

of lease pursuant to § 171-20. State v. Kauai Kai, Inc., 2 Haw. App. 118, 627 P2d 284, 1981 Haw. App. LEXIS 183 (1981).

**Mechanics' lien does not come within meaning of the term "holder of record of any security interest"** as used in this section and § 171-21. A.C. Chook Ltd. v. Kanehshiro, 51 Haw. 87, 451 P2d 809, 1969 Haw. LEXIS 86 (1969).

The legislature in enacting this chapter did not intend to waive sovereign immunity on the part of the state nor authorize a mechanic's or materialman's lien on the state's interest in

**§ 171-2. Definition of public lands.**

"Public lands" means all lands or interest therein in the State 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 in any other manner, including lands accreted after May 20, 2003, and not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- (2) Lands set aside pursuant to law for the use of the United States;
- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the state constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;
- (6) Lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title;
- (8) Lands 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;
- (9) Lands that are set aside by the governor to the Aloha Tower development corporation, lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity;
- (10) Lands that are set aside by the governor to the agribusiness development corporation; lands leased to the agribusiness development corporation by any department or agency of the State; or lands to which the agribusiness development corporation in its corporate capacity holds title;

(11) Lands to which the high technology development corporation in its corporate capacity holds title; and  
(12) Lands which are set aside by the governor to the public land development corporation; lands leased to the public land development corporation by any department or agency of the State; or lands to which the public land development corporation holds title in its corporate capacity.

**History.**

L 1962, c 32, pt of § 2; am L 1965, c 239, § 37; Supp. § 103A-2; HRS § 171-2; am L 1981, c 116, § 1; am L 1984, c 19, § 1; am L 1987, c 337, § 7(1); am L 1989, c 27, § 2; am L 1990, c 86, § 12; am L 1998, c 102, § 2; am L 1998, c 176, § 6; am L 2003, c 47, § 1; am L 2003, c 73, § 2; am L 2003, c 93, § 2; am L 2005, c 196, § 26; am L 2012, c 56, § 1, effective April 23, 2012; am L 2012, c 282, § 2, effective July 6, 2012.

**Editor's note.** — As to the statewide trail and access system, see 1974 Haw. Sess. Laws, Act 69.

2005 Haw. Sess. Laws, Act 196, § 39, provides: "If any part of this Act is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, the conflicting part of this Act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this Act in its application to the agencies concerned. The rules under this Act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the State."

**NOTES TO DECISIONS**

2005 Haw. Sess. Laws, Act 196, § 16, as amended by 2006 Haw. Sess. Laws, Act 180, § 16 directed that "Hawaii housing finance and

development corporation," be substituted for "Hawaii housing finance and development administrators."

**The 2003 amendments.** — 2003 Haw. Sess. Laws, Act 47, § 1, effective May 7, 2003, inserted "which are set aside by the governor to the agribusiness development corporation; lands leased to the agribusiness development corporation by any department or agency of the State; or lands" in paragraph (10).

2003 Haw. Sess. Laws, Act 73, § 2, effective May 20, 2003, inserted "accreted lands not otherwise awarded" in the introductory paragraph.

2003 Haw. Sess. Laws, Act 93, § 2, effective May 28, 2003, added paragraph (11).

**The 2005 amendment.** effective July 1, 2006, substituted "Hawaii housing finance and development administration" for "housing and community development corporation of Hawaii" in paragraph (6).

**The 2012 amendments.** — 2012 Haw. Sess. Laws, Act 56, § 1, substituted "lands accreted after May 20, 2003, and" for "accreted lands" in the introductory language of the definition of "public lands" and made stylistic changes. 2012 Haw. Sess. Laws, Act 282, § 2, added (12) and made related changes.

As no substantive conflict exists between the two acts, the section has been set out above to reflect the amendments made by both acts.

**OPINIONS OF ATTORNEY GENERAL**

**Rights of state.** — In an action in ejectment, the fact that the complaining party is the state does not affect the general rule that the state is always at liberty to avail itself of all the remedies which the law allows to every person, natural or artificial, for the vindication and assertion of its rights. Territory v. Robinson, 25 Haw. 651, 1920 Haw. LEXIS 8 (1920) (decided under prior law).

**Title to submerged lands** around an island reclaimed by filling in is in the state. Op. Atty Gen. No. 62-16 (1962).

**Title to biogenetic resources.** — Inasmuch as the genetic material or composition of the natural resources and things connected to

public lands, including ceded lands, are an integral part of those resources and things, title to the biogenetic resources will still be held by the State if it has not sold the land. However, legal title to biogenetic resources gathered from State public lands will not still be vested in the

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