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# A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The Hawaiian Homes Commission Act, 1920, as  
2 amended, is amended by adding a new section to title 2 to be  
3 appropriately designated and to read as follows:

4           "§ . Beneficiary consultations; applications; standards.

5           (a) A beneficiary consultation conducted pursuant to this  
6 section shall be a meaningful and timely consultation with  
7 beneficiaries and shall promote trust, partnership, and civic  
8 engagement. The type of consultation conducted, whether  
9 comprehensive, place-based, or ad hoc, shall be appropriate to  
10 the potential impact of the relevant decision or action  
11 described in this section.

12           (b) A comprehensive consultation shall be conducted with  
13 respect to:

14           (1) The preparation and amendment of the department of  
15 Hawaiian home land's general plan, which shall  
16 establish statewide policies that guide land  
17 management and programs;



1           (2) The preparation and amendment of any program plan,  
2           which shall inform or carry out general plan statewide  
3           policies for specific functional areas, including  
4           affordable housing, native Hawaiian development,  
5           energy, disaster preparedness, community resiliency,  
6           agriculture, and water resources; and

7           (3) The adoption of rules.

8           A comprehensive consultation shall occur on a statewide  
9           basis. Notice shall be provided to all existing homesteaders,  
10          all native Hawaiians who have applied for leases of homestead  
11          lands and are waiting to be awarded leases, and other native  
12          Hawaiians who have registered with the department of Hawaiian  
13          home lands. The notice shall describe the proposed action and  
14          the date, time, and place of a public meeting to be held on each  
15          island.

16          (c) A place-based consultation shall be conducted with  
17          respect to:

18          (1) The preparation and amendment of any island plan,  
19          which shall be prepared for each island in which there  
20          are more than one hundred acres of Hawaiian home  
21          lands, and which, at minimum, shall apply criteria to



1 identify lands for homestead use and non-homestead  
2 use, prioritize development or redevelopment, identify  
3 infrastructure requirements, and identify potential  
4 impacts on department land use and infrastructure;

5 (2) The preparation and amendment of any regional plan,  
6 which, within a region, at minimum, shall plan to  
7 build a sense of community and capacity, stimulate  
8 partnerships for development and improvements,  
9 facilitate beneficiary participation in issues and  
10 areas of concern, and identify priority projects  
11 within existing and planned homestead areas;

12 (3) The preparation and amendment of any area development  
13 plan, which, at minimum, shall provide more detail for  
14 specific projects in an island plan for purposes of  
15 establishing feasibility, budget, and schedule; and

16 (4) Proposed projects that require an environmental  
17 assessment or environmental impact statement.

18 A place-based consultation shall occur within the  
19 applicable geographic area. Notice shall be provided to all  
20 existing homesteaders, all native Hawaiians who have applied for  
21 leases of homestead lands and are waiting to be awarded leases,



1 and other native Hawaiians who have registered with the  
2 department of Hawaiian home lands; provided that they are  
3 associated with the geographic area impacted by the proposed  
4 action. The chairperson of the commission shall determine the  
5 appropriate scope of the notice. The notice shall describe the  
6 proposed action and the date, time, and place of a public  
7 meeting to be held within the geographic area.

8 (d) An ad hoc consultation may be conducted for the  
9 preparation and amendment of any plan or implementing action  
10 described in this section. The chairperson of the commission  
11 may form an advisory body, subject to consultation and  
12 ratification by the commission, that provides input to the  
13 department of Hawaiian home lands for the preparation or  
14 amendment of any plan or implementation of an action. Any ad  
15 hoc consultation for the preparation and amendment of plans may  
16 supplement, but not replace, any comprehensive or place-based  
17 consultation required by this section. The chairperson of the  
18 commission may select an ad hoc body for an implementing action.

19 (e) The department of Hawaiian home lands shall submit an  
20 annual report to the legislature no later than twenty days prior  
21 to the convening of each regular session regarding the



1 beneficiary consultations conducted pursuant to this section  
2 during the previous year and results from these consultations."

3 SECTION 2. Section 202, Hawaiian Homes Commission Act,  
4 1920, as amended, is amended to read as follows:

5 "**§202. Department officers, staff, commission, members,**  
6 **compensation[-]; quarterly reports; inter-agency council.** (a)

7 There shall be a department of Hawaiian home lands, which shall  
8 be headed by an executive board to be known as the Hawaiian  
9 homes commission. The members of the commission shall be  
10 nominated and appointed in accordance with section 26-34, Hawaii  
11 Revised Statutes. The commission shall be composed of nine  
12 members, as follows: three shall be residents of the city and  
13 county of Honolulu; two shall be residents of the county of  
14 Hawaii, one of whom shall be a resident of east Hawaii and the  
15 other a resident of west Hawaii; two shall be residents of the  
16 county of Maui, one of whom shall be a resident from the island  
17 of Molokai; one shall be a resident of the county of Kauai; and  
18 the ninth member shall be the [~~chairman~~] chairperson of the  
19 Hawaiian homes commission. All members shall have been  
20 residents of the State at least three years [~~prior to~~] before  
21 their appointment and at least [~~four~~] five of the members shall



1 be descendants of ~~[not]~~ no less than one-fourth part of the  
2 blood of the races inhabiting the Hawaiian Islands previous to  
3 1778~~[-]~~ or beneficiaries of the trust; provided that the  
4 beneficiary members shall be on the waitlist for Hawaiian home  
5 lands at the time of their appointment. The members of the  
6 commission shall serve without pay, but shall receive actual  
7 expenses incurred by them in the discharge of their duties as  
8 ~~[such]~~ members. The governor shall appoint the ~~[chairman]~~  
9 chairperson of the commission from among the commission members  
10 ~~[thereof]~~.

