

ACT 73

H.B. NO. 192

A Bill for an Act Relating to Accreted Lands.

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

SECTION 1. Section 171-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Accreted lands” means lands formed by the gradual accumulation of land on a beach or shore along the ocean by the action of natural forces.”

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

“§171-2 Definition of public lands. “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including accreted lands not otherwise awarded, submerged lands, and lands beneath tidal waters which are suitable for reclamation, together with reclaimed lands which have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- (2) Lands set aside pursuant to law for the use of the United States;
- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the State Constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;
- (6) Lands to which the housing and community development corporation of Hawaii in its corporate capacity holds title;
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title;
- (8) Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- (9) Lands which are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the

- Aloha Tower development corporation holds title in its corporate capacity; and
- (10) Lands to which the agribusiness development corporation in its corporate capacity holds title.”

SECTION 3. Section 343-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The office shall inform the public of:

- (1) A public comment process or public hearing if a federal agency provides for the public comment process or public hearing to process a habitat conservation plan, safe harbor agreement, or incidental take license pursuant to the federal Endangered Species Act;
- (2) A proposed habitat conservation plan or proposed safe harbor agreement, and availability for inspection of the proposed agreement, plan, and application to enter into a planning process for the preparation and implementation of the habitat conservation plan for public review and comment; ~~and~~
- (3) A proposed incidental take license as part of a habitat conservation plan or safe harbor agreement~~[-]; and~~
- (4) An application for the registration of land by accretion pursuant to section 501-33 or 669-1(e) for any land accreted along the ocean.”

SECTION 4. Section 501-33, Hawaii Revised Statutes, is amended 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~~[-];~~ provided that no applicant other than the State shall register land accreted along the ocean, except that a private property owner whose eroded land has been restored by accretion may file an accretion claim to regain title to the restored portion. The applicant shall supply the office of environmental quality control with notice of the application, for publication in the office’s periodic bulletin in compliance with section 343-3(c)(4). The application shall not be approved unless the office of environmental quality control has published notice in the office’s periodic bulletin.

~~[“Permanent”]~~ As used in this section, “permanent” means that the accretion has been in existence for at least twenty years. The accreted portion of the land shall be state land except as otherwise provided in this section and 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 5. Section 669-1, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Action may be brought by any person to quiet title to land by accretion~~[-];~~ provided that no action shall be brought by any person other than the State to quiet title to land accreted along the ocean, except that a private property owner whose eroded land has been restored by accretion may also bring such an action for the restored portion. The person bringing the action shall prove by a preponderance of the evidence that the accretion is natural and permanent. The person bringing the action shall supply the office of environmental quality control with notice of the action for publication in the office’s periodic bulletin in compliance with section 343-3(c)(4). The quiet title action shall not be decided by the court unless the office

of environmental quality control has properly published notice of the action in the office's periodic bulletin.

[“Permanent”] As used in this section, “permanent” means that the accretion has been in existence for at least twenty years. The accreted portion of land shall be state land except as otherwise provided in this section and 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 6. Applications for the registration of land by accretion and actions to quiet title to land by accretion pending at the time of the effective date of this Act shall be processed under the law existing at the time the applications and actions were filed with the court. Applications for the registration of land by accretion and actions to quiet title to land by accretion filed subsequent to the effective date of this Act shall be processed in accordance with this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 20, 2003.)