

ACT 139

S.B. NO. 3102

A Bill for an Act Relating to the Land Conservation Fund.

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

SECTION 1. Section 173A-4, Hawaii Revised Statutes, is amended to read as follows:

“§173A-4 Authority to acquire and convey. (a) In consultation with the senate president and speaker of the house of representatives, the board may acquire, by purchase, gift, or the exercise of the power of eminent domain as authorized by chapter 101, any land having value as a resource to the State. Such acquisition is hereby declared to be for a public use.

(b) The board may, subject to chapter 171, in consultation with the senate president and speaker of the house of representatives, and with the approval of the governor, sell, lease, or otherwise convey any such land subject to terms and conditions that it deems appropriate and that will ensure that the transferee shall not use the land in a manner that is inconsistent with the purposes for which it was acquired by the board. The terms and conditions shall run with the land and shall be binding on the transferee’s heirs, successors, and assigns. The board may seek enforcement of the terms and conditions in any court of appropriate jurisdiction.

(c) The board may, in consultation with the senate president and the speaker of the house of representatives, require as a condition of the receipt of funds that state, county, and nonprofit land conservation organizations receiving funds under this chapter provide a conservation easement under chapter 198, or an agricultural easement or deed restriction or covenant to an appropriate land conservation organization or county, state, or federal natural resource conservation agency, that shall run with the land and be recorded with the land to ensure the long-term protection of land having value as a resource to the State and preserve the interests of the State.”

SECTION 2. Section 173A-5, Hawaii Revised Statutes, is amended to read as follows:

“§173A-5 Land conservation fund. (a) A land conservation fund, hereinafter called “fund”, is hereby established.

(b) The proceeds from the sale of any general obligation bonds[;] authorized and issued for purposes of this chapter[;] shall be deposited in or credited to the fund.

(c) Any net proceeds or revenue from the operation, management, sale, lease, or other disposition of land or the improvements on [~~such~~ the] land[;] acquired or constructed by the board under the provisions of this chapter[;] shall also be deposited in or credited to the fund.

(d) Ten per cent of all taxes imposed and collected by section 247-1 shall be deposited in or credited to the fund every year.

(e) Moneys from any other private or public source may be deposited in or credited to the fund; provided that mandates, regulations, or conditions on these funds do not conflict with the use of the fund under this chapter. Moneys received as a deposit or private contribution shall be deposited, used, and accounted for in accordance with the conditions established by the agency or person making the contribution.

~~(e)~~ (f) The fund shall be administered and managed by the department.

~~[(f)]~~ (g) The acquisition of interests or rights in land having value as a resource to the State for the preservation of~~[:]~~ the following shall constitute a public purpose for which public funds may be expended or advanced:

- (1) Watershed protection;
- (2) Coastal areas, beaches, and ocean access;
- (3) Habitat protection;
- (4) Cultural and historical sites;
- (5) Recreational and public hunting areas;
- (6) Parks;
- (7) Natural areas;
- (8) Agricultural production; ~~[or]~~ and
- (9) Open spaces and scenic resources~~;~~

~~constitutes a public purpose for which public funds may be expended or advanced].~~

~~[(g)]~~ (h) The fund shall be used for:

- (1) The acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the establishment of permanent conservation easements under chapter 198 or agricultural easements;
- (2) The payment of any debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State; and
- (3) Annual administration costs for the fund, not to exceed five per cent of annual fund revenues of the previous year.
- (4) Costs related to the operation, maintenance, and management of lands acquired by way of this fund that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands; provided that the costs related to the operation, maintenance, and management of lands acquired by way of this fund do not exceed five per cent of annual fund revenues of the previous year.

~~[(h)]~~ (i) Based on applications from state agencies, counties, and nonprofit land conservation organizations, the department, in consultation with the senate president and speaker of the house of representatives, shall recommend to the board specific parcels of land to be acquired, restricted with conservation easements, or preserved in similar fashion. The board shall review the selections and approve or reject the selections according to the availability of moneys in the fund. To be eligible for grants from the fund, state and county agencies and nonprofit land conservation organizations shall submit applications to the department that contain:

- (1) Contact information for the project;
- (2) A description of the project;
- (3) The request for funding;
- (4) Cost estimates for acquisition of the interest in the land;
- (5) Location and characteristics of the land; and
- (6) Other similar, related, or relevant information as ~~[may be]~~ determined by the department.

~~[(i)]~~ (j) For applications approved by the board, the board may acquire land having value as a resource to the State, pursuant to section 173A-4, or the board may award grants from the fund to the qualifying state or county agencies or nonprofit land conservation organizations for the preservation of the real property. Where the recipient of a grant is a county agency or nonprofit land conservation organization, the board shall require additional matching funds of at least twenty-five per cent of the total project costs. Matching funds may be in the form of:

- (1) Direct moneys;
- (2) A combination of public and private funds;

- (3) Land value donation;
- (4) In-kind contributions; or
- (5) Any combination of the above[;

and evidence].

(k) Evidence of [these] the matching funds in subsection (j) shall be made available [from] by the qualifying entities prior to distribution of the fund grant.

(+) (1) The board shall:

- (1) Track amounts disbursed from the fund;
- (2) Prepare and submit an annual report to [be transmitted to] the governor and the legislature at least twenty days prior to the convening of each regular session [of the legislature]. The annual report shall include:
 - (A) A summary of all interests or rights in land acquired during the preceding fiscal year;
 - (B) A summary of what value each newly acquired land has as a resource to the State;
 - (C) Proposals for future land acquisitions, including a summary of the resource value that the land may possess;
 - (D) A financial report for the preceding fiscal year; and
 - (E) Objectives and budget projections for the following fiscal year; and
- (3) Make copies of the annual report available to the public.”

SECTION 3. Section 173A-9, Hawaii Revised Statutes, is amended to read as follows:

“§173A-9 Grants to state agencies, counties, and nonprofit land conservation organizations. After consultation with the senate president and speaker of the house of representatives, and subject to the approval of the governor, the board may make grants to state agencies, counties, and nonprofit land conservation organizations from available funds for the purchase or acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the purchase of permanent conservation easements under chapter 198, and approved for purchase or acquisition by the board[-], or for the operation, maintenance, and management of lands acquired under this chapter that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands. Any land so acquired by any state agency or county may be sold, leased, or otherwise disposed of, subject to chapter 171, with the prior written approval of the board. Any land acquired by any nonprofit land conservation organization under this chapter may be sold, leased, or otherwise disposed of with the prior written approval of the board. Any permanent conservation easement established under this section that includes partnership with a federal land conservation program may be transferred only as provided by rules of the federal program.”

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

SECTION 5. This Act shall take effect upon approval.

(Approved June 4, 2008.)