
A BILL FOR AN ACT

RELATING TO LAND ACQUISITION.

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

1 SECTION 1. The legislature finds that it is in the public
2 interest to acquire private lands currently owned by the George
3 Galbraith Estate (Estate) for the preservation of agricultural
4 lands in central Oahu, and protection of the health, welfare,
5 and safety of the people of the State of Hawaii.

6 The Estate was established pursuant to the will of George
7 Galbraith, which was admitted to probate on March 25, 1905. Due
8 to considerable ambiguity on the intention and validity of the
9 will, the will was litigated extensively. In Fitchie v. Brown,
10 18 Haw. 52 (November 1, 1906), the Hawaii Supreme Court held
11 that the will created a trust to accumulate unapplied income;
12 that the lives in being listed in the will were the named
13 annuitants; and that the trust estate would be distributed
14 twenty-one years after the death of the last surviving annuitant
15 listed in the will. The Supreme Court of the United States
16 upheld this interpretation in 211 U.S. 321 (1908).

17 Subsequent litigation established that the heirs of life
18 annuities took their shares of the annuities by right of



1 representation; that annuities could be sold in fee; and that
2 the final holders of the annuities, at the time of distribution,
3 would take a per capita share of the estate. Hawaiian Trust v.
4 Galbraith, 22 Haw. 78 (1914); Hawaiian Trust Co. v. Galbraith,
5 24 Haw. 174 (1919).

6 The corpus of the Estate currently includes twenty
7 individual and contiguous parcels having a combined area of
8 approximately two thousand one hundred acres situated north of
9 Wahiawa--a significant assemblage of some of the most fertile
10 agricultural land in the state. These lands were historically
11 leased to pineapple growers on a long-term basis and have not
12 been available for sale for more than one hundred years.

13 On April 26, 1986, Arthur Cathcart, the last named
14 annuitant in the George Galbraith will, died. Pursuant to the
15 terms of the will, the Estate was to terminate on April 26,
16 2007. However, because of the numerous interpretations of the
17 will and the passage of time, a large number of minuscule life
18 annuities were created, precipitating considerable difficulty in
19 determining who some of the annuitants are, and how the corpus
20 would be distributed among the beneficiaries. Accordingly,
21 although the termination date of the Estate has passed, the
22 trustees have not yet sold the landholdings while these and



1 other legal issues are addressed. Furthermore, chapter 517,
2 Hawaii Revised Statutes, authorizes the trustees of an estate or
3 trust, with the approval of the court, to sell the real property
4 of the estate or trust beyond the expiration date of the estate
5 or trust.

6 The legislature further finds that the State of Hawaii is
7 committed to preserving its limited natural resources. Article
8 XI, section 3 of the Constitution of the State of Hawaii
9 requires the State to "conserve and protect agricultural lands,
10 promote diversified agriculture, increase agricultural
11 self-sufficiency and assure the availability of agriculturally
12 suitable lands." As such, the legislature further finds that
13 the acquisition of the Galbraith landholdings in central Oahu
14 furthers this essential public policy.

15 The legislature also finds that the body of water in
16 Wahiawa, commonly referred to as Lake Wilson, is on real
17 property owned by the Estate and an affiliate of Castle and
18 Cooke Hawaii (Castle and Cooke). While the Estate intends to
19 sell that land upon the termination of the Estate, Lake Wilson
20 remains an agricultural irrigation asset of the other half-owner
21 of the land under the Lake--Castle and Cooke.



1 According to the American Society of Civil Engineers, the
2 earthen Wahiawa dam on Kaukonahua stream that creates Lake
3 Wilson is classified "high hazard", not because of structural or
4 functional deficiencies, but because of its precarious location.
5 A failure of the Wahiawa dam could cause massive loss of life,
6 injuries, and property damage to downstream areas throughout the
7 communities of Waialua and Haleiwa.

8 While the State has had discussions with the Estate and
9 Castle and Cooke on the possible "gifting" of the landholdings
10 under Lake Wilson, the imminent termination of the Estate and
11 the fiduciary responsibility of the trustees to obtain the
12 maximum return for beneficiaries have greatly compounded the
13 complexity of the negotiations between state officials and the
14 landowners.

15 Lastly, the valuation of the Estate's landholdings has been
16 a matter of conjecture for many years, especially due to the
17 enormous potential it may hold should the land ever be
18 reclassified from agricultural to a higher use. As such, there
19 is a strong possibility that the placement of these lands on the
20 open market may create a frenzy of speculative buying that might
21 result in the break up of these large contiguous tracks of land.



