

## **Summary of Public Land Trust Revenue Settlement Bill<sup>1</sup>** **“RELATING TO THE PUBLIC TRUST LANDS SETTLEMENT”** **January 28, 2008**

### **Bill Purposes**

As spelled out at the end of SECTION 1, the Bill has two main purposes:

1. Finally and completely resolve any and all claims and disputes relating to the portion of income and proceeds from the lands of the public land trust for use by the office of Hawaiian affairs, including under sections 4 and 6 of article XII of the State Constitution and any relevant statute or act, between November 7, 1978 and July 1, 2008; and
2. Fix, prospectively, the minimum amount of income and proceeds from the lands of the public land trust that are to be paid to the office of Hawaiian affairs to use under section 6 of article XII of the Constitution at \$15,100,000 each fiscal year.

### **Release of Claims**

The Bill repeats the release of claims language in the settlement agreement. In consideration for the \$200,000,000 in land and cash, OHA releases its remaining claims for income and proceeds from the lands of the public land trust for the period 11/7/78 to 6/30/08. In consideration for a minimum payment of \$15,100,000 per fiscal year going forward, OHA releases its right to sue for additional income and proceeds but OHA is not prohibited from seeking from the State through the political process additional annual public land trust revenues if warranted by a change of circumstances. There is no release of the “overthrow claims.” The release sections are in SECTION 2(b) and (c) and SECTION 13 of the Bill.

### **Conveyance of Land and Cash**

Approximately 200 acres of land in Kaka’ako Makai, Kalaeloa Makai, and Hilo – Banyan Drive is conveyed to OHA (SECTION 12 of the Bill). \$13,189,860 in cash is also conveyed to OHA (SECTIONS 14 and 15 of the Bill). The land and cash is treated as if it were paid out of the income and proceeds of the public land trust (SECTION 16 of the Bill).

### **Changes to Statutes**

In order to effectuate the settlement agreed to, the following changes are made to existing statutes:

HRS Chapter 10 (OHA’s enabling statute) is changed as follows:

1. Language specifying the payment of \$15.1 million going forward is inserted (SECTION 2 of the Bill); language temporarily requiring that amount (HRS 10-13.3, Section 3 of Act

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<sup>1</sup> Note: Section numbers in this summary refer to section numbers in the bill as it now exists in the Legislature (HB 2701, SB 2733). Minor formatting and some editorial changes were made by the Legislature from the bill which was attached as an exhibit to the signed Settlement Agreement dated January 17, 2008 (and posted to OHA’s website), including the renumbering of certain sections.

178 of 2006) is deleted, and the language requiring 20% of revenue [unresolved by litigation] is deleted (SECTIONS 9 and 11 of the Bill).

2. Language defining the public land trust is removed from HRS 10-2 (SECTION 4 of the Bill) and reinserted as a new part (SECTION 3 of the Bill).

HRS Chapter 206E (the enabling statute of the Hawai'i Community Development Authority [HCDA] that has control over Kaka'ako Makai) is changed as follows:

1. Adds a member to their board appointed by the Chairperson of OHA's Board of Trustees (SECTION 5 of the Bill).
2. Limits HCDA's authority to acquire OHA controlled lands by Gubernatorial set aside to only easements (SECTION 6 of the Bill).
3. Limits HCDA's authority to condemn OHA lands to only easements (SECTION 7 of the Bill).
4. Makes requirement of HCDA to have a cultural public market in Kaka'ako Makai not apply to OHA lands (SECTION 8 of the Bill).

### **Other Provisions**

Other provisions in the Bill are as follows:

1. Review of history leading up to settlement (SECTION 1 of the Bill);
2. Directing appropriate boards, agencies and officers to effect the conveyance of the land (SECTION 12 of the Bill);
3. Exempting the land conveyance from conveyance taxes (SECTION 12 of the Bill);
4. Requiring OHA to work with state agencies for the provision of easements across its property for neighboring state lands (SECTION 12 of the Bill);
5. Barring suit against those who participated in the preparations for or participate in the enactment of the Act (SECTION 17 of the Bill);
6. Making the act prevail over Chapter 673 (Hawaiian right to sue) if there is a conflict (SECTION 18 of the Bill);
7. Limitation of the severability of the bill and describes the manner in which lands and moneys would be returned and release would be cancelled if the bill is severed (SECTION 19 of the Bill);
8. Specific effective date of July 1, 2008 (SECTION 21 of the bill).