
A BILL FOR AN ACT

RELATING TO HAWAIIAN HOME LANDS.

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

1 SECTION 1. On July 9, 1921, the United States Congress,
2 acknowledging a unique trust responsibility of the United States
3 and the Territory of Hawaii to promote the welfare of the
4 aboriginal, indigenous people of the State, enacted the Hawaiian
5 Homes Commission Act, 1920. Primary responsibility for the
6 homeland trust was delegated to the State of Hawaii through the
7 Hawaii Admission Act of 1959, while the federal government
8 retained certain aspects of responsibility as described in the
9 Hawaiian Homes Commission Act, 1920.

10 Over the ensuing years, the department of Hawaiian home
11 lands has faced significant challenges. Presently, its waiting
12 lists reflect a total of more than forty thousand applications
13 for residential, agricultural, and pastoral homesteads.
14 Applications on these lists have often been left to linger,
15 sometimes for decades, so that it is not uncommon for qualified
16 applicants to die without ever realizing the benefit of
17 homestead land for which they are qualified and to which they
18 are entitled.



1 One major barrier to placing qualified beneficiaries on
2 homestead residential, agricultural, and pastoral land is the
3 lack of water infrastructure and resulting lack of access to
4 water on these lands. This problem is not a new one. In 1964,
5 the legislative reference bureau in a study on the Hawaiian
6 homes program noted that, "[p]art of the difficulties
7 encountered in developing agricultural endeavors and rural
8 settlements has obviously been due to the nature of the land and
9 particularly the lack of water." The same study states, "much
10 of the land was and still is potentially useful for the growing
11 of crops if sufficient water could be provided."

12 The Hawaii Supreme Court has recognized that under the laws
13 of the Hawaiian monarchy, "[e]very portion of land, large or
14 small, ahupuaa, ili or kuleana, upon which people dwelt was ...
15 entitled to drinking water for its human occupants and for their
16 animals and was entitled to water for other domestic purposes.
17 At no time in Hawaii's judicial history has this been denied."
18 *McBryde Sugar Co., Ltd., v. Robinson*, 54 Haw. 174.

19 The Hawaiian Homes Commission Act, 1920, unequivocally
20 states as one of its principal purposes the provision of
21 "adequate amounts of water and supporting infrastructure so that
22 homestead lands will always be useable and accessible." It is



1 also a principal purpose of that Act to establish a permanent
2 land base upon which native Hawaiians may live, farm, and ranch;
3 promptly and efficiently place native Hawaiians on homestead
4 land; and provide technical and financial support to native
5 Hawaiians to ensure that the traditions, culture, and quality of
6 life of native Hawaiians shall be forever self-sustaining.

7 Without adequate water infrastructure and the provision of
8 technical and other support needed to ensure an adequate water
9 supply for Hawaiian home lands, these stated purposes will not
10 be fulfilled and these lands and the solemn trust created by the
11 Hawaiian Homes Commission Act, 1920, are of little use to the
12 native Hawaiians who are intended to benefit from them.

13 Further delay in this regard is unacceptable. Action must
14 be taken to affirm the fiduciary duty of the department of
15 Hawaiian home lands to faithfully administer the provisions of
16 the Hawaiian Homes Commission Act, 1920, on behalf of its native
17 Hawaiian beneficiaries.

18 The purpose of this Act is to require the department of
19 Hawaiian home lands to provide a plan for providing the
20 necessary water infrastructure to allow the development of
21 Hawaiian home lands as required by the Hawaiian Homes Commission



1 Act, 1920, historic Hawaiian law, and the interests of justice
2 for the native Hawaiian people.

3 SECTION 2. The department of Hawaiian home lands shall
4 develop a comprehensive plan to provide sufficient
5 infrastructure to allow access to water and enable development
6 of Hawaiian home lands. This plan shall include:

- 7 (1) An inventory list of projects or land under the
8 authority of the department that require water to be
9 developed; and
- 10 (2) A priority list specifying the order in which water or
11 infrastructure shall be provided to specified projects
12 or land.

13 The development of the comprehensive plan required by this
14 Act shall not delay or hinder the provision of water or water
15 infrastructure; the placement of qualified applicants on
16 Hawaiian homestead land; or any other actions necessary for the
17 development of any project or land used or intended to be used
18 for residential, agricultural, or pastoral purposes for the
19 benefit of the native Hawaiian beneficiaries of the department
20 of Hawaiian home lands

21 SECTION 3. The department of Hawaiian home lands shall
22 submit the plan required by this Act to the legislature no later



1 than twenty days prior to the convening of the regular session
2 of 2015.

3 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Hawaiian Home Lands; Development; Water

Description:

Requires the Department of Hawaiian Home Lands to devise a comprehensive plan to provide water and infrastructure sufficient for development of Hawaiian home lands. (HB2104 HD1)

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