

STAND. COM. REP. NO.

2131

Honolulu, Hawaii

, 2006

Feb. 16

RE: S.B. No. 2421
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Water, Land, and Agriculture, to which was referred S.B. No. 2421 entitled:

"A BILL FOR AN ACT RELATING TO ADVERSE POSSESSION,"

begs leave to report as follows:

The purpose of this measure is to prohibit claims to kuleana lands based on adverse possession.

Testimony in support of this measure was submitted by the Office of Hawaiian Affairs (OHA).

Your Committee finds that over the years, many people with ancestral rights to kuleana lands have lost their land for many reasons, including fraud, unfamiliarity with the legal system, epidemics, and outright denials of access to the land. For many people entitled to kuleana lands, it is nearly impossible to prove fraud or unjust dispossessions nearly 100 years after the fact, and many people are still entitled to ancestral claims for kuleana lands. However, many valid ancestral claims for kuleana lands are often pre-empted and eliminated by claims of adverse possession. Thus, this measure prohibits the use of adverse possession for any quiet title claim on kuleana lands.

Your Committee was concerned about the prohibited use of adverse possession in all claims for kuleana lands. Specifically, this measure precludes the use of adverse possession even as a defense by a person who may have an ancestral right to the kuleana land against a quiet title claim. However, OHA noted that those

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who are entitled to an interest in the land could pursue the interest as an ancestral claim. This explanation was noted; however, your Committee respectfully requests your Committee on Judiciary and Hawaiian Affairs to further evaluate this issue.

Your Committee noted that both this measure and S.B. No. 2423 are closely related, as both address important kuleana land issues. Thus, your Committee recognizes the significance of both measures and recommends that these measures continue to move together through the legislative process.

Your Committee has amended this measure by making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Water, Land, and Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2421, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2421, S.D. 1, and be referred to the Committee on Judiciary and Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land, and
Agriculture,


RUSSELL S. KOKUBUN, Chair



