

Honolulu, Hawaii

FEB 10 2021

RE: S.B. No. 891
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
S.B. No. 891 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) Require that a majority of the members of the Hawaiian Homes Commission be beneficiaries who are on the waitlist;
- (2) Require quarterly reporting to the beneficiaries, registered homestead associations, and the Legislature on land dispositions and lease cancellations made during the quarter;
- (3) Authorize the Governor to establish an inter-agency council to address the purposes of the Hawaiian Homes Commission Act, and if convened, to meet at least three times per year;
- (4) Require an annual full accounting of Act 14, Special Session Laws of Hawaii 1995, expenditures;



- (5) Allow the Hawaiian Homes Commission or Department of Hawaiian Home Lands to retain independent legal counsel; and
- (6) Require the Legislative Reference Bureau to conduct a study on the implications of creating a position for the Director of Hawaiian Home Lands that is separate from the Chairperson of the Hawaiian Homes Commission.

Your Committee received testimony in support of this measure from one individual. Your Committee received testimony in opposition to this measure from the Department of the Attorney General. Your Committee received comments on this measure from the Legislative Reference Bureau and Department of Hawaiian Home Lands.

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.

Your Committee notes that the Department of Hawaiian Home Lands creates multiple reports and is encouraged to create a searchable database to allow those reports to be more easily located. Although the Department of Hawaiian Home Lands prepares extensive reports on a monthly basis to the Hawaiian Homes Commission and completes an independent and financial audit of its agency on an annual basis, your Committee encourages the Department to provide quarterly reports via email or its websites to increase transparency for its beneficiaries.

Your Committee has heard the concerns from the Department of the Attorney General that the Attorney General is best suited to provide legal advice in a cost effective and conflict-free manner to the Department of Hawaiian Home Lands. Additionally, private attorneys retained by the Hawaiian Homes Commission and the Department of Hawaiian Home Lands would not possess the necessary



breadth of knowledge and experience available within the Department of the Attorney General.

Your Committee has also heard the concerns from the Legislative Reference Bureau about its lack of specific expertise in matters relating to the Hawaiian Homes Commission and executive personnel issue. As written, this measure does not provide other instructions on the potential organizational structure of the Department of Hawaiian Home Lands. Amendments to this measure are therefore necessary to address the concerns of the Legislative Reference Bureau.

Your Committee finds that the Department of Hawaiian Home Lands has an extensive lease cancellation process, which includes multiple and ongoing hearings with the Hawaiian Homes Commission on the lessee's island to prevent travel costs and provide for loan modification options and additional financial counseling. A lease may only be cancelled by a quorum of five commissioners and a majority vote. Once a lease is cancelled, a lessee can seek reconsideration or appeal under chapter 91, Hawaii Revised Statutes. Your Committee further finds that the Department of Hawaiian Home Lands has written loan servicing guidelines, and the department staff work one-on-one with lessees who are experiencing challenges in paying their mortgages. These challenges may include but are not limited to job loss, a medical emergency, or a family crisis. In addition, loan officers with the Department of Hawaiian Home Lands provide payment options and financial counseling paid for by the Department of Hawaiian Home Lands. To ensure the availability of adequate assistance, lessees are contacted by postal mail, phone, e-mail, and through in-person visits, if necessary. In light of the foregoing, your Committee finds that requiring the Department of Hawaiian Home Lands to develop and implement a loan servicing manual would further enhance its efforts to assist distressed beneficiaries and assist the Department's efforts in addressing issues posed by and facing beneficiaries subject to the cancellation process.

Accordingly, your Committee has amended this measure by:

- (1) Inserting language from S.B. No. 2826, S.D. 1 (Regular Session 2020), that requires the Department of Hawaiian Home Lands to develop and implement a loan servicing



manual, subject to approval by the Hawaiian Homes Commission;

- (2) Clarifying the parameters of the Legislative Reference Bureau study on the implications of creating a position for the Director of Hawaiian Home Lands separate from the Chairperson of the Hawaiian Homes Commission to include the following stipulations:
 - (A) The Governor shall appoint the Director of the Department of Hawaiian Home Lands;
 - (B) The Director of Hawaiian Home Lands shall be an ex-officio member of the Hawaiian Homes Commission;
 - (C) The Director of Hawaiian Home Lands shall not be eligible to be considered as the chairperson of the Hawaiian Homes Commission;
 - (D) The members of the Hawaiian Homes Commission shall choose the Chairperson from amongst their own members;
 - (E) The Director of Hawaiian Home Lands may veto major policy and budgetary decisions of the Hawaiian Homes Commission with written justification on its decisions; and
 - (F) The study shall consider the effectiveness, cost, and potential conflicts of interests (e.g., contested case hearings), and issues that may arise from this change in the governance structure of the Department of Hawaiian Home Lands;
- (3) Codifying Rule 10-4-60, Hawaii Administrative Rules, within the definition of "beneficiary consultation" as provided for in Section 201, Hawaiian Homes Commission Act, 1920, as amended;
- (4) Deleting references to the Hawaiian Homes Commission in the provisions discussing the need for independent counsel, since the term "department" as provided in Section 28-8.3(b), Hawaii Revised Statutes, includes any

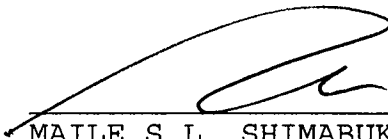


department, board, commission, agency, or officer of the State;

- (5) Restoring language that increases the members from four to five that are descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands previous to 1778; and
- (6) 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 S.B. No. 891, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 891, 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,




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.:*	Committee Referral:	Date:		
SB 891	HWN, WAM/JDC	2/4/21		
<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	5			
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes