

STAND. COM. REP. NO. 1451

Honolulu, Hawaii

MAR 30 2021

RE: S.R. No. 130  
S.D. 1

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

Sir:

Your Committees on Hawaiian Affairs and Judiciary, to which was referred S.R. No. 130 entitled:

"SENATE RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO CONSENT TO THE ENACTMENT OF ACT 80, SESSION LAWS OF HAWAII 2017,"

beg leave to report as follows:

The purpose and intent of this measure is to request the United States Congress to consent to the enactment of Act 80, Session Laws of Hawaii 2017 (Act 80).

Your Committees received testimony in support of this measure from the Association of Hawaiian Civic Clubs - Hawai'i Council and one individual.

Your Committees find that the State has a fiduciary duty to ensure long-term tenancies to beneficiaries and successors of beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended. Your Committees also acknowledge that the State has a fiduciary duty to support the rehabilitation of the Hawaiian people, by among other things, ensuring long-term tenancies to beneficiaries, transferees, and successors of beneficiaries under the Hawaiian Homes Commission Act, 1920, as amended. Further, as outlined in *Ahuna v. Department of Hawaiian Home Lands*, 64 Haw. 327, 640 P.2d 1161 (1982), the federal government set aside public lands to be considered Hawaiian home lands, to be utilized in the



rehabilitation of native Hawaiians, thereby undertaking a trust obligation benefitting the aboriginal people, and the State of Hawaii assumed this fiduciary obligation upon being admitted to the union as a state.

In advocating for the Hawaiian Homes Commission Act, Prince Jonah Kūhiō Kalanianaʻole, the Territory of Hawaii's non-voting delegate to Congress, anticipated future interracial marriages of the Hawaiian people and originally advocated for a blood quantum requirement of one thirty-second to perpetuate native Hawaiian presence on the land. However, Prince Kūhiō settled for a fifty percent blood quantum requirement to get a homestead lease as a necessary concession to sugar and ranching interests. At the time of the creation of the Hawaiian Homes Commission Act, a one thirty-second blood quantum meant that anyone who had Hawaiian ancestry would qualify from the Hawaiian homesteading program.

Your Committees find that under existing federal guidelines, homestead leases can only be transferred to family members who are at least one quarter Hawaiian. Eligibility requirements as outlined in Act 80, Session Laws of Hawaii 2017, provide that the Hawaiian blood quantum requirement for successors will be lowered to one thirty-second. The issue of reducing the blood quantum for successorship is a recurring theme expressed by beneficiaries of the Hawaiian Homes Commission Act. Homestead organizations and individual beneficiaries expressed concerns that immediate family members of homestead lessees may not have the required one-quarter blood quantum due to interracial marriages and blended families who have produced descendants who are less than twenty-five percent Hawaiian to succeed homestead leases and face possible loss of a homestead lease that has been in the family for several generations. These disruptions create undue hardships of displacement and interfere with families' abilities to maintain that equity of their homes and business and sever the relationships that native Hawaiians have to their land. A reduction in blood quantum requirements for certain successors will lead to a reduction in "highest bid" and "leapfrog" homestead lease sales.

Your Committees further find that blood quantum makes it increasingly difficult to inherit land access. Reducing the blood quantum requirement for purposes of transfer or successorship will allow expanding opportunities to family members who have already



invested time, talent, resources, commitment, and aloha for the land to continue the legacy initiated by their families and elders. While the relaxed requirements would apply only to leases that have already been awarded, these requirements will benefit those on the Department of Hawaiian Home Lands' waitlist by preventing leaseholders from selling their leases when there is no eligible successor in the family.

Your Committees also find that certain lands used for the purposes of the Admission Act should be used for the betterment of all persons of Hawaiian ancestry, regardless of blood quantum, so that the State may have more flexibility in providing services and benefit to the Hawaiian people. Further, this reform will encourage current lessees to maintain and invest in their residences, as the lessees anticipate that their descendants will be able to make use of the properties for many generations to follow. For example, elderly or retired homesteaders may not be able to financially qualify for home renovation loans or business loans because of their limited incomes. However, if they may transfer their homestead lease during their lifetime to a child or grandchild who can financially qualify for these loans, necessary homestead repairs or business investments can be made, and sound successorship planning can occur.

Your Committees note the concerns that reducing the minimum successorship blood quantum may decrease homestead waitlist applicants' opportunities to receive homestead awards when applicants themselves are required to be at least fifty percent native Hawaiian. While the longstanding need to address the homestead waitlist backlog is clear, rather than disrupt current homestead families' housing security and tenancy of lands held for generations, the waitlist backlog is best addressed by prioritizing the issuance of homestead awards that those on the waitlist can afford and ensuring the appropriate use and allocation of sufficient resources.

Your Committees also note that 43 C.F.R. Part 48.15 delineates the responsibilities of the Chairperson of the Hawaiian Homes Commission in submitting proposed amendments to the Secretary of the Interior. The Chairperson of the Hawaiian Homes Commission submitted these amendments to section 209 of the Hawaiian Homes Commission Act in compliance with these regulations. While the enactment of Act 80 has been recognized as



a positive step toward permanently reducing the Hawaiian blood quantum requirement of certain successors to lessees of Hawaiian home lands, historical challenges remain; many descendants of lessees of Hawaiian home lands still do not qualify as successors due to their blood quantum. The urgency of this situation continues to escalate as time passes and as lessees and proposed successors who would qualify under the amendment reducing the Hawaiian blood quantum requirement await the introduction of legislation to approve the requirements as provided for in Act 80.

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

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Judiciary that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 130, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 130, S.D. 1.

Respectfully submitted on  
behalf of the members of the  
Committees on Hawaiian Affairs  
and Judiciary,



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KARL RHOADS, Chair



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MAILE S.L. SHIMABUKURO, Chair





