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# A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1           SECTION 1. The legislature finds that state living parks  
2 possess unique historical and cultural value. In state living  
3 parks, individuals reside on lands located within the living  
4 park and are an essential part of the purpose of the park for  
5 the benefit of the public. As set forth in Senate Resolution  
6 No. 264, S.D. 1, Regular Session of 1977, the purpose of a  
7 living park is to nurture and foster native Hawaiian culture and  
8 spread knowledge of its values and ways.

9           Kahana valley state park is an example of a living park.  
10 Between 1965 and 1969, the State condemned the ahupuaa o Kahana  
11 for use as a state park, making it the only landowner in the  
12 State of Hawaii, other than the owners of Niihau, to own an  
13 intact ahupuaa. An ahupuaa, a triangular slice of land running  
14 from the mountains to the ocean, was the major land division  
15 used by pre-contact Hawaiians.

16           Families living in Kahana at the time of condemnation were  
17 of varied ethnic backgrounds, and the people of Kahana generally  
18 lived a simple, subsistence lifestyle in harmony with native

1 Hawaiian values and traditions. In 1970, a governor's task  
2 force proposed the concept of a living park as a way in which  
3 the residents could continue to live in the park and participate  
4 in the park for the benefit of the public.

5 To effectuate the living park concept, Act 5, Session Laws  
6 of Hawaii 1987, authorized the department of land and natural  
7 resources to issue long-term residential leases to individuals  
8 who had been living on the land. In 1993, the department of  
9 land and natural resources entered into sixty-five-year leases  
10 with thirty-one qualifying families and required that all  
11 lessees be an essential part of the interpretive programs by  
12 contributing at least twenty-five hours of service each month to  
13 benefit the park. To provide lessees with money to construct  
14 new houses, Act 238, Session Laws of Hawaii 1988, appropriated  
15 funds to provide low-interest home construction and mortgage  
16 loans for Kahana valley state park lessees. The appropriation  
17 was sufficient for twenty-six lessees to receive loans in the  
18 amount of \$50,000 each.

19 Since 1993, three leases have been terminated by the  
20 department of land and natural resources for non-compliance with  
21 lease conditions. Other families living in Kahana valley have  
22 sought to obtain long-term leases, but the department of land

1 and natural resources refuses to issue any further leases,  
2 relying on the attorney general's opinion issued on March 24,  
3 2008, asserting that Act 5, Session Laws of Hawaii 1987,  
4 expired.

5 Since 1970, Kahana residents and the greater community  
6 proposed numerous plans to the board of land and natural  
7 resources. However, the board of land and natural resources  
8 never adopted a master plan for Kahana valley state park. As a  
9 result, there has been a lack of clarity, vision, goals, and  
10 policies directing the residents and the department of land and  
11 natural resources in the development and management of Kahana  
12 valley state park.

13 The management of a living park requires that the  
14 department of land and natural resources have the authority to  
15 negotiate and enter into long-term residential leases, a clear  
16 master plan, and the resources to support the living park,  
17 including the establishment of a land manager position akin to a  
18 konohiki.

19 The purpose of this Act is to:

20 (1) Authorize the department of land and natural resources  
21 to issue long-term residential leases to qualified  
22 persons; and

1           (2) Establish a living park planning council to develop a  
2           master plan for each state living park that will  
3           provide the framework, proposed rules, measurements  
4           for success, and planning process to ensure that the  
5           living park achieves its purpose and goals.

6           SECTION 2. As used in this Act, "living park" means a  
7           state park where individuals residing on lands located within  
8           the state park are an essential part of the purpose of the park,  
9           for the benefit of the public.

10          SECTION 3. Notwithstanding any other law to the contrary,  
11          including chapter 171, Hawaii Revised Statutes, the department  
12          of land and natural resources is authorized to negotiate and  
13          enter into long-term residential leases for sites in state parks  
14          with acreage greater than five thousand acres but not more than  
15          six thousand acres, with the following qualified persons:

16          (1) Persons who at the time of enactment of this Act  
17          reside in a state living park and are contributing at  
18          least twenty-five hours of service each month to  
19          benefit the state living park; and

20          (2) Other qualified persons who may be identified in a  
21          living park master plan approved by the board of land  
22          and natural resources.

1 SECTION 4. (a) For each state living park there shall be  
2 established a living park planning council to be placed within  
3 the department of land and natural resources for administrative  
4 purposes. The planning council shall consist of five voting  
5 members, appointed in the manner and to serve for the terms  
6 provided in section 26-34, Hawaii Revised Statutes, and two ex  
7 officio nonvoting members.

8 (b) The voting members of the living park planning council  
9 shall be as follows:

10 (1) One member shall be a representative of the department  
11 of land and natural resources;

12 (2) Three members shall be representatives of families who  
13 reside in the state living park, selected from a list  
14 of resident nominees provided by the president of the  
15 park's community association; and

16 (3) One member shall be a representative of the general  
17 public.