11 The commission may delegate to the ~~[chairman-such]~~  
12 chairperson any duties, powers, and authority, or so much  
13 thereof, as may be lawful or proper for the performance of the  
14 functions vested in the commission. The ~~[chairman]~~ chairperson  
15 of the commission shall serve in a full-time capacity. ~~[He~~  
16 ~~shall, in-such]~~ In that capacity, the chairperson shall perform  
17 ~~[such]~~ duties~~[-]~~ and exercise ~~[such]~~ powers and authority, or so  
18 much thereof, as may be delegated to ~~[him]~~ the chairperson by  
19 the commission as ~~[herein]~~ provided ~~[above-]~~ in this subsection.

20 (b) The provisions of section 76-16, Hawaii Revised  
21 Statutes, shall apply to the positions of first deputy and



1 private secretary to the [~~chairman~~] chairperson of the  
2 commission. The department of Hawaiian home lands may hire  
3 temporary staff on a contractual basis not subject to  
4 chapters 76 and 78, Hawaii Revised Statutes, when the services  
5 to be performed will assist in carrying out the purposes of the  
6 Act. These positions may be funded through appropriations for  
7 capital improvement program projects and by the administration  
8 account, operating fund, or native Hawaiian rehabilitation fund.  
9 No contract shall be for a period longer than two years, but  
10 individuals hired under contract may be employed for a maximum  
11 of six years; provided that the six-year limitation shall not  
12 apply if the department, with the approval of the governor,  
13 determines that [~~such~~] these contract individuals are needed to  
14 provide critical services for the efficient functioning of the  
15 department. All other positions in the department shall be  
16 subject to chapter 76, Hawaii Revised Statutes.

17 All vacant and new civil service positions covered by  
18 chapter 76, Hawaii Revised Statutes, shall be filled in  
19 accordance with section 76-22.5, Hawaii Revised Statutes;  
20 provided that the provisions of these sections shall be  
21 applicable first to qualified persons of Hawaiian extraction.



1       (c) The department of Hawaiian homes lands shall  
2 distribute by email or its website a quarterly report to the  
3 beneficiaries, registered homestead associations, and the  
4 legislature. The report shall identify each land disposition  
5 and lease cancellation, including:

6       (1) The land instrument used;  
7       (2) The amount of land, under which section of the Act the  
8       disposition or cancellation is authorized; and  
9       (3) Whether the disposition or cancellation was made on  
10       behalf of a beneficiary or non-beneficiary.

11 The quarterly report shall also identify all trust fund receipts  
12 and expenditures.

13       (d) The commission may recommend that the governor  
14 establish an inter-agency council to address the purposes of  
15 this Act. The recommendation may address council membership and  
16 other specifics regarding the council. The governor may  
17 establish the inter-agency council based on the commission's  
18 recommendation. The inter-agency council, if established, shall  
19 meet at least three times per year."

20       SECTION 3. Section 216, Hawaiian Homes Commission Act,  
21 1920, as amended, is amended to read as follows:





1           "§216. Insurance by borrowers; acceleration of loans; lien  
2 and enforcement thereof[-]; loan servicing manual; requirements.

3       (a) The department of Hawaiian home lands may require the  
4 borrower to insure, in [~~such~~] an amount as the department may  
5 prescribe, any livestock, aquaculture stock, swine, poultry,  
6 fowl, machinery, equipment, dwellings, and permanent  
7 improvements purchased or constructed out of any moneys loaned  
8 or assured by the department; or, in lieu thereof, the  
9 department may directly take out [~~such~~] insurance and add the  
10 cost thereof to the amount of principal payable under the loan.

11       (b) Whenever the department of Hawaiian home lands has  
12 reason to believe that the borrower has violated any condition  
13 enumerated in paragraph (2), (4), (5), or (6) of section 215 of  
14 this Act, the department shall give due notice and afford  
15 opportunity for a hearing to the borrower or the successor or  
16 successors to [~~his~~] the borrower's interest, as the case  
17 demands. If upon [~~such~~] the hearing the department finds that  
18 the borrower has violated the condition, the department may  
19 declare all principal and interest of the loan immediately due  
20 and payable notwithstanding any provision in the contract of  
21 loan to the contrary[-], subject to the policies and procedures



1 provided in the loan servicing manual developed pursuant to  
2 subsection (e).

3 (c) The department of Hawaiian home lands shall have a  
4 first lien upon the borrower's or lessee's interest in any  
5 lease, growing crops, aquacultural stock, either on [~~his~~] the  
6 borrower's or lessee's tract or share in any collective contract  
7 or program, livestock, swine, poultry, fowl, aquaculture stock,  
8 machinery, