

"[CHAPTER 10H]
NATIVE HAWAIIAN RECOGNITION

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Note

Funding for Native Hawaiian roll commission. L 2011, c 195, §4; L 2014, c 14, §2.

" **[\$10H-1] Statement of recognition.** The Native Hawaiian people are hereby recognized as the only indigenous, aboriginal, maoli people of Hawaii. [L 2011, c 195, pt of §2]

" **[\$10H-2] Purpose.** The purpose of this chapter is to provide for and to implement the recognition of the Native Hawaiian people by means and methods that will facilitate their self-governance, including the establishment of, or the amendment to, programs, entities, and other matters pursuant to law that relate, or affect ownership, possession, or use of lands by the Native Hawaiian people, and by further promoting their culture, heritage, entitlements, health, education, and welfare. [L 2011, c 195, pt of §2]

" **§10H-3 Native Hawaiian roll commission.** (a) There is established a five-member Native Hawaiian roll commission within the office of Hawaiian affairs for administrative purposes only. The Native Hawaiian roll commission shall be responsible for:

- (1) Preparing and maintaining a roll of qualified Native Hawaiians;
 - (2) Certifying that the individuals on the roll of qualified Native Hawaiians meet the definition of qualified Native Hawaiians. For purposes of establishing the roll, a "qualified Native Hawaiian" means an individual whom the commission determines has satisfied the following criteria and who makes a written statement certifying that the individual:
 - (A) Is:
 - (i) An individual who is a descendant of the aboriginal peoples who, prior to 1778, occupied and exercised sovereignty in the Hawaiian islands, the area that now constitutes the State of Hawaii;
 - (ii) An individual who is one of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act, 1920, or a direct lineal descendant of that individual;
- or

- (iii) An individual who meets the ancestry requirements of Kamehameha Schools or of any Hawaiian registry program of the office of Hawaiian affairs;
 - (B) Has maintained a significant cultural, social, or civic connection to the Native Hawaiian community and wishes to participate in the organization of the Native Hawaiian governing entity; and
 - (C) Is eighteen years of age or older;
- (3) Receiving and maintaining documents that verify ancestry; cultural, social, or civic connection to the Native Hawaiian community; and age from individuals seeking to be included in the roll of qualified Native Hawaiians. Notwithstanding any other law to the contrary, these verification documents shall be confidential; and
- (4) Notwithstanding any other law to the contrary, including in the roll of qualified Native Hawaiians all individuals already registered with the State as verified Hawaiians or Native Hawaiians through the office of Hawaiian affairs as demonstrated by the production of relevant office of Hawaiian affairs records, and extending to those individuals all rights and recognitions conferred upon other members of the roll.

(b) No later than one hundred eighty days after [July 6, 2011], the governor shall appoint the members of the Native Hawaiian roll commission from nominations submitted by qualified Native Hawaiians and qualified Native Hawaiian membership organizations. For the purposes of this subsection, a qualified Native Hawaiian membership organization includes an organization that, on [July 6, 2011], has been in existence for at least ten years, and whose purpose has been and is the betterment of the conditions of the Native Hawaiian people.

In selecting the five members from nominations submitted by qualified Native Hawaiians and qualified Native Hawaiian membership organizations, the governor shall appoint the members as follows:

- (1) One member shall reside in the county of Hawaii;
- (2) One member shall reside in the city and county of Honolulu;
- (3) One member shall reside in the county of Kauai;
- (4) One member shall reside in the county of Maui; and
- (5) One member shall serve at-large.

(c) A vacancy on the commission shall not affect the powers of the commission and shall be filled in the same manner as the original appointment.

(d) Members of the commission shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence while away from their homes or regular places of business in the performance of services for the commission.

(e) The commission, without regard to chapter 76, may appoint and terminate an executive director and other additional personnel as are necessary to enable the commission to perform the duties of the commission.

(f) The commission may fix the compensation of the executive director and other commission personnel.

(g) The commission may procure temporary and intermittent services. [L 2011, c 195, pt of §2; am L 2012, c 84, §1; am L 2013, c 77, §1]

" **§10H-4 Notice of qualified Native Hawaiian roll.** (a) The commission shall publish notice of the certification of the qualified Native Hawaiian roll, update the roll as necessary, and publish notice of the updated roll of qualified Native Hawaiians; provided that the commission shall not publish or release any verification documents of any qualified Native Hawaiian on the roll.

(b) The publication of the initial and updated rolls shall serve as the basis for the eligibility of qualified Native Hawaiians whose names are listed on the rolls to participate in the organization of the Native Hawaiian governing entity. [L 2011, c 195, pt of §2; am L 2012, c 84, §2]

" **[§10H-5] Native Hawaiian convention.** The publication of the roll of qualified Native Hawaiians, as provided in section 10H-4, is intended to facilitate the process under which qualified Native Hawaiians may independently commence the organization of a convention of qualified Native Hawaiians, established for the purpose of organizing themselves. [L 2011, c 195, pt of §2]

" **[§10H-6] Dissolution of the Native Hawaiian roll commission.** The governor shall dissolve the Native Hawaiian roll commission upon being informed by the Native Hawaiian roll commission that it has published notice of any updated roll of qualified Native Hawaiians, as provided in section 10H-4, and thereby completed its work. [L 2011, c 195, pt of §2]

" **[\$10H-7] No diminishment of rights or privileges.** Nothing contained in this chapter shall diminish, alter, or amend any existing rights or privileges enjoyed by the Native Hawaiian people that are not inconsistent with this chapter. [L 2011, c 195, pt of §2]

" **[\$10H-8] Reaffirmation of delegation of federal authority; governmental authority and power; negotiations.** (a) The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled "An Act to Provide for the Admission of the State of Hawaii into the Union", approved March 18, 1959 (Public Law 86-3), is reaffirmed.

(b) Consistent with the policies of the State of Hawaii, the members of the qualified Native Hawaiian roll, and their descendants, shall be acknowledged by the State of Hawaii as the indigenous, aboriginal, maoli population of Hawaii. [L 2011, c 195, pt of §2]

" **[\$10H-9] Disclaimer.** Nothing in this chapter is intended to serve as a settlement of any claims against the State of Hawaii, or affect the rights of the Native Hawaiian people under state, federal, or international law. [L 2011, c 195, pt of §2]