

ACT 221

H.B. NO. 194

A Bill for an Act Relating to Accretion.

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

SECTION 1. Chapter 183, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§183-45 Accreted land. No structure, retaining wall, dredging, grading, or other use which interferes or may interfere with the future natural course of the beach, including further accretion or erosion, shall be permitted to accreted land as judicially decreed under section 501-33 or 669-1(e). This provision shall not in any way be construed to affect state or county property.

Any structure or action in violation of this provision shall be immediately removed or stopped and the property owner shall be fined in accordance with section 183-41(e). Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 2. Chapter 501, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“§501-33 Accretion to land. An applicant for registration of land by accretion shall prove by a preponderance of the evidence that the accretion is natural and permanent. “Permanent” means that the accretion has been in existence at least twenty years. The accreted portion of the land shall be considered within the conservation district unless designated otherwise by the land use commission under chapter 205. Prohibited uses are governed by section 183-45.”

SECTION 3. Section 669-1, Hawaii Revised Statutes, is amended to read as follows:

“§669-1 Object of action. (a) Action may be brought by any person against another person who claims, or who may claim adversely to the plaintiff, an estate or interest in real property, for the purpose of determining the adverse claim.

(b) Action for the purpose of establishing title to a parcel of real property of five acres or less may be brought by any person who has been in adverse possession of the real property for not less than twenty years. Action for the purpose of establishing title to a parcel of real property of greater than five acres may be brought by any person who had been in adverse possession of the real property for not less than twenty years prior to November 7, 1978, or for not less than earlier applicable time periods of adverse possession. For purposes of this section, any person claiming title by adverse possession shall show that such person acted in good faith. Good faith means that, under all the facts and circumstances, a reasonable person would believe that he or she has an interest in title to the lands in question and such belief is based on inheritance, a written instrument of conveyance, or the judgment of a court of competent jurisdiction.

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

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

(e) Action may be brought by any person to quiet title to land by accretion. The person bringing the action shall prove by a preponderance of the evidence that the accretion is natural and permanent. “Permanent” means that the accretion has been in existence for at least twenty years. The accreted portion of land shall be considered within the conservation district unless designated otherwise by the land use commission under chapter 205. Prohibited uses are governed by section 183-45.”

SECTION 4. New statutory material is underscored.¹

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

(Approved June 4, 1985.)

Note

1. Edited pursuant to HRS §23G-16.5.