

STAND. COM. REP. NO. 1025

Honolulu, Hawaii

MAR 22 2021

RE: H.B. No. 1122  
H.D. 1  
S.D. 1

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

Sir:

Your Committee on Hawaiian Affairs, to which was referred  
H.B. No. 1122, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION  
ACT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Define "beneficiary consultation";
- (2) Prohibit the Department of Hawaiian Home Lands from disposing or extending a general lease to non-beneficiaries, unless there are no applicants seeking to enter into a general lease to the use and occupancy of a tract of Hawaiian home lands;
- (3) Require the Department of Hawaiian Home Lands to notify beneficiaries through beneficiary consultation prior to the disposition of Hawaiian home lands;
- (4) Prohibit the Department of Hawaiian Home Lands from establishing additional criteria to enter into a general lease with an applicant without notifying beneficiaries;



- (5) Specify that the Department of Hawaiian Home Lands may grant a license or enter into a general lease with an applicant, under certain conditions;
- (6) Allocate the interest or earnings from the Hawaiian home loan fund and Hawaiian home general loan fund into their respective funds, under certain conditions;
- (7) Require the Department of Hawaiian Home Lands to submit a quarterly report to the Legislature and beneficiaries; and
- (8) Authorize the Department of Hawaiian Home Lands to negotiate with homestead association-governed water agencies to maintain water systems prior to other service providers, under certain conditions.

Your Committee received testimony in support of this measure from Kūpuna for the Mo'opuna and the Sovereign Council of Hawaiian Homestead Associations. Your Committee received testimony in opposition of this measure from one individual. Your Committee received comments on this measure from the Department of Hawaiian Home Lands.

Your Committee notes that title 43 Code of Federal Regulations part 48, as amended, outlines the process for amendments to the Hawaiian Homes Commission Act and whether or not Congressional approval is necessary. Your Committee strongly believes that this measure does not require Congressional approval.

Your Committee finds that in the Hawaiian Homes Commission Act, 1920, as amended, the United States Congress established the Hawaiian home lands trust, intending that it would enable its native Hawaiian beneficiaries to return to their land to improve and perpetuate their self-sufficiency and cultural preservation. This measure will make changes to improve the governance and accountability entrusted to the Department of Hawaiian Home Lands and Hawaiian Homes Commission to fulfill their duty toward the preservation of values, traditions, culture, and self-sufficiency for native Hawaiians. Additionally, your Committee finds that the Department of Hawaiian Home Lands does not receive sufficient funding to develop house lots for all applicants on the waiting



list nor reduce the waiting list by ninety percent over the next decade, leading to a lack of access resources for beneficiaries.

Your Committee finds that the reforms proposed in this measure have the potential to provide access to private capital for beneficiaries of the Department of Hawaiian Home Lands; revolve interest earnings to deploy capital to farms, ranches, and businesses on homesteads; and make significant strides to alleviate the waitlist. The Department of Hawaiian Home Lands has been inconsistent with their approach of beneficiary consultation and this measure seeks to provide increased guidance and stability to formally define beneficiary consultation and to articulate the best practices of its use to maximize success by the agency, especially when triggered by land dispositions to a non-beneficiary, creating additional qualifying criteria by waitlist beneficiaries, and moving of interest earnings out of the loan fund trust account. Your Committee additionally finds that Community Benefits Agreements ensure that non-beneficiary corporate entities and individuals are directly engaged with homestead beneficiary associations in advancing social and economic services in and around the homestead areas. Further, your Committee finds that clarifications are needed to ensure that lands may not be disposed of to the public if there are individuals that are on the waitlist. If lands are not suited for homesteading purposes, there are sections of the Hawaiian Homes Commission Act and complimentary federal regulations that establish processes for the State to sell or exchange lands.

Your Committee notes the concerns of the Department of Hawaiian Home Lands, including:

- (1) The unnecessary need for an additional definition of "beneficiary consultation";
- (2) Concerns surrounding the proposal and elevation of the interest of lessees and homestead associations over the interests of applicants on the waitlist and Hawaiian Homes Commission Act Beneficiary Associations;
- (3) Conflicting provisions surrounding establishing additional criteria to enter into leases with applicants;



- (4) The unnecessary need for the allocation of the interest or other earnings from the Hawaiian home loan fund and Hawaiian home general funds into their respective funds; and
- (5) The unnecessary need for the Department of Hawaiian Home Lands to negotiate with homestead association-governed water agencies to maintain water systems prior to other service providers since the Department already has an agreement in place with regard to water maintenance.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1122, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1122, H.D. 1, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Hawaiian Affairs,



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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.:* <b>HB 1122 HD1</b>	Committee Referral: <b>HWN, WAM/JDC</b>	Date: <b>3/16/2021</b>		
<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			
<b>TOTAL</b>	<b>4</b>	<b>1</b>		
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:right; font-family: cursive; font-size: 1.2em;">  </div>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes