

JAN 27 2021

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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

**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 (HHCA), which created  
3 a land trust intended to rehabilitate displaced native Hawaiian  
4 people by enabling them to lease residential, agriculture, or  
5 pastoral homestead land from the trust for one dollar per year.  
6 When the Territory of Hawaii joined the United States in 1959,  
7 the State promised to take responsibility for the management and  
8 disposition the Hawaiian Homes Commission Act of 1920. In the  
9 years that followed, the State struggled to carry out its duties  
10 and obligations as a trustee.

11           To date, more than two thousand native Hawaiian  
12 beneficiaries have died while on the Hawaiian homes waiting list  
13 for a home land lease, and twenty-eight thousand beneficiaries  
14 currently remain on the list, half of which are over the age of  
15 sixty. Additionally, the department of Hawaiian home lands  
16 recently estimated that to house all beneficiaries on the



1 waitlist, cost projections range between \$4,000,000,000 to  
2 \$12,000,000,000 for infrastructure alone.

3       The legislature finds that eliminating the waitlist for the  
4 department of Hawaiian home lands has not been made a priority  
5 in past and current administrations. The State's lack of effort  
6 to address the waiting list for a home land lease and  
7 mismanagement of the trust have caused native Hawaiian  
8 beneficiaries to languish. In 2009, the first circuit court  
9 found in *Kalima v. State of Hawaii* that the State breached its  
10 trust duties to keep and render accounts, exercise reasonable  
11 care and skill, administer the trust, and make the trust  
12 property productive. The circuit court also found that these  
13 breaches caused eligible native Hawaiians to remain on the  
14 waiting list for a home land lease and suffer damages as a  
15 result.

16       Further, in 2015, the first circuit court held in *Nelson v.*  
17 *Hawaiian Homes Commission*, that the State "must comply with its  
18 constitutional duty to make sufficient sums available to the  
19 [d]epartment of Hawaiian [home lands] for its administrative and  
20 operating budget." Additionally, the first circuit court ruled



1 that the State underfunded the department of Hawaiian home lands  
2 by approximately \$28,000,000 per year.

3 On February 26, 2002, the Hawaiian homes commission  
4 approved the general plan prepared by the department of Hawaiian  
5 homelands. While the general plan includes an emphasis on the  
6 management of their existing land inventory, the general plan  
7 does not make explicit mention of providing lot development on a  
8 trajectory that will extinguish the waitlist. In addition, the  
9 department sought to generate \$30,000,000 in land revenues  
10 annually (adjusted for inflation) by 2014 and use no more than  
11 one per cent of Hawaiian home lands for commercial and  
12 industrial uses by 2014. The department has not accomplished  
13 either of those objectives.

14 The department of Hawaiian home lands planning office  
15 provides a long-term and comprehensive perspective that supports  
16 the Hawaiian homes commission, the department, and its  
17 beneficiaries in realizing the mission, goals, and objectives of  
18 the Hawaiian homes commission act. The planning system  
19 functions in three tiers:

20 (1) The general plan which provides a statewide, twenty-  
21 year timeframe which identifies the long-term goals,



1 articulates the vision, and organizes priorities for  
2 the department and the commission;

3 (2) The strategic program plans (statewide with a three to  
4 six-year timeframe) and the island plans (regional  
5 twenty-year timeframe) focus on statewide programs and  
6 policies, as well as island-specific land use  
7 projections; and

8 (3) Regional plans (focused on developed areas with a two  
9 to four-year timeframe) and development plans (focused  
10 on undeveloped areas with a ten-year timeframe).

11 The associated island, strategic, regional, and developmental  
12 plans flow from these general plan guiding objectives.

13 A May 2017 report from the Department of Housing and Urban  
14 Development finds that the department of Hawaiian home lands'  
15 "shift to more expensive housing development may have  
16 exacerbated the problem of people staying on the waiting list  
17 for extended periods of time." The report also finds that even  
18 if beneficiaries are offered a land lease during the past twenty  
19 years, beneficiaries have not accepted land leases because they  
20 have been unable to secure the necessary mortgage loan for the  
21 home on the property, among other reasons. The department of



1 Hawaiian home lands has also failed to aggressively pursue  
2 diversification of housing awards for multifamily complexes,  
3 rentals, kupuna housing, and supplemental dwelling units, in  
4 addition to turnkey style housing.

5 The purpose of this Act is to require the department of  
6 Hawaiian home lands to develop a long-term strategic plan based  
7 on a comprehensive assessment of the needs of the waitlist  
8 population with the objective of eliminating the waiting list  
9 for a home land lease.

10 SECTION 2. (a) The department of Hawaiian home lands  
11 shall develop a strategic plan to devise and implement long-term  
12 strategies and solutions to eliminate the waiting list for a  
13 home land lease based on a comprehensive assessment of needs and  
14 resources of beneficiaries who are on the waiting list for a  
15 home land lease. The department of Hawaiian home lands shall  
16 develop its general plan, strategic program plans, island plans,  
17 regional plans, and development plans with the primary objective  
18 of eliminating the department of Hawaiian home lands waitlist.  
19 The plans shall emphasize the department's leverage of trust  
20 resources, statutory powers, and other means of state funding  
21 and support to focus on lot development and distribution to

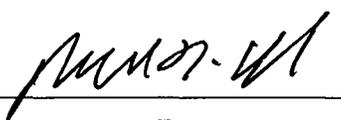


1 eliminate the waitlist. These plans shall be based on a  
2 comprehensive assessment of the needs of the waitlist and  
3 developed with beneficiary consultation.

4 (b) The department of Hawaiian home lands shall submit a  
5 report of its findings and recommendations, including any  
6 proposed legislation, to the legislature no later than twenty  
7 days prior to the convening of the regular session of 2023.

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

9

INTRODUCED BY:   
**By Request**



# S.B. NO. 1323

**Report Title:**

Department of Hawaiian Home Lands; Strategic Plan

**Description:**

Requires the department of Hawaiian home lands to develop a strategic plan to devise and implement long-term solutions for eliminating the waiting list for a home land lease with an emphasis on leveraging its trust resources, statutory powers, and other means of state funding and support to focus on lot development and distribution. The plans shall be based on a comprehensive assessment of the needs of the waitlist and with beneficiary consultation.

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

