

ACT 254

S.B. NO. 3077

A Bill for an Act Relating to Conservation.

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

SECTION 1. Chapter 173A, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§173A-A Legacy land conservation commission.** (a) There is established within the department of land and natural resources a legacy land conservation commission. The commission shall consist of nine members, with at least one member from each of the counties, who shall be appointed in the manner and serve for the term set forth in section 26-34 as follows:

- (1) Four of the members of the commission shall be persons possessing scientific qualifications as evidenced by an academic degree in wildlife or marine biology, botany, forestry, ecology, resource management, biogeography, zoology, or geology;
- (2) One member shall be a person possessing membership in an environmental organization organized in the State;
- (3) One member shall be a person possessing membership in a land conservation organization organized in the State;
- (4) One member shall be a person possessing membership in a statewide agricultural association; and
- (5) One member shall be a person knowledgeable about native Hawaiian culture.

The chairperson of the natural area reserves system commission shall serve as an ex officio voting member and the chairperson of the commission. The members shall receive no compensation for their services on the commission but shall be entitled to

reimbursement for necessary expenses, including travel expenses, incurred in the discharge of their duties.

(b) Any action taken by the commission shall be by a simple majority of its members. Five members of the commission shall constitute a quorum.

(c) Except as otherwise provided in this chapter, the commission shall be subject to sections 26-34, 26-35, 26-35.5, and 26-36.

(d) The commission may adopt rules pursuant to chapter 91 to carry out its duties.

**§173A-B Responsibilities of the legacy land conservation commission.**

The responsibilities of the commission shall include, but not be limited to:

- (1) Advising the department and the board on any proposal, public or private, for the acquisition of any interest or rights in land having value as a resource to the State;
- (2) Advising the department and the board on any requests for grants from the fund to a qualifying state or county agency or nonprofit land conservation organization for the preservation of lands having value as a resource to the State;
- (3) Recommending to the board the acquisition of interests or rights in certain lands having value as a resource to the State; and
- (4) Reviewing and adopting rules relating to the criteria it applies in advising the department and the board and making recommendations to the board regarding land acquisitions and grants made pursuant to this chapter.

**§173A-C Land acquisition priorities.** In advising the department and the board, the commission shall give the following lands priority in its recommendations for acquisitions:

- (1) Lands having exceptional value due to the presence of:
  - (A) Unique aesthetic resources;
  - (B) Unique and valuable cultural or archaeological resources; or
  - (C) Habitats for threatened or endangered species of flora, fauna, or aquatic resources;
- (2) Lands that are in imminent danger of development;
- (3) Lands that are in imminent danger of being modified, changed, or used in a manner to diminish its value;
- (4) Lands providing critical habitats for threatened or endangered species that are in imminent danger of being harmed or negatively impacted;
- (5) Lands containing cultural or archaeological sites or resources that are in danger of theft or destruction; and
- (6) Lands that are unique and productive agricultural lands.”

SECTION 2. Section 173A-3, Hawaii Revised Statutes, is amended to read as follows:

“~~[§173A-3]~~ **Resource land acquisition plan.** ~~[The]~~ In consultation with the senate president and speaker of the house of representatives, the department ~~[may]~~ shall 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 chapter. 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]~~ that has been prepared by any state or county agency.”

SECTION 3. Section 173A-4, Hawaii Revised Statutes, is amended to read as follows:

“~~[E]~~**§173A-4** Authority to acquire and convey. (a) ~~[Subject to the approval of the governor,]~~ In consultation with the senate president and speaker of the house of representatives, 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, in consultation with the senate president and speaker of the house of representatives, and with the approval of the governor, sell, lease, or otherwise convey any such land subject to terms and conditions [which] that it deems appropriate and [which] that will [insure] ensure that the transferee [will] shall not use the land in a manner [which] that is inconsistent with the purposes for which it was acquired by the board. [Such] The 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] the terms and conditions in any court of appropriate jurisdiction.”

SECTION 4. Section 173A-5, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Based on applications from state agencies, counties, and nonprofit land conservation organizations, the department, in consultation with the senate president and speaker of the house of representatives, shall recommend to the board specific parcels of land to be acquired, restricted with conservation easements, or preserved in similar fashion. The board shall review the selections and approve or reject the selections according to the availability of moneys in the fund. To be eligible for grants from the fund, state and county agencies and nonprofit land conservation organizations shall submit applications to the department that contain:

- (1) Contact information for the project;
- (2) A description of the project;
- (3) The request for funding;
- (4) Cost estimates for acquisition of the interest in the land;
- (5) Location and characteristics of the land; and
- (6) Other similar, related, or relevant information as may be determined by the department.”

SECTION 5. Section 173A-9, Hawaii Revised Statutes, is amended to read as follows:

“**§173A-9 Grants to state agencies, counties, and nonprofit land conservation organizations.** ~~[Subject]~~ After consultation with the senate president and speaker of the house of representatives, and subject to the approval of the governor, the board may make grants to state agencies, counties, and nonprofit land conservation organizations from available funds for the purchase or acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the purchase of permanent conservation easements under chapter 198, and approved for purchase or acquisition by the board. Any land so acquired by any state agency or county may be sold, leased, or otherwise disposed of, subject to chapter 171, with the prior written approval of the board. Any land acquired by any nonprofit land conservation organization under this chapter may be sold, leased, or otherwise disposed of with the prior written approval of the board. Any permanent conservation easement established under this section that includes partnership with a federal

land conservation program may be transferred only as provided by rules of the federal program.”

SECTION 6. There is appropriated out of the land conservation fund of the State of Hawaii the sum of \$1,100,000 or so much thereof as may be necessary for fiscal year 2006-2007 for the purchase of agriculture easements to protect farm and ranch lands throughout the state. This appropriation shall use and preserve federal farm and ranch land protection program funding for agricultural and cultural lands in Hawaii.

The sum appropriated shall be expended by the department of land and natural resources for the purpose of this Act.

SECTION 7. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 2006.

(Approved June 30, 2006.)

**Note**

1. Edited pursuant to HRS §23G-16.5.