18 (c) The ex officio nonvoting members of the planning  
19 council shall be appointed in equal numbers by the state senator  
20 and the state representative representing the district in which  
21 the state living park is located. Each nonvoting member of the

1 planning council shall possess general knowledge of at least one  
2 of the four strategic areas listed below:

3 (1) Land use laws or land use planning;

4 (2) Community-based planning;

5 (3) The environment; or

6 (4) Native Hawaiian culture.

7 (d) The council shall select a chairperson by a majority  
8 vote of its voting members; provided that no member may serve as  
9 chairperson for more than three consecutive years.

10 (e) Council members shall serve without compensation but  
11 shall be reimbursed for actual expenses, including travel  
12 expenses, incurred in the performance of their official duties.

13 (f) Any action taken by the planning council shall be  
14 approved by a majority of its voting members. Three voting  
15 members shall constitute a quorum to conduct business.

16 (g) The first meeting shall be held on the third Tuesday  
17 in July, beginning in 2009.

18 SECTION 5. The development of a master plan for a state  
19 living park shall rest with the living park planning council.  
20 The master plan shall be reviewed and updated as needed. In  
21 developing the master plan, the council, among other things,  
22 shall:

- 1 (1) Establish goals and objectives to ensure the living  
2 park reaches its full potential;
- 3 (2) Set forth standards, timelines, and other measurements  
4 to ensure the living park achieves its goals and  
5 objectives;
- 6 (3) Identify programs that enhance educational  
7 opportunities and cultural awareness in the living  
8 park;
- 9 (4) Develop plans to secure funding for a land manager, a  
10 housing fund, and any other financial needs identified  
11 in the living park master plan;
- 12 (5) Seek out and consult with all residents of the living  
13 park, kupuna, community groups adjacent to the living  
14 park, and organizations that have knowledge that may  
15 benefit the living park;
- 16 (6) Advise the department of land and natural resources on  
17 any matter relating to the living park;
- 18 (7) Propose agreements that will establish the full  
19 authority of the planning council to implement the  
20 master plan, including whether the planning council  
21 can hire a land manager, establish a non-profit  
22 organization, or enter into contracts;

- 1 (8) Establish criteria, policies, and controls governing  
2 the management of the living park leases, including  
3 but not limited to:
- 4 (A) Selection of persons for leases; provided that  
5 preference is given to persons residing in the  
6 park who contribute twenty-five hours of service  
7 each month to benefit the living park and are  
8 actively seeking a lease in the living park;
- 9 (B) Designation of lands to be leased;
- 10 (C) Terms and conditions of leases;
- 11 (D) Monitoring and enforcement of lease terms and  
12 conditions;
- 13 (E) Treatment of persons residing in a living park  
14 without a lease; and
- 15 (F) Assignment and renewal of leases;
- 16 (9) Maintain, promote, and perpetuate the aloha spirit as  
17 defined in section 5-7.5, Hawaii Revised Statutes; and
- 18 (10) Develop protocols and proposals to encourage the  
19 caring for kupuna and the sharing and perpetuation of  
20 kupuna knowledge.

21 SECTION 6. The living park planning council shall submit a  
22 proposed master plan to the board of land and natural resources



1 no later than one year following the first meeting of the  
2 planning council. Within ninety days after submission of the  
3 proposed master plan, the board of land and natural resources  
4 shall either adopt the proposed master plan or deny the proposed  
5 master plan. If it denies the proposed master plan, the board  
6 of land and natural resources shall submit to the living park  
7 planning council, in writing, its reasons for denying the  
8 proposed master plan. The living park planning council shall  
9 revise the proposed master plan and resubmit the revised  
10 proposed master plan to the board of land and natural resources  
11 until a final master plan is adopted.

12 The living park master plan shall become effective upon its  
13 adoption by the board of land and natural resources. Pending  
14 adoption of the living park master plan, the department of land  
15 and natural resources and the residents of the living park shall  
16 be guided by existing plans developed by the residents of the  
17 living park. For example, in Kahana valley, the Kahana state  
18 park development plan, dated December 1985, and the living park  
19 plan of Kahana's people, dated 1979, shall be guiding documents  
20 for Kahana valley state park.

21 SECTION 7. Until the living park master plan is adopted  
22 pursuant to this Act and a long-term residential lease

1 application has been acted upon, persons currently residing in a  
2 living park at the time of enactment of this Act shall not be  
3 evicted on the grounds that they lack a valid lease; provided  
4 that they are contributing at least twenty-five hours of service  
5 each month to benefit the living park.

6 SECTION 8. The department of land and natural resources is  
7 directed to submit to the legislature an initial progress  
8 report, including any proposed legislation, regarding the  
9 implementation of this Act not later than twenty days prior to  
10 the convening of the regular session of 2010 and a final  
11 progress report, including any proposed legislation, not later  
12 than twenty days prior to the convening of the regular session  
13 of 2011.

14 SECTION 9. This Act shall take effect on July 1, 2046.

**Report Title:**

State Living Parks; Living Park Planning Council

**Description:**

Authorizes DLNR to issue long-term residential leases to qualified persons in state living parks. Establishes living park planning councils to develop state living park master plans to ensure the living park achieves its purpose and goals. Takes effect 07/01/2046. (SD2)