THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

S.B. NO. 1677 S.D. 1 H.D. 2 C.D. 1

A BILL FOR AN ACT

RELATING TO LANDS CONTROLLED BY THE STATE.

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

SECTION 1. The purpose of this Act is to establish a more comprehensive process for the sale of state-owned land, and to reserve a larger oversight role for the legislature to assure that key information about certain sales or exchanges of land is shared with the legislature.

Realizing that each sale, however reasonable or necessary, is final and permanent, and recognizing that the legislature may exercise its power over the State's land by general laws only, this Act establishes a legislative prior approval process that must be completed before most state-owned land may be sold, and maintains the current legislative disapproval process that must be completed for the exchange of certain state-owned land for private land to be final, except as amended with regard to notification.

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:



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"PART . SALE OR GIFT OF LANDS

§171- Legislative approval of sale or gift of lands. (a) This section applies to all lands or interest therein owned or under the control of state departments and agencies 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 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, including:

(1) Land set aside pursuant to law for the use of the United States;

(2) Land to which the United States relinquished the absolute fee and ownership under section 91 of the Organic Act prior to the admission of Hawaii as a state of the United States;

(3) Land to which the University of Hawaii holds title;

(4) Land to which the Hawaii housing finance and development corporation in its corporate capacity holds title;

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(5) Land 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;

(6) Land that is set aside by the governor to the Aloha Tower development corporation; or land to which the Aloha Tower development corporation holds title in its corporate capacity;

(7) Land that is set aside by the governor to the agribusiness development corporation; or land to which the agribusiness development corporation in its corporate capacity holds title; and

(8) Land to which the high technology development corporation in its corporate capacity holds title.

(b) Notwithstanding any law to the contrary, no sale of lands described in subsection (a) in fee simple including land sold for roads and streets, or gift of lands described in subsection (a) in fee simple to the extent such gift is otherwise permitted by law, shall occur without the prior approval of the sale or gift by the legislature by concurrent resolution to be adopted by each house by at least a two-thirds majority vote of the members to which each house is entitled in

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a regular or special session at which a concurrent resolution is submitted for approval of the sale; provided that the provisions of this section shall not apply to remnants, as that term is defined in section 171-52, or portions thereof; and provided further that this section shall not apply to the issuance of licenses, permits, easements, and leases executed in conformance with the laws applicable to the lands listed in subsection (a).

(c) The state department or agency proposing to sell or give any state land described in subsection (a) shall submit for introduction to the legislature a concurrent resolution for review of the proposed sale or gift. The concurrent resolution shall contain a list of all sales or gifts of state land proposed by the state department or agency. The concurrent resolution shall contain the following information:

(1) The location and area of the parcels of land to be sold or given;

(2) The appraisal value of the land to be sold or given;

(3) The names of all appraisers performing appraisals of the land to be sold or given;

(4) The date of the appraisal valuation;

(5) The purpose for which the land is being sold or given; and

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(6) A detailed summary of any development plans for the land to be sold or given.

A copy of the concurrent resolution for the prior approval of a sale or gift of land shall also be submitted to the office of Hawaiian affairs when it is submitted to the legislature.

(d) If the legislature fails to approve the concurrent resolution by at least a two-thirds majority vote of both houses, the transaction shall be abandoned by the state department or agency.

(e) Prior to finalizing any proposal for the sale or gift of lands described in subsection (a) to a person or entity other than the State, its agencies, or its entities, and prior to submission of the concurrent resolution to the legislature under subsection (c), the State, agency, or entity, as appropriate, shall hold an informational briefing on the proposed sale or gift in the community where the land to be sold or given is located.

(f) This section shall not apply to sales or gifts of lands described in subsection (a) between state departments or agencies, and to sales of available lands under the Hawaiian homes commission act."



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SECTION 3. Section 171-50, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Legislative disapproval. Any exchange of public land for private land shall be subject to disapproval by the legislature by two thirds vote of either the senate or the house of representatives or by majority vote of both in any regular or special session following the date of the board of land and natural resources' approval in principle of the exchange. The department shall submit for introduction to the legislature a resolution for review of action on any exchange to be consummated by the board wherein exchange deeds will be executed by the parties together with the following information: (1) the location and area of the parcels of land to be exchanged; (2) the value of the lands to be conveyed by the State and the private party; (3) the name or names of the appraiser or appraisers; [~~and~~] (4) the date of the appraisal valuation[~~.~~]; and (5) the purpose for which the lands are being exchanged. A copy of the resolution shall also be submitted to the office of Hawaiian affairs when it is submitted to the legislature."

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

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

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S.B. NO. 1677
S.D. 1
H.D. 2
C.D. 1

Report Title:
Ceded Lands; Sale or Gift

Description:
Requires two-thirds majority vote of the legislature to adopt a concurrent resolution to sell or give away certain public lands. Requires notice to be provided to the office of Hawaiian affairs for sales, gifts, and exchanges. (CD1)

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