
A BILL FOR AN ACT

RELATING TO NATIVE HAWAIIAN TRUST BENEFICIARIES.

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

1 SECTION 1. The legislature finds that in 1920, Congress
2 enacted the Hawaiian Homes Commission Act, which created a land
3 trust intended to rehabilitate displaced native Hawaiian people
4 by enabling them to lease residential, agriculture, or pastoral
5 homestead land from the trust for one dollar per year. When the
6 Territory of Hawaii joined the United States in 1959, the State
7 promised to take responsibility for the management and
8 disposition of the Hawaiian Homes Commissions Act of 1921.
9 However, the State has not been able to sufficiently carry out
10 this task.

11 There are more than 28,000 native Hawaiians on the waitlist
12 for Hawaiian Home Lands. Further, *Kalima v. State*, filed in 1999
13 on behalf of more than two thousand seven hundred beneficiaries,
14 alleged breach of trust for the neglect of fulfilling an Act of
15 Congress of 1921 and later assumed by the State of Hawaii in
16 1959. The Hawaii Supreme Court in 2020 allowed the case to
17 proceed, where the damages owed to the plaintiffs are currently



1 being calculated. This case is still ongoing, even though the
2 breach of trust took place many decades ago.

3 The legislature further finds that the beneficiaries of in
4 the *Kalima* case should receive fair and just compensation for
5 the breach of trust claims as per prevailing professional
6 actuarial standards. This fair and just compensation is to
7 reflect an amount that takes into account such factors as money
8 lost from the lack of a 30-year fixed mortgage that could have
9 been utilized for a number of items. This amount includes back
10 rent owed, and lost appreciation in property value. Both of
11 these could have been used by families for education, as well as
12 such as travel, investment, medical bills, and weddings. If a
13 family had bought a home for an average price of \$25,000 in
14 1960, as opposed to renting for the past sixty years, they could
15 have saved approximately \$1,159,000 in costs.

16 The fair and just compensation to be paid to the claimants
17 in this case must reflect the reality as such, and stand in
18 stark contrast to the pittance of a valuation that was
19 previously proposed in 2013. The settlement offer would have
20 resulted in approximately \$23,333 (only about one year's worth
21 of back rent) in damages per claimant, which, in context of the



1 above lost opportunity costs, is an insult to each claimant's
2 intelligence and patience, who have been on the waitlist for
3 past decades. This represents such a miniscule sum and is in no
4 way representative of any fair and just amount of compensation.

5 Given the current circumstances, just compensation must
6 include not only back rent owed, but also lost equity and lost
7 opportunity costs incurred during the ongoing legal case.

8 The purpose of this Act is to require the State of Hawaii
9 to develop a strategic plan to ensure the prompt and full
10 payment of damages to the plaintiffs in *Kalima v. State*, when
11 the damages owed in *Kalima* are calculated and confirmed.

12 SECTION 2. The Hawaii Revised Statutes is amended by adding
13 a new section to be appropriately designated and to read as
14 follows:" [§674-18] **Scope of relief.** In an action under this
15 part the court may award actual damages to a successful
16 claimant. The payment of any damages owed to a claimant, upon
17 the determination by the adjudicating body, must be initiated by
18 the government entity in the calendar year in which the
19 determination of damages was made, and must be completed no
20 later than three calendar years after the initiation of payment.



1 The amount of payment must conform to applicable current
2 prevailing professional standards.

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

5

INTRODUCED BY:



JAN 24 2022



H.B. NO. 2010

Report Title:

Beneficiaries of Native Hawaiian Trust.

Description:

Seeks to ensure the State of Hawaii promptly and completely render the full amount owed to the plaintiffs in the case of Kalima v. State upon the final calculation of damages owed.

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

