
HOUSE 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

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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13 allegedly used, disposed of, or withdrawn from the trust by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

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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

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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

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



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

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

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

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

WHEREAS, in 1994, the task force continued to verify and value certain of the claims which remained unresolved, including claims for lands in Lualualei and Waimanalo on Oahu, Anahola, Moloa'a, Kamalomalo'o, and Waimea on Kauai, Puukapu, Keaukaha, Panaewa, and Kawaihae on Hawaii, Kula on Maui, and Kalaupapa on Molokai; and compensation for periods of public use of trust land not already paid; and



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

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

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

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

WHEREAS, the State resolved all controversies and claims encompassed by Act 14, by establishing the Hawaiian home lands trust fund and requiring the State to make twenty annual deposits of \$30,000,000, or their discounted value equivalent, into the trust fund; provided that in lieu of sums deposited



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

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

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

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

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40 WHEREAS, the State further resolved all controversies and
41 claims encompassed by Act 14, by paying \$1,539,000 for the
42 purpose of payment of moneys owed the Department of Hawaiian



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1 Home Lands as its thirty per cent entitlement for the use of
2 Hanapepe, Kauai, public lands formerly under lease of sugarcane
3 cultivation on November 7, 1978, pursuant to section 1 of
4 article XII of the Constitution of the State of Hawaii; and
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6 WHEREAS, the Legislature continues to have concerns about
7 the following issues:
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- 9 (1) Outstanding issues related to Act 14;
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11 (2) Claims made pursuant to chapter 673, Hawaii Revised
12 Statutes, which arose after July 1, 1988; and
13
14 (3) The outstanding status of certain elements such as the
15 Mauna Kea Access Road;
16

17 now, therefore,
18

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

25 BE IT FURTHER RESOLVED that the task force is requested to
26 include the following members:
27

- 28 (1) The Comptroller, or the Comptroller's designee;
29
30 (2) The Chairperson of the Hawaiian Homes Commission, or
31 the Chairperson of the Hawaiian Homes Commission's
32 designee;
33
34 (3) The Director of the Department of Hawaiian Home Lands,
35 or the Director of the Department of Hawaiian Home
36 Lands' designee;
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38 (4) The Attorney General, or the Attorney General's
39 designee;
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41 (5) The Director of Finance, or the Director of Finance's
42 designee;



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(6) A representative from the Office of Hawaiian Affairs;
and

(7) Up to three additional members representing
stakeholder parties selected by the Chairperson of the
Hawaiian Homes Commission; and

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

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

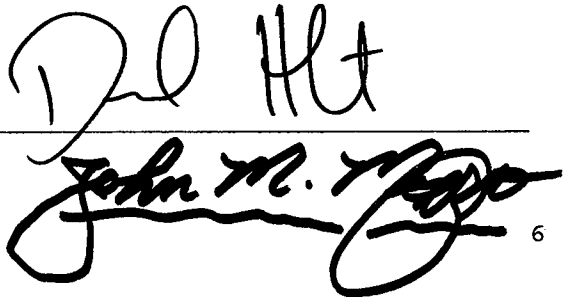
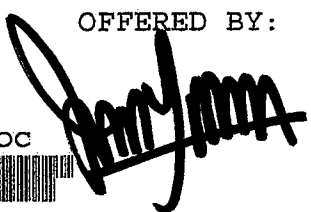
- (1) Review outstanding issues related to Act 14;
- (2) Investigate claims made pursuant to chapter 673,
Hawaii Revised Statutes, which arose after July 1,
1988; and
- (3) Review the outstanding status of certain elements such
as the Mauna Kea Access Road; and

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

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

BE IT FURTHER RESOLVED that certified copies of this
Resolution be transmitted to the Governor, Comptroller,
Chairperson of the Hawaiian Homes Commission, Director of the
Department of Hawaiian Home Lands, Attorney General, and
Director of Finance.

OFFERED BY:



Lindalching
Shun c de
Paul Kuhn

JAN 17 2020

