

STAND. COM. REP. NO.

1013

Honolulu, Hawaii

MAR 01 2019

RE: S.B. No. 1495  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1495 entitled:

"A BILL FOR AN ACT RELATING TO ACTIONS FOR QUIET TITLE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide that where a quiet title action involves kuleana land, at the request of any defendant at the time the action was brought, the court shall order mandatory mediation with a goal of resolving the dispute and consolidating separate actions commenced by the same plaintiff or multiple plaintiffs for the same real property in interests; and
- (2) Require the plaintiff in a quiet title action involving kuleana land to bear the costs of required mediation and only recover certain costs, expenses, or attorney's fees as the court may deem equitable.

Your Committee received testimony in support of this measure from the Office of Hawaiian Affairs; We Are One, Inc.; Ka Lāhui Hawai'i Political Action Committee; Hawaiian Affairs Caucus of the Democratic Party of Hawaii; O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i; and nine



individuals. Your Committee received comments on this measure from one individual.

Your Committee finds that although quiet title actions have historically been a beneficial legal tool for native Hawaiian kuleana awardees to resist adverse possession claims made by large agricultural landowners, the current framework of quiet title action leaves kuleana land owners vulnerable to dispossession through complex and cost-prohibitive legal processes. However, your Committee further finds that mandatory mediation at the request of any defendant may not be the best solution. Your Committee additionally finds that authorizing the Office of Hawaiian Affairs to intervene in actions to quiet title at the discretion of and upon official action by the Board of Trustees will mitigate the financial and legal hardships sometimes faced by kuleana land owners in actions to quiet title brought by large single plaintiffs. Your Committee notes that this measure is a work in progress, and encourages further discussion and refinement as it continues through the legislative process.

Accordingly, your Committee has amended this measure by:

- (1) Removing the requirement that the court order mandatory mediation at the request of any defendant in a quiet title action involving kuleana lands and the requirement that the plaintiff bear the costs of required mediation;
- (2) Authorizing the Office of Hawaiian Affairs to intervene upon official action of the Board of Trustees in any action to quiet title in which any portion of the land claimed by the plaintiff is kuleana land;
- (3) Inserting an effective date of March 15, 2094, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1495, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1495, S.D. 1.



Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,

*Karl Rhoads*

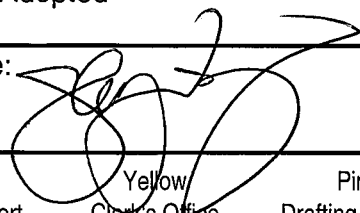
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KARL RHOADS, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:* <b>SB1495</b>	Committee Referral: <b>HWM, JDC</b>	Date: <b>2/26/19</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
WAKAI, Glenn (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
FEVELLA, Kurt				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes