
HOUSE CONCURRENT RESOLUTION

REQUESTING THE ESTABLISHMENT OF A TASK FORCE TO ASSESS THE
OUTSTANDING CLAIMS RELATING TO THE HAWAIIAN HOMES
COMMISSION ACT.

1 WHEREAS, when the United States Congress passed the
2 Hawaiian Homes Commission Act of 1920 (HHCA) and set aside
3 approximately 203,500 acres of public lands as Hawaiian home
4 lands for the rehabilitation of native Hawaiians, the United
5 States reaffirmed the trust responsibility it had assumed toward
6 the Hawaiian people; and

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8 WHEREAS, under the Admission Act, the State of Hawaii
9 assumed the trust responsibility to carry out the mandates of
10 the HHCA; and

11
12 WHEREAS, thousands of acres of Hawaiian home lands were
13 allegedly used, disposed of, or withdrawn from the trust by
14 territorial or state executive actions in contravention of the
15 HHCA; and

16
17 WHEREAS, in recognition of these allegations and toward
18 their resolution, the Legislature enacted Act 395, Session Laws
19 of Hawaii 1988, which, among other actions, provided a limited
20 waiver of sovereign immunity for breaches of the Hawaiian home
21 lands trust from July 1, 1988 forward; and

22
23 WHEREAS, Act 395, Session Laws of Hawaii 1988, also
24 required the Governor to present a proposal to the Legislature
25 prior to the convening of the 1991 Regular Session to resolve
26 controversies which arose between August 21, 1959 and July 1,
27 1988; and

28
29 WHEREAS, the Governor's Action Plan to Address
30 Controversies under the Hawaiian Home Lands Trust and the Public
31 Land Trust (Governor's Action Plan) was accepted by the



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1 Legislature pursuant to its adoption of S.C.R. No. 185, H.D. 1,
2 in 1991; and

3

4 WHEREAS, the Governor's Action Plan, among other actions,
5 proposed convening a task force of representatives from the
6 Department of Hawaiian Home Lands, the Department of Land and
7 Natural Resources, the Office of State Planning, and the
8 Department of the Attorney General to accelerate the review
9 process concerning Department of Hawaiian Home Lands' land title
10 and compensation claims; and

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12 WHEREAS, the actions of the task force were to include
13 verifying title claims, determining if improper uses were still
14 in existence and whether these uses should be canceled or
15 continued if authorized by the Hawaiian Homes Commission,
16 conducting appraisals and determining appropriate compensation
17 for past and continued use of Hawaiian home lands, and pursuing
18 all avenues for return of lands and compensation from the
19 federal government for wrongful actions during the territorial
20 period; and

21

22 WHEREAS, in 1992, the Legislature approved the resolution
23 of the first set of claims covering gubernatorial executive
24 orders and proclamations which set aside 29,633 acres of lands
25 for public uses such as forest reserves, schools, and parks.
26 Act 316, Session Laws of Hawaii 1992, provided \$12,000,000 to
27 pay verified claims and provide other means to resolve public
28 use controversies; and

29

30 WHEREAS, in 1993, the Legislature approved further means to
31 resolve verified claims. Act 352, Session Laws of Hawaii 1993,
32 extended the period within which to pay compensation, continued
33 the authorization to the State to pursue claims against the
34 United States for the federal government's wrongful actions, and
35 authorized land exchanges to resolve alienations of Hawaiian
36 home lands; and

37

38 WHEREAS, in 1994, the task force continued to verify and
39 value certain of the claims which remained unresolved, including
40 claims for lands in Lualualei and Waimanalo on Oahu, Anahola,
41 Moloa'a, Kamalomalo'o, and Waimea on Kauai, Puukapu, Keaukaha,
42 Panaewa, and Kawaihae on Hawaii, Kula on Maui, and Kalaupapa on



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1 Molokai; and compensation for periods of public use of trust
2 land not already paid; and

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4 WHEREAS, in 1995, the Legislature found that, due to the
5 difficulty, time, uncertainty, disruption of public purposes,
6 impact on the public land trust and private landowners, and
7 expense of judicial resolution of remaining disputed claims,
8 another approach, which resulted in the repair of the Hawaiian
9 home lands trust and the final resolution of claims against the
10 State, was necessary and in the best interests of the State and
11 the beneficiaries of the trust; and

12

13 WHEREAS, with the passage of Act 14, Session Laws of Hawaii
14 Special Session 1995 (hereinafter referred to as Act 14), with
15 respect to all controversies that arose between August 21, 1959
16 and July 1, 1988, excluding individual claims provided for
17 pursuant to chapter 674, Hawaii Revised Statutes, the State
18 withdrew the limited waiver of sovereign immunity permitted by
19 Act 395, Session Laws of Hawaii 1988 thereby forever barring all
20 claims arising between August 21, 1959 and July 1, 1988; and

21

22 WHEREAS, in passing Act 14, the intent of the Legislature
23 was, in part, to: (a) resolve all controversies for the period
24 between August 21, 1959 and July 1, 1988, allowed by Act 395,
25 Session Laws of Hawaii 1988, except those permitted by chapter
26 674, Hawaii Revised Statutes, (b) resolve all controversies
27 relating to the validity of patents issued after 1920 and prior
28 to July 1, 1988 and affecting any lands covered by or allegedly
29 covered by the HHCA and to all rights arising from or relating
30 to such patents as issued, and (c) make certain other related
31 amendments to chapters 673 and 674, Hawaii Revised Statutes; and

32

33 WHEREAS, the Legislature also found that in order to
34 properly utilize Hawaiian home lands, there was a need for a
35 substantial, predictable funding mechanism for the Department of
36 Hawaiian Home Lands to appropriately plan for the development of
37 these lands and therefore established a Hawaiian home lands
38 trust fund; and

39

40 WHEREAS, the State resolved all controversies and claims
41 encompassed by Act 14, by establishing the Hawaiian home lands
42 trust fund and requiring the State to make twenty annual



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1 deposits of \$30,000,000, or their discounted value equivalent,
2 into the trust fund; provided that in lieu of sums deposited
3 hereunder, the State could, with the approval of the Commission,
4 substitute from time to time land or other consideration having
5 the fair market value of such deposit, as mutually agreed by the
6 State and Hawaiian Homes Commission; provided that the State
7 could, at any time, prepay sums due hereunder, without penalty,
8 and that the total amount to be deposited into the trust fund
9 should be adjusted by such prepayment based on a discount rate
10 per year equal to the then-average weekly investment rate on
11 five year Treasury Bills; and provided further that the payment
12 of funds into the trust fund should include any interest, as
13 determined by section 478-2, Hawaii Revised Statutes, on the
14 unpaid balance of any funds due but not appropriated by the end
15 of each respective fiscal year; and

16

17 WHEREAS, the State further resolved all controversies and
18 claims encompassed by Act 14, by transferring lands and
19 resolving claims in the Waimanalo, Anahola, Kamalomalo'o, and
20 Moloa'a areas; the compensation for all remaining confirmed
21 uncompensated public uses of Hawaiian home lands; the initiation
22 of a land exchange to remedy uncompensated use of Hawaiian home
23 lands for state roads claims and highways; and the provision of
24 the first selection of up to two hundred acres of land, to be
25 conveyed to the department to fulfill the provisions of claims
26 resolution, upon the return to the State of any ceded lands,
27 comprising all, or a portion of Bellows Air Force Station (TMK:
28 4-1-15.); and

29

30 WHEREAS, the State further resolved all controversies and
31 claims encompassed by Act 14, by paying \$2,348,558 for the
32 purpose of paying in advance all rent due for Department of
33 Hawaiian Home Lands license agreement no. 308 for the continued
34 State use of trust lands under Nanaikapono elementary school
35 between April 4, 1996 and October 27, 2002; and

36

37 WHEREAS, the State further resolved all controversies and
38 claims encompassed by Act 14, by paying \$2,390,000 for the
39 purpose of paying compensation for the State's uncompensated use
40 of Hawaiian home lands between 1959 and 1995; and

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1 WHEREAS, the State further resolved all controversies and
2 claims encompassed by Act 14, by paying \$1,539,000 for the
3 purpose of payment of moneys owed the Department of Hawaiian
4 Home Lands as its thirty per cent entitlement for the use of
5 Hanapepe, Kauai, public lands formerly under lease of sugarcane
6 cultivation on November 7, 1978, pursuant to section 1 of
7 article XII of the Constitution of the State of Hawaii; and

8
9 WHEREAS, the Legislature continues to have concerns about
10 the following issues:

- 11
12 (1) Outstanding issues related to Act 14;
13
14 (2) Claims made pursuant to chapter 673, Hawaii Revised
15 Statutes, which arose after July 1, 1988; and
16
17 (3) The outstanding status of certain elements such as the
18 Mauna Kea Access Road;

19
20 now, therefore,

21
22 BE IT RESOLVED by the House of Representatives of the
23 Thirtieth Legislature of the State of Hawaii, Regular Session of
24 2020, the Senate concurring, that the Chairperson of the
25 Hawaiian Homes Commission is requested to convene a task force
26 to assess all outstanding claims related to the Hawaiian Homes
27 Commission Act; and

28
29 BE IT FURTHER RESOLVED that the task force is requested to
30 include the following members:

- 31
32 (1) The Comptroller, or the Comptroller's designee;
33
34 (2) The Chairperson of the Hawaiian Homes Commission, or
35 the Chairperson of the Hawaiian Homes Commission's
36 designee;
37
38 (3) The Director of the Department of Hawaiian Home Lands,
39 or the Director of the Department of Hawaiian Home
40 Lands' designee;
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- 1 (4) The Attorney General, or the Attorney General's
2 designee;
- 3
- 4 (5) The Director of Finance, or the Director of Finance's
5 designee;
- 6
- 7 (6) A representative from the Office of Hawaiian Affairs;
8 and
- 9
- 10 (7) Up to three additional members representing
11 stakeholder parties selected by the Chairperson of the
12 Hawaiian Homes Commission; and
- 13

14 BE IT FURTHER RESOLVED that no member of the task force be
15 subject to chapter 84, Hawaii Revised Statutes, solely because
16 of that member's participation as a member of the task force;
17 and

18

19 BE IT FURTHER RESOLVED that the task force is requested to:

- 20
- 21 (1) Review outstanding issues related to Act 14;
- 22
- 23 (2) Investigate claims made pursuant to chapter 673,
24 Hawaii Revised Statutes, which arose after July 1,
25 1988; and
- 26
- 27 (3) Review the outstanding status of certain elements such
28 as the Mauna Kea Access Road; and
- 29

30 BE IT FURTHER RESOLVED that the task force is requested to
31 submit a report to the Legislature no later than twenty days
32 prior to the convening of the Regular Session of 2021,
33 describing the progress made by the task force, its findings and
34 recommendations, and any proposed legislation; and

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36 BE IT FURTHER RESOLVED that the task force be dissolved on
37 June 30, 2021; and

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39 BE IT FURTHER RESOLVED that certified copies of this
40 Concurrent Resolution be transmitted to the Governor,
41 Comptroller, Chairperson of the Hawaiian Homes Commission,



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1 Director of the Department of Hawaiian Home Lands, Attorney
2 General, and Director of Finance.
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