

A Bill for an Act Relating to Persons Dispossessed or Displaced by Volcanic Eruptions.

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

SECTION 1. The legislature finds that a special trust obligation to native Hawaiians is evidenced by Sections 4 and 7 of Article XII of the Constitution of the State of Hawaii and that by virtue of these provisions, the State has an affirmative obligation to reaffirm and protect the cultural rights, including fishing and subsistence rights of native Hawaiians and their descendents.

The legislature further finds that pursuant to Public Law 86-3, Admissions Act of 1959, the State assumed title to certain ceded lands adjacent to the Kalapana Extension in the Kikala-Keokea area. Section 5(f) of the Admissions Act of 1959 provides that these lands may be utilized for the betterment of conditions of native Hawaiians.

There is a further finding that legislative action to relieve the hardships and stress of Hawaiians displaced by volcanic eruptions was provided to the residents of the Milolii-Hoopuloa area after an eruption and lava flow of Mauna Loa. Act 62, Session Laws of Hawaii 1982 and Act 83, Session Laws of Hawaii 1984 address a nearly identical need in language after which this Act is patterned.

The legislature also finds that in 1938 the United States Congress enacted Public Law 680, the Kalapana Extension Act, which authorized the addition of Kalapana lands to the Hawaii National Park. The law further provided that native Hawaiian residents of the area were to be provided with leases for home sites 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 legislature also finds that through the years the Hawaiian residents of Kalapana on the island of Hawaii have maintained a unique community promoting the Hawaiian way of life. However, the continuation of their way of life has been threatened as a result of the volcanic eruptions which began on January 3, 1983. The eruptions have caused severe disruptions to the Hawaiian residents of Kalapana and have destroyed one of the last Hawaiian settlements on the island of Hawaii. The legislature agrees that the only remedy is an after-the-fact humanitarian act to help replace what has been lost by these residents. The legislature further finds that it is in the public interest to provide for relocation assistance to the Hawaiians of Kalapana to enable them to perpetuate their way of life and traditions.

The legislature further finds that to assist the Kalapana residents to continue as a unique Hawaiian community requires them to be as close as possible to Kalapana. An ideal site for the displaced Kalapana residents to maintain their Kalapana heritage is the Kikala-Keokea homestead area which is adjacent to and mauka of Kalapana-Kapoho beach road and identified as TMK 1-2-07, parcels 2 and 30 (two contiguous parcels totaling 1,012 acres). Up to 150 acres at the site may be used to provide leases under this Act. The site will allow them to develop the land in a manner that will enable them to continue their traditional way of life in raising small animals, planting sustenance crops, growing herbal medicines, and gathering additional food resources from the nearby ocean and uplands.

The purpose of this Act is to award long-term leases on state lands to those residents of Kalapana who are of Hawaiian ancestry and who were dispossessed or displaced from their homes as a result of the recent volcanic eruptions on the island of Hawaii.

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

- (1) Persons living in Kalapana who were dispossessed or displaced as a result of the volcanic eruptions on the island of Hawaii which began on January 3, 1983; and
- (2) Persons who meet the qualifications of section 13D-3(b), Hawaii Revised Statutes.

SECTION 3. The lands eligible for long-term residential lease negotiations under this Act are limited to those lands situated at Kikala-Keokea homestead area, which is adjacent to and mauka of Kalapana-Kapoho beach road and identified as TMK 1-2-07, parcels 2 and 30. No more than 150 acres of the homestead area shall be used for the purposes of this Act. The size of any lot leased under this Act shall be at least one acre.

SECTION 4. The department of land and natural resources or its designated agency is authorized to subdivide and provide for the creation of residential subdivision in Kikala-Keokea homestead area for persons who receive long-term leases under the provisions of this Act, which shall 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 the department of land and natural resources finds the project is consistent with the purpose and intent of this Act and meets minimum requirements of health and safety.

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

- (1) When leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in this Act; or
- (2) On January 1, 1994; whichever occurs first.

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

(Approved June 26, 1991.)