
A BILL FOR AN ACT

RELATING TO HAWAIIAN HOME LANDS.

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

1 SECTION 1. The legislature finds that when the United
2 States Congress passed the Hawaiian Homes Commission Act of 1920
3 and set aside approximately 203,500 acres of public lands as
4 Hawaiian home lands for the rehabilitation of native Hawaiians,
5 the United States reaffirmed the trust responsibility it had
6 assumed toward the Hawaiian people.

7 The legislature also finds that under the Admission Act,
8 the State assumed the trust responsibility to carry out the
9 mandates of the Hawaiian Homes Commission Act.

10 The legislature further finds that thousands of acres of
11 Hawaiian home lands were allegedly used, disposed of, or
12 withdrawn from the trust by territorial or state executive
13 actions in contravention of the Hawaiian Homes Commission Act.
14 In recognition of these allegations and toward their resolution,
15 the legislature enacted Act 395, Session Laws of Hawaii 1988,
16 which, among other actions, provided a limited waiver of
17 sovereign immunity for breaches of the Hawaiian home lands trust



1 from July 1, 1988 forward. Act 395 also required the governor
2 to present a proposal to the legislature prior to the convening
3 of the 1991 Regular Session to resolve controversies that arose
4 between August 21, 1959 and July 1, 1988. The governor's Action
5 Plan to Address Controversies under the Hawaiian Home Lands
6 Trust and the Public Land Trust was accepted by the legislature
7 pursuant to its adoption of S.C.R. No. 185, H.D. 1, in 1991.

8 The governor's Action Plan, among other actions, proposed
9 convening a task force of representatives from the department of
10 Hawaiian home lands, the department of land and natural
11 resources, the office of state planning, and the department of
12 the attorney general to accelerate the review process concerning
13 department of Hawaiian home lands' land title and compensation
14 claims. The actions of the task force were to include verifying
15 title claims, determining if improper uses were still in
16 existence and whether these uses should be canceled or continued
17 if authorized by the Hawaiian homes commission, conducting
18 appraisals and determining appropriate compensation for past and
19 continued use of Hawaiian home lands, and pursuing all avenues
20 for return of lands and compensation from the federal government
21 for wrongful actions during the territorial period.



1 In 1992, the legislature approved the resolution of the
2 first set of claims covering gubernatorial executive orders and
3 proclamations that set aside 29,633 acres of lands for public
4 uses such as forest reserves, schools, and parks. Act 316,
5 Session Laws of Hawaii 1992, provided \$12,000,000 to pay
6 verified claims and provide other means to resolve public use
7 controversies.

8 In 1993, the legislature approved further means to resolve
9 verified claims. Act 352, Session Laws of Hawaii 1993, extended
10 the period within which to pay compensation, continued the
11 authorization to the State to pursue claims against the United
12 States for the federal government's wrongful actions, and
13 authorized land exchanges to resolve alienations of Hawaiian
14 home lands.

15 In 1994, the task force continued to verify and value
16 certain of the claims that remained unresolved, including claims
17 for lands in Lualualei and Waimanalo on Oahu, Anahola, Moloaa,
18 Kamalomalo, and Waimea on Kauai, Puukapu, Keaukaha, Panaewa, and
19 Kawaihae on Hawaii, Kula on Maui, and Kalaupapa on Molokai; and
20 compensation for periods of public use of trust land not already
21 paid.



1 In 1995, the legislature found that, due to the difficulty,
2 time, uncertainty, disruption of public purposes, impact on the
3 public land trust and private landowners, and expense of
4 judicial resolution of remaining disputed claims, another
5 approach, which results in the repair of the Hawaiian home lands
6 trust and the final resolution of claims against the State, is
7 necessary and in the best interests of the State and the
8 beneficiaries of the trust.

9 With the enactment of Act 14, Special Session Laws of
10 Hawaii 1995, with respect to all controversies arising between
11 August 21, 1959, and July 1, 1988, excluding individual claims
12 provided for pursuant to chapter 674, Hawaii Revised Statutes,
13 the State withdrew the limited waiver of sovereign immunity
14 permitted by Act 395, Session Laws of Hawaii 1988, thereby
15 forever barring all claims arising between August 21, 1959, and
16 July 1, 1988.

17 With the enactment of Act 14, the legislature intended, in
18 part, to resolve all controversies for the period between
19 August 21, 1959 and July 1, 1988, allowed by Act 395, Session
20 Laws of Hawaii 1988, except those permitted by chapter 674,
21 Hawaii Revised Statutes; resolve all controversies relating to



1 the validity of patents issued after 1920 and prior to July 1,
2 1988, and affecting any lands covered by or allegedly covered by
3 the Hawaiian Homes Commission Act and to all rights arising from
4 or relating to such patents as issued; and make certain other
5 related amendments to chapters 673 and 674, Hawaii Revised
6 Statutes. The legislature also found that to properly utilize
7 Hawaiian home lands, there was a need for a substantial,
8 predictable funding mechanism for the department of Hawaiian
9 homes lands to appropriately plan for the development of those
10 lands. Accordingly, Act 14 established a Hawaiian home lands
11 trust fund.

