H.B. NO. <sup>921</sup> H.D. 1 S.D. 1 Proposed

## A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 171-13, Hawaii Revised Statutes, is 2 amended to read as follows:

3 "\$171-13 Disposition of public lands. Except as otherwise
4 provided by law and subject to other provisions of this chapter,
5 the board may:

- 6 (1) Dispose of public land in fee simple, by lease, lease
  7 with option to purchase, license, or permit; provided
  8 that no disposition of public lands shall violate
- 9 section 171-18; and
- 10 (2) Grant easement by direct negotiation or otherwise for
  11 particular purposes in perpetuity on [such] terms as
  12 may be set by the board, subject to reverter to the
  13 State upon termination or abandonment of the specific
  14 purpose for which it was granted, provided the sale
  15 price of [such] the easement shall be determined
  16 pursuant to section 171-17(b).

17 No person shall be eligible to purchase or lease public lands,

18 or to be granted a license, permit, or easement covering public
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1 lands, who has had during the five years preceding the date of 2 disposition a previous sale, lease, license, permit, or easement 3 covering public lands cancelled for failure to satisfy the terms 4 and conditions thereof."

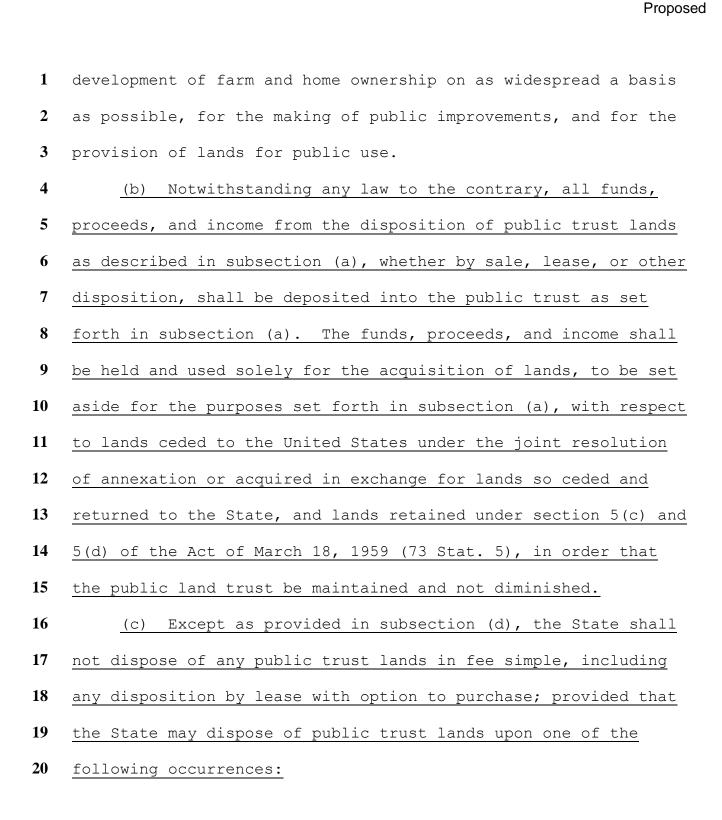
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5 SECTION 2. Section 171-18, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§171-18 Public land trust. (a) All funds derived from 8 the sale or lease or other disposition of public lands shall be 9 appropriated by the laws of the State; provided that all 10 proceeds and income from the sale, lease, or other disposition 11 of lands ceded to the United States by the Republic of Hawaii 12 under the joint resolution of annexation, approved July 7, 1898 13 (30 Stat. 750), or acquired in exchange for lands so ceded, and 14 returned to the State of Hawaii by virtue of section 5(b) of the 15 Act of March 18, 1959 [(73 Stat. 6),] (73 Stat. 5) and all 16 proceeds and income from the sale, lease, or other disposition 17 of lands retained by the United States under sections 5(c) and 18 5(d) of the Act and later conveyed to the State under section 19 5(e) shall be held as a public trust for the support of the 20 public schools and other public educational institutions, for 21 the betterment of the conditions of native Hawaiians as defined 22 in the Hawaiian Homes Commission Act, 1920, as amended, for the HB921 SD1 PROPOSED.DOC \*HB921 SD1 PROPOSED.DOC\* \*HB921 SD1 PROPOSED.DOC\*



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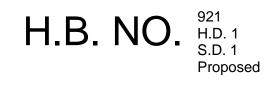
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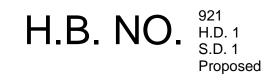
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1	(1)	The claims of the native Hawaiian people, as defined
2		in the United States Apology Resolution, Pub. L. No.
3		103-150 (1993), have been resolved; or
4	(2)	The legislature finds pursuant to a concurrent
5		resolution adopted by at least two-thirds majority
6		vote of the members to which each house is entitled
7		that the State no longer supports reconciliation
8		between the State and the native Hawaiian people.
9	(d)	The limitations on the sale and transfer of lands
10	pursuant ·	to subsection (c) shall not prevent the State from:
11	(1)	Disposing of remnants, as defined in section 171-52;
12	(2)	Providing easements to public utilities and government
13		agencies pursuant to section 171-95;
14	(3)	Engaging in land exchanges pursuant to sections 171-50
15		and 171-51;
16	(4)	Disposing of public trust lands that are part of
17		negotiations between the office of Hawaiian affairs
18		and the State with respect to issues relating to the
19		income and proceeds from the lands in the public
20		trust;
21	(5)	Disposing of public trust lands after December 31,
22		2014; provided that the disposition is approved by the
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1		legi	slature by concurrent resolution adopted by at			
2	least two-third majority vote of the members to which					
3		each house is entitled; and				
4	(6)	Disp	osing of public trust lands, provided that all of			
5		the	following conditions are met:			
6		(A)	The State establishes a compelling state interest			
7			for the disposition;			
8		(B)	There is no reasonable alternate means to			
9			accomplish the compelling state interest;			
10		(C)	The disposition is limited to accomplishing the			
11			compelling state interest; and			
12		(D)	The disposition is approved by the legislature by			
13			concurrent resolution adopted by at least two-			
14			thirds majority vote of the members to which each			
15			house is entitled."			
16	SECTION 3. This Act does not affect rights and duties that					
17	matured, penalties that were incurred, and proceedings that were					
18	begun before its effective date.					
19	SECTION 4. If any provision of this Act, or the					
20	application thereof to any person or circumstance is held					
21	invalid, the invalidity does not affect other provisions or					
22	applicati	ons o	f the Act, which can be given effect without the			
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invalid provision or application, and to this end the provisions
 of this Act are severable.
 SECTION 5. Statutory material to be repealed is bracketed
 and stricken. New statutory material is underscored.
 SECTION 6. This Act shall take effect on July 1, 2009.

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Report Title:

Ceded Lands; Public Land Trust; Management

## Description:

Prohibits the sale or transfer of ceded lands until the unrelinquished claims of the native Hawaiian people are resolved or reconciliation between the State and the native Hawaiian people is no longer supported, whichever occurs first; except in the following circumstances: disposing of remnants, providing easements to public utilities and government agencies as provided by law, land exchanges as provided by law, dispositions that are a part of the ceded lands negotiations between OHA and the State, dispositions after December 31, 2014 that are approved by a 2/3 vote of both houses of the legislature, or when a compelling state interest for the disposition is established. (SD1)