

ACT 73

S.B. NO. 840

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, the Kalapana Extension Act (16 U.S.C. 396a),

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 that 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 (Act 314), 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 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 families who met the eligibility criteria set forth under the Act. However, there are nineteen remaining lots which were not leased prior to the expiration of Act 314.

The purpose of this Act is to authorize the department of land and natural resources, subject to specific criteria and priority requirements, to award leases for the remaining nineteen lots at Kikala-Keokea.

SECTION 2. The department of land and natural resources may negotiate and enter into long-term leases of sixty-five years in duration, subject to renewal by mutual agreement, with persons who have attained the age of eighteen years, and meet the following criteria:

- (1) Residents of Kalapana who have been living in Kalapana continuously for not less than six months at the time of their application;
- (2) Previous residents of Kalapana who resided within Kalapana continuously for not less than six months; or
- (3) Descendants of those residents of Kalapana who were dispossessed or displaced as a result of the volcanic eruptions on the island of Hawaii that began on January 3, 1983.

SECTION 3. In awarding a lease to a person meeting the eligibility requirements of section 2 of this Act, the department of land and natural resources shall give priority to the following:

- (1) Persons who were previously awarded a lease under Act 314, Session Laws of Hawaii 1991, but did not execute a lease;
- (2) Persons who were dispossessed or displaced as a result of the volcanic eruptions on the island of Hawaii that began on January 3, 1983, who do not have any other residential property interest;
- (3) Persons who have no immediate family members who have executed a lease under this Act or under Act 314, Session Laws of Hawaii 1991;
- (4) Persons who have not executed a lease under this Act or under Act 314, Session Laws of Hawaii 1991; and

- (5) Heirs of a person who was eligible for a lease under section 2 of Act 314, Session Laws of Hawaii 1991.

For the purpose of this Act:

“Heirs” includes persons, including a surviving spouse or reciprocal beneficiary, who are entitled under the statutes of intestate succession to the property of a decedent.

“Immediate family members” includes grandparents, parents, siblings, spouse, reciprocal beneficiaries, children, and legal guardians.

SECTION 4. The lands eligible for long-term residential lease negotiation under this Act are limited to those lands described in section 3 of Act 314, Session Laws of Hawaii 1991, for which a lease was not executed prior to the expiration of Act 314, Session Laws of Hawaii 1991.

SECTION 5. Notwithstanding any other law to the contrary, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources may negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act; provided that the authority to initially execute a lease agreement granted by this Act shall expire:

- (1) When all nineteen leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in this Act; or
- (2) One year after the effective date of this Act; whichever comes first.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 16, 2007.)