12 With the enactment of Act 14, the State resolved all
13 controversies and claims encompassed by the Act by taking
14 several actions. Act 14 established the aforementioned trust
15 fund and required that the State make twenty annual deposits of
16 \$30,000,000, or their discounted value equivalent, into the
17 trust fund; provided that in lieu of sums deposited, the State,
18 with the approval of the commission, could substitute from time
19 to time land or other consideration having the fair market value
20 of the deposit, as mutually agreed by the State and commission;
21 provided that the State, at any time, may prepay sums due,



1 without penalty, and that the total amount to be deposited into
2 the trust fund shall be adjusted by the prepayment based on a
3 discount rate per year equal to the then-average weekly
4 investment rate on five year treasury bills; and provided
5 further that the payment of funds into the trust fund shall
6 include any interest, as determined by section 478-2, Hawaii
7 Revised Statutes, on the unpaid balance of any funds due but not
8 appropriated by the end of each respective fiscal year. Act 14
9 also transferred lands in the Waimanalo, Anahola, Kamalomalo,
10 and Moloaa areas; the compensation for all remaining confirmed
11 uncompensated public uses of Hawaiian home lands; the initiation
12 of a land exchange to remedy uncompensated use of Hawaiian home
13 lands for state roads claims and highways; and the provision of
14 the first selection of up to two hundred acres of land, to be
15 conveyed to the department of Hawaiian home lands to fulfill the
16 provisions of claims resolution, upon the return to the State of
17 any ceded lands, comprising all, or a portion of Bellows Air
18 Force Station (TMK:4-1-15). Act 14 further required the State
19 to pay in advance all rent due for department of Hawaiian home
20 lands license agreement no. 308 for the continued State use of
21 trust lands under Nanaikapono elementary school between April 4,



1 1996, and October 27, 2002. Act 14 also required the State to
2 pay for the State's uncompensated use of Hawaiian home lands
3 between 1959 and 1995. Finally, Act 14 required the State to
4 pay moneys owed the department of Hawaiian home lands as its
5 thirty per cent entitlement for the use of Hanapepe, Kauai,
6 public lands formerly under lease of sugarcane cultivation on
7 November 7, 1978, pursuant to section 1 of article XII of the
8 Constitution of the State of Hawaii.

9 The legislature finds that, although past steps have been
10 taken to resolve claims regarding Hawaiian home lands, there are
11 valid concerns about outstanding issues relating to Act 14;
12 claims made pursuant to chapter 673, Hawaii Revised Statutes,
13 that arose after July 1, 1988; and the outstanding status of
14 certain elements, such as the Mauna Kea access road.

15 Accordingly, the purpose of this Act is to establish a task
16 force to assess all outstanding claims related to the Hawaiian
17 Homes Commission Act of 1920.

18 SECTION 2. (a) There is established within the department
19 of Hawaiian home lands for administrative purposes only a
20 Hawaiian home lands outstanding claims task force.



1 (b) The chairperson of the Hawaiian homes commission or
2 the chairperson's designee shall serve as the chairperson of the
3 task force. The following individuals or their designees shall
4 serve as members of the task force:

- 5 (1) The comptroller;
- 6 (2) The attorney general;
- 7 (3) The director of finance; and
- 8 (4) The chairperson of the board of trustees of the office
9 of Hawaiian affairs.

10 (c) The chairperson of the task force shall invite up to
11 three additional individuals representing stakeholder parties to
12 serve as members of the task force.

13 (d) Notwithstanding any law to the contrary, no member of
14 the task force shall be subject to chapter 84, Hawaii Revised
15 Statutes, solely due to that member's participation as a member
16 of the task force.

17 (e) The Hawaiian home lands outstanding claims task force
18 shall:

- 19 (1) Review outstanding issues related to Act 14, Special
20 Session Laws of Hawaii 1995;



- 1 (2) Investigate claims made pursuant to chapter 673,
- 2 Hawaii Revised Statutes, that arose after July 1,
- 3 1988; and
- 4 (3) Review the outstanding status of certain elements,
- 5 such as the Mauna Kea Access Road.
- 6 (f) No later than twenty days prior to the convening of
- 7 the regular session of 2021, the Hawaiian home lands outstanding
- 8 claims task force shall submit to the legislature a report on
- 9 the progress of its efforts and its findings and
- 10 recommendations, including any proposed legislation.
- 11 (g) The task force shall be dissolved on June 30, 2021.

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

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INTRODUCED BY:

Do Hee
FLORIAN
Opp. Kea *Koala*
Alan *A. [unclear]*
S. [unclear] *Dr.*
Tou Bu

JAN 23 2020



H.B. NO. 2587

Report Title:

DHHL; Hawaiian Homes Commission; Claims; Task Force

Description:

Establishes within the Department Hawaiian Home Lands, for administrative purposes only, a Hawaiian home lands outstanding claims task force. Requires a report to the Legislature.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

