

STAND. COM. REP. NO. 1115

Honolulu, Hawaii

MAR 24 2021

RE: S.R. No. 39
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committees on Hawaiian Affairs and Ways and Means, to which was referred S.R. No. 39 entitled:

"SENATE RESOLUTION URGING THE COUNTIES TO EXPAND KULEANA PROPERTY TAX RELIEF TO FAMILY MEMBERS THAT HAVE CONTINUOUS OWNERSHIP OF ANCESTRAL LANDS,"

beg leave to report as follows:

The purpose and intent of this measure is to urge the counties to expand kuleana property tax relief to family members that have continuous ownership of ancestral lands.

Your Committees received testimony in support of this measure from Kipuka Kuleana, 'Āina Aloha Economic Futures Initiative, and fifty-two individuals.

Your Committees find that the health and well-being of native Hawaiians are intrinsically tied to the 'āina and immeasurable value in the relationship between Hawaiians, their ancestors, and the land. The Kumulipo, the Native Hawaiian cosmogony and creation chant, establishes that native Hawaiians descend from natural life forms. The inextricable familial relation to the 'āina engenders a kuleana to care for the land, and a deep-rooted bond between native Hawaiians and the 'āina that they care for. Historically the 'āina was held in trust by the sovereign for the benefit for all.



Your Committees further find that the Māhele, the foundational process of what would become the private property system in Hawaii, provided mechanisms for ownership of kuleana land by Hawaiian Kingdom subjects and foreign citizens. The Kuleana Act of August 6, 1850, and the amendment of July 11, 1851, authorized the Kingdom of Hawaii to confirm several resolutions of the Monarch and Privy Council that secured title for native tenants to possess land for cultivation. Since that time, many kuleana land parcels have been lost due to a myriad of reasons, including the lack of understanding of the imposed foreign legal and judicial system, introduction and expansion of large-scale ranching and plantation operations, the decline of taro cultivation due to the mass diversion of water for large-scale planting and ranching operations from large community-maintained traditional irrigation systems, the acquisition of parcels through adverse possession or quiet title actions, and the seizure of parcels as payments for debt and taxes.

Currently, the rapid escalation of land values in recent years have resulted in disenfranchisement of native Hawaiian families, foreclosure, emotional and financial struggles, and harm to the cultural, spiritual, social, and health connections for native Hawaiian families that are trying to keep their ancestral lands, farms, and burial places, especially in affluent areas. These kuleana lands are unique to the State and its identity.

Your Committees find that the City and County of Honolulu, County of Hawaii, County of Kauai, and County of Maui have enacted ordinances providing for a permanent reduction in property tax rates for lands received by native Hawaiians who demonstrate that they are lineal descendants of an original kuleana owner and that at least part of the property they currently own is comprised of kuleana land acquired by the original awardee under sections 1 and 2 of the Kuleana Act of 1850. These property tax exemptions have resulted in qualified owners of kuleana lands paying minimal property taxes, enhancing the protection of these historic lands and tax relief to owners. Additionally, the fiscal impact of kuleana land property tax exemptions on county revenues has been minimal as relative few parcels qualify for an exemption.

Your Committees further find that this distribution under sections 1 and 2 of the Kuleana Act makes up less than one percent of lands in the State, including only twenty-eight thousand acres



of land. Additionally, the Kuleana Act allowed Hawaiian Kingdom subjects, including native Hawaiians, to purchase government lands, by which native Hawaiians obtained land through this process. Families who purchased land not classified as kuleana land through other mechanisms under the Kuleana Act do not benefit from the property tax relief provided by the counties. Your Committees additionally find that expanding protections to section 4 of the Kuleana Act would still only account for four percent of lands throughout the State, accounting for four hundred thousand acres.

Your Committees discussed exempting continuous ownership requirements and county infrastructure requirements from kuleana lands. Currently, many families are unable to prove continuous lineal ownership due to various inconsistencies between the traditional Native Hawaiian land tenure system and a Western land title system that has failed to incorporate and recognize the communal land values of traditional Native Hawaiian culture that include but are not limited to:

- (1) A break in title where families lost a quiet title or forced partition action, but then regained title;
- (2) Lack of recognition for lineal ownership due to lack of proof of blood quantum;
- (3) Preclusion of hānai children from asserting right to title; and
- (4) Lack of documentation to proof title necessary to establish continuous ownership.

Your Committees find that these issues raise concerns that merit further consideration as this measure proceeds.

Your Committees have amended this measure by:

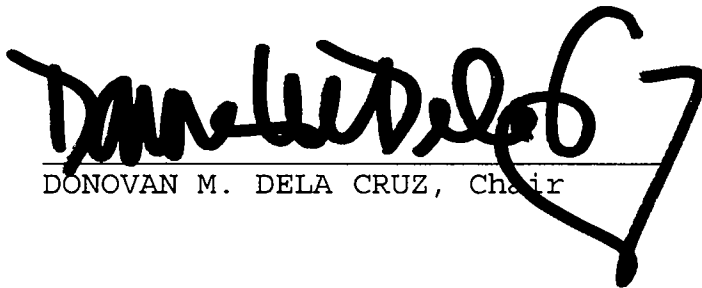
- (1) Deleting its contents and inserting language that:
 - (A) Recognizes how native Hawaiians are connected to the 'āina through genealogy and provides more context around the value kuleana lands hold for the State;



- (B) Urges the counties to expand property tax projections to include all lands purchased by Hawaiian Kingdom subjects under the Kuleana Act and whose titleholders can trace lineal ownership of such lands to the Kuleana Act;
 - (C) Recognizes and appreciates the pilina (relationship) native Hawaiians maintain with 'āina and the unique value this pilina contributes to Hawai'i's identity; and
 - (D) Continues to support the continual retention of lands by lineal descendants of Hawaiian Kingdom subjects who claimed land under the Kuleana Act to protect the special relationship between kānaka (people) and 'āina; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 39, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 39, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committees on Hawaiian Affairs
and Ways and Means,



DONOVAN M. DELA CRUZ, Chair




MAILE S.L. SHIMABUKURO, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Hawaiian Affairs
HWN

Bill / Resolution No.:* SR 39	Committee Referral: HWN/WAM	Date: 3/17/2021		
<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
SHIMABUKURO, Maile S.L. (C)	X			
KEOHOKALOLE, Jarrett (VC)	X			
ACASIO, Laura				X
IHARA, Jr., Les				X
FEVELLA, Kurt	X			
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

