unless matched on a dollar-for-dollar basis by the office of Hawaiian affairs up to a maximum of \$1,350,000.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act; provided that:

- (1) All funding commitments to complete the design and construction of infrastructure improvements shall be agreed upon in a memorandum of agreement between the department of land and natural resources and the office of Hawaiian affairs before any moneys are disbursed; and
- (2) Any funds transferred from the infrastructure development fund to the Kikala-Keokea housing revolving fund pursuant to this Act shall be expended by the housing and community development corporation of Hawaii.

SECTION 6. New statutory material is underscored.<sup>1</sup>

**ACT 144**

SECTION 7. This Act shall take effect on June 29, 2001.  
(Approved May 24, 2001.)

**Note**

1. Edited pursuant to HRS §23G-16.5.