

JAN 27 2021

A BILL FOR AN ACT

RELATING TO KULEANA LANDS.

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

1 SECTION 1. The legislature finds that article XII,
2 section 7 of the Hawaii State Constitution requires the State to
3 "protect all rights, customarily and traditionally exercised for
4 subsistence, cultural and religious purposes and possessed by
5 ahupua'a tenants who are descendants of native Hawaiians who
6 inhabited the Hawaiian Islands prior to 1778, subject to the
7 right of the State to regulate such rights." In Act 195,
8 Session Laws of Hawaii 2011, the State recognized the native
9 Hawaiian people as the only indigenous, aboriginal, maoli people
10 of Hawaii.

11 The legislature finds that the State has a constitutional
12 duty to protect the title to kuleana lands granted to native
13 Hawaiians over one hundred fifty years ago, kuleana claims that
14 were approved by the land commission, and land titles with a
15 royal patent of confirmation which are based on claims to a
16 right to the land before 1848.



1 The purpose of this Act is to require that claimants of
2 kuleana land and original land titles that are land commission
3 awards with a royal patent of confirmation that are still held
4 by lineal descendants of original awardees or purchasers to have
5 a good faith claim to more than fifty per cent of title to a
6 parcel to initiate a quiet title action regarding that parcel.

7 SECTION 2. Section 669-1, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§669-1 Object of action.** (a) [~~Action~~] Subject to this
10 chapter, action may be brought by any person against another
11 person who claims, or who may claim adversely to the plaintiff,
12 an estate or interest in real property, for the purpose of
13 determining the adverse claim.

14 (b) Action for the purpose of establishing title to a
15 parcel of real property of five acres or less may be brought by
16 any person who has been in adverse possession of the real
17 property for not less than twenty years. Action for the purpose
18 of establishing title to a parcel of real property of greater
19 than five acres may be brought by any person who had been in
20 adverse possession of the real property for not less than twenty
21 years prior to November 7, 1978, or for not less than earlier



1 applicable time periods of adverse possession. For purposes of
2 this section, any person claiming title by adverse possession
3 shall show that [~~such~~] the person acted in good faith. Good
4 faith means that, under all the facts and circumstances, a
5 reasonable person would believe that the person has an interest
6 in title to the lands in question and [~~such~~] the belief is based
7 on inheritance, a written instrument of conveyance, or the
8 judgment of a court of competent jurisdiction.

9 (c) Action brought to claim property of five acres or less
10 on the basis of adverse possession may be asserted in good faith
11 by any person not more than once in twenty years, after
12 November 7, 1978.

13 (d) Action under subsection (a) or (b) shall be brought in
14 the circuit court of the circuit in which the property is
15 situated.

16 (e) Action may be brought by any person to quiet title to
17 land by accretion; provided that no action shall be brought by
18 any person other than the State to quiet title to land accreted
19 along the ocean after May 20, 2003, except that a private
20 property owner whose eroded land has been restored by accretion
21 may also bring [~~such~~] an action for the restored portion. The



1 person bringing the action shall prove by a preponderance of the
2 evidence that the accretion is natural and permanent and that
3 the land accreted before or on May 20, 2003. The person
4 bringing the action shall supply the office of environmental
5 quality control with notice of the action for publication in the
6 office's periodic bulletin in compliance with section
7 343-3(c)(4). The quiet title action shall not be decided by the
8 court unless the office of environmental quality control has
9 properly published notice of the action in the office's periodic
10 bulletin.

11 (f) Action may be brought by any person to quiet title to
12 kuleana lands or land titles that are land commission awards
13 with a royal patent of confirmation held by lineal descendants
14 of original awardees or purchasers; provided that the claimant
15 has a good faith claim to a greater than fifty per cent interest
16 in title of each parcel of which the action pertains.

17 (g) As used in this section [~~,"permanent"~~]:

18 "Kuleana land" shall have the same meaning as in section
19 669-2.

20 "Permanent" means that the accretion has been in existence
21 for at least twenty years. The accreted portion of land shall



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1 be considered within the conservation district. Land accreted
2 after May 20, 2003, shall be public land except as otherwise
3 provided in this section. Prohibited uses are governed by
4 section 183-45."

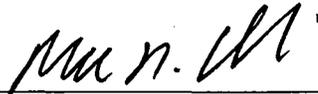
5 SECTION 3. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

11

INTRODUCED BY: _____



By Request



S.B. NO. 1318

Report Title:

Real Property; Kuleana Land; Quiet Title

Description:

Requires that claimants seeking to quiet title of kuleana land and original land titles that are land commission awards with a royal patent of confirmation which are based on claims to a right to the land before 1848 shall own more than fifty per cent of the land.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

