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Native Hawaiian Law - A Treatise, Chapter 2: Public Land Trust

Melody Kapilialoha MacKenzie

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Native Hawaiian Law - A Treatise, Chapter 2: Public Land Trust Melody Kapilialoha MacKenzie Approximately 1.8 million acres of the Hawaiian Kingdom's Government and Crown Lands were ceded to the United States upon Hawai‘i's annexation in 1898. During Hawai?i's territorial period, the U.S. government appropriated large tracts of these lands for military and other purposes. Although some of this property remains under federal control today, authority over most of the trust land was formally transferred to the new State of Hawai‘i in 1959. This chapter examines the legal issues relating to what is commonly known as the public land trust.

Federal and state law requires that the public land trust be held for specific purposes, including to benefit those of not less than 50 percent Native Hawaiian ancestry. However, the administration of the trust has generated a great deal of confusion, mismanagement, and controversy. Lawsuits have been filed regarding the amount and distribution of income accrued by the use of trust lands for harbors and airports, the legality of selling and leasing trust lands to private developers, and the question of whether persons of less than 50 percent Native Hawaiian ancestry are entitled to benefit from the trust and its revenues.

In addition to discussing the above issues, this chapter provides information about the relevant state constitutional amendments, the applicable acts passed by the Hawai‘i legislature, and the potential significance of the 1993 Apology by the United States for its role in the overthrow of the Hawaiian Kingdom in the context of the trust.

“Public Land Trust” is Chapter 2 of *Native Hawaiian Law: A Treatise*, a volume that updates and expands on the seminal work of the 1991 *Native Hawaiian Rights Handbook*. The publication is a collaborative effort of the Native Hawaiian Legal Corporation, Ka Huli Ao Center for Excellence in Native Hawaiian Law at the William S. Richardson School of Law – University of Hawai‘i at M?noa, and Kamehameha Publishing.

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