

MAR 04 2021

SENATE RESOLUTION

URGING THE HAWAIIAN HOMES COMMISSION TO APPROPRIATE ONE HUNDRED PER CENT OF LEASE REVENUES FROM COMMERCIAL PROPERTY USES TO HOMELAND LOT DEVELOPMENT.

1 WHEREAS, in 1920, Congress enacted the Hawaiian Homes
2 Commission Act (HHCA), which created a land trust intended to
3 rehabilitate displaced native Hawaiian people by enabling them
4 to lease residential, agriculture, or pastoral homestead land
5 from the trust for one dollar per year; and
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7 WHEREAS, when the Territory of Hawaii joined the United
8 States in 1959, the State promised to take the responsibility
9 for the management and disposition of the Hawaiian Homes
10 Commission Act of 1920. In the years that followed, the State
11 has struggled to carry out its duties and obligations as a
12 trustee; and
13

14 WHEREAS, to date, more than two thousand native Hawaiian
15 beneficiaries have died while on the Hawaiian homes waiting list
16 for a home land lease, and twenty-eight thousand beneficiaries
17 currently remain on the list, half of which are over the age of
18 sixty. Additionally, the Department of Hawaiian Home Lands
19 recently estimated that to house all beneficiaries on the
20 waitlist, cost projections range between \$4,000,000,000 to
21 \$12,000,000,000 for infrastructure alone; and
22

23 WHEREAS, eliminating the waitlist for the Department of
24 Hawaiian Home Lands has not been made a priority in past and
25 current administrations. The State's lack of effort to address
26 the waiting list for a home land lease and mismanagement of the
27 trust has caused native Hawaiian beneficiaries to languish; and
28

29 WHEREAS, in 2009, the First Circuit Court found in *Kalima*
30 *v. State of Hawaii* that the State breached its trust duties to
31 keep and render accounts, exercise reasonable care and skill,
32 administer the trust, and make the trust property productive.
33 The court also found that these breaches caused eligible native
34 Hawaiians to remain on the waiting list for a home land lease
35 and suffer damages as a result; and



S.R. NO. 41

1
 2 WHEREAS, in 2015, the First Circuit Court held in *Nelson v.*
 3 *Hawaiian Homes Commission*, that the State "must comply with its
 4 constitutional duty to make sufficient sums available to the
 5 Department of Hawaiian [Home Lands] for its administrative and
 6 operating budget." Additionally, the court ruled that the State
 7 underfunded the Department of Hawaiian Home Lands by
 8 approximately \$28,000,000 per year; and
 9

10 WHEREAS, on February 26, 2002, the Hawaiian Homes
 11 Commission approved the general plan prepared by the Department
 12 of Hawaiian Home Lands, and while the general plan includes an
 13 emphasis on the management of their existing land inventory, the
 14 general plan does not make explicit mention of providing lot
 15 development on a trajectory that will extinguish the waitlist;
 16 and
 17

18 WHEREAS, the Department of Hawaiian Home Lands sought to
 19 generate \$30,000,000 in land revenues annually (adjusted for
 20 inflation) by 2014 and use no more than one per cent of Hawaiian
 21 home lands for commercial and industrial uses by 2014; however
 22 the department has not accomplished either of those objectives;
 23 and
 24

25 WHEREAS, a May 2017 report from the U.S. Department of
 26 Housing and Urban Development finds that the Department of
 27 Hawaiian Home Lands' "shift to more expensive housing
 28 development may have exacerbated the problem of people staying
 29 on the waiting list for extended periods of time", and the
 30 report also found that even if beneficiaries are offered a land
 31 lease during the past twenty years, beneficiaries have not
 32 accepted land leases because they have been unable to secure the
 33 necessary mortgage loan for the home on the property, among
 34 other reasons; and
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36 WHEREAS, the Department of Hawaiian Home Lands has also
 37 failed to aggressively pursue diversification of housing awards
 38 for multifamily complexes, rentals, kupuna housing, and
 39 supplemental dwelling units, in addition to turnkey style
 40 housing; now, therefore,
 41



S.R. NO. 41

1 BE IT RESOLVED by the Senate of the Thirty-first
2 Legislature of the State of Hawaii, Regular Session of 2021,
3 that the Department of Hawaiian Home Lands is respectfully urged
4 to appropriate one hundred percent of lease revenue from
5 commercial property uses to homeland lot development; and
6

7 BE IT FURTHER RESOLVED that certified copies of this
8 Resolution be transmitted to the Governor and the chairperson of
9 the Hawaiian Homes Commission.
10
11
12

OFFERED BY: _____

A handwritten signature in black ink, appearing to be 'J. H.', is written over a horizontal line.