

MAR 06 2012

SENATE CONCURRENT RESOLUTION

URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO TRANSFER
A PORTION OF THE REVENUE DERIVED FROM THE CONVEYANCE OR
TRANSFER OF ANY LAND OF THE PUBLIC LAND TRUST TO THE OFFICE
OF HAWAIIAN AFFAIRS.

1 WHEREAS, article XII, section 4, of the Hawaii State
2 Constitution provides that "[t]he lands granted to the State of
3 Hawaii by Section 5(b) of the Admission Act and pursuant to
4 Article XVI, Section 7, of the State Constitution, excluding
5 therefrom lands defined as "available lands" by Section 203 of
6 the Hawaiian Homes Commission Act, 1920, as amended, shall be
7 held by the State as a public trust for native Hawaiians and the
8 general public"; and
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10 WHEREAS, the Office of Hawaiian Affairs receives a portion
11 of the revenue derived from the conveyance of certain land of
12 the public land trust by the Department of Land and Natural
13 Resources to the Hawaii Housing Finance and Development
14 Corporation for the development of housing projects; and
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16 WHEREAS, the formula to determine the revenue received by
17 the Office of Hawaiian Affairs from the Department of Land and
18 Natural Resources for the development of housing projects should
19 serve as a model for a formula to determine the revenue received
20 by the Office of Hawaiian Affairs from the Department of Land
21 and Natural Resources for conveyances of any lands of the public
22 land trust, so long as fair market value is narrowly defined to
23 afford certainty to the Office of Hawaiian Affairs and
24 Department of Land and Natural Resources; and
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26 WHEREAS, the amount due to the Office of Hawaiian Affairs
27 from the conveyance of lands for the development of housing
28 projects is determined according to the ambiguous standard of
29 "the most profitable, probable, and legal use to which the land
30 can be put"; and
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1 WHEREAS, the formula to determine the revenue received by
2 the Office of Hawaiian Affairs as its portion of the revenue
3 derived from the conveyance of certain land of the public land
4 trust only applies to the developments known as the Villages of
5 Leali'i, Maui, and Villages of La'i'opua, Hawaii; and
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7 WHEREAS, Senate Bill No. 2327, Regular Session of 2012,
8 proposed to define the fair market value of the land conveyed by
9 the Department of Land and Natural Resources to the Hawaii
10 Housing Finance and Development Corporation as "the amount of
11 money that a purchaser willing but not obliged to buy the land
12 would pay to an owner willing but not obliged to sell it, taking
13 into consideration the use of the land at the time of
14 conveyance"; now, therefore,
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16 BE IT RESOLVED by the Senate of the Twenty-sixth
17 Legislature of the State of Hawaii, Regular Session of 2012, the
18 House of Representatives concurring, that the Department of Land
19 and Natural Resources is urged to transfer a portion of the
20 revenue derived from the conveyance or transfer of any land of
21 the public land trust to the Office of Hawaiian Affairs; and
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23 BE IT FURTHER RESOLVED that the amount transferred by the
24 Department of Land and Natural Resources to the Office of
25 Hawaiian Affairs for each conveyance or transfer of any lands of
26 the public land trust be determined by multiplying the fair
27 market value of the land by twenty percent; provided that the
28 fair market value means the amount of money that a purchaser
29 willing but not obliged to buy the land would pay to an owner
30 willing but not obliged to sell it, taking into consideration
31 the use of the land at the time of conveyance; and
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33 BE IT FURTHER RESOLVED that certified copies of this
34 Concurrent Resolution be transmitted to the Chairperson of the
35 Board of Trustees of the Office of Hawaiian Affairs, Chairperson
36 of the Board of Land and Natural Resources, and Executive
37 Director of the Hawaii Housing Finance and Development
38 Corporation.
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