1 For tax purposes, the city and county of Honolulu has
2 determined that as of October 1, 2006, the total property
3 assessed value of the parcels situated in central Oahu was
4 approximately \$100,000,000:

5	<u>Parcel</u>	<u>Assessed Value</u>
6	TMK 6-5-002:010	\$10,569,100
7	TMK 6-5-002:025	\$6,154,700
8	TMK 6-5-002:026	\$3,589,000
9	TMK 7-1-001:001	\$1,898,900
10	TMK 7-1-001:002	\$17,492,900
11	TMK 7-1-001:003	\$7,879,900
12	TMK 7-1-001:005	\$12,969,000
13	TMK 7-1-001:006	\$3,421,500
14	TMK 7-1-001:007	\$813,500
15	TMK 7-1-001:008	\$17,613,100
16	TMK 7-1-001:012	\$1,736,400
17	TMK 7-1-001:013	\$900
18	TMK 7-1-001:017	\$100
19	TMK 7-1-001:020	\$11,300
20	TMK 7-1-001:021	\$7,200
21	TMK 7-1-001:022	\$156,800
22	TMK 7-1-001:023	\$1,041,200



1	TMK 7-1-001:024	\$200
2	TMK 7-1-001:025	\$998,600
3	TMK 7-1-001:026	\$11,356,900
4	TMK 7-1-001:027	\$464,100
5	TMK 7-1-001:028	\$507,400
6	TMK 7-1-001:029	\$335,500
7	TMK 7-1-001:032	<u>\$878,900</u>
8	TOTAL	\$99,897,100

9 The purpose of this Act is to appropriate funds for the
10 acquisition of lands owned by the Galbraith Estate in central
11 Oahu. It is the intent of the legislature that this Act not be
12 construed to preclude the State and the Estate from entering
13 into a land exchange or any other agreement that would reduce
14 the expenditure of funds authorized by this Act.

15 SECTION 2. The department of land and natural resources is
16 authorized to negotiate with the Galbraith Estate, or its
17 successor in interest, to acquire property owned by the
18 Galbraith Estate, or its successor in interest, located in
19 central Oahu which property is designated by tax map keys
20 6-5-002:010, 6-5-002:025, 6-5-002:026, 7-1-001:001, 7-1-001:002,
21 7-1-001:003, 7-1-001:005, 7-1-001:006, 7-1-001:007, 7-1-001:008,
22 7-1-001:012, 7-1-001:013, 7-1-001:017, 7-1-001:020, 7-1-001:021,



1 7-1-001:022, 7-1-001:023, 7-1-001:024, 7-1-001:025, 7-1-001:026,
2 7-1-001:027, 7-1-001:028, 7-1-001:029, and 7-1-001:032.

3 SECTION 3. If the board of land and natural resources, or
4 the appropriate entity, finds that it is not feasible for the
5 State to acquire sole interest of the property identified in
6 section 2 of this Act, the board of land and natural resources
7 or appropriate entity shall seek out and, if possible, enter
8 into a cooperative agreement or agreements with private or other
9 public sector entities for the purpose of cooperatively
10 acquiring the property.

11 SECTION 4. The department of land and natural resources
12 shall submit a report to the legislature no later than twenty
13 days prior to the convening of the regular session of 2009
14 regarding its efforts to acquire the aforementioned lands and
15 its recommendations for financing the purchase of the property.

16 SECTION 5. If an agreement to acquire the property is not
17 reached within a reasonable time as determined by the department
18 of land and natural resources it shall exercise its power of
19 eminent domain to acquire the property. For purposes of this
20 Act, condemnation of the property shall not be subject to
21 legislative disapproval.



1 SECTION 6. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$100,000,000 or so
3 much thereof as may be necessary for fiscal year 2008-2009 to
4 acquire the lands currently owned by the Galbraith Estate in
5 central Oahu and designated by tax map keys 6-5-002:010,
6 6-5-002:025, 6-5-002:026, 7-1-001:001, 7-1-001:002, 7-1-001:003,
7 7-1-001:005, 7-1-001:006, 7-1-001:007, 7-1-001:008, 7-1-001:012,
8 7-1-001:013, 7-1-001:017, 7-1-001:020, 7-1-001:021, 7-1-001:022,
9 7-1-001:023, 7-1-001:024, 7-1-001:025, 7-1-001:026, 7-1-001:027,
10 7-1-001:028, 7-1-001:029, and 7-1-001:032.

11 The sum appropriated shall be expended by the department of
12 land and natural resources for the purposes of this Act.

13 SECTION 7. This Act shall take effect on July 1, 2008.



Report Title:

Galbraith Estate; Appropriation

Description:

Authorizes the department of land and natural resources to acquire lands owned by the Galbraith Estate in central Oahu; Appropriates funds for the acquisition of land in Wahiawa, Oahu, currently owned by the George Galbraith Estate. (SD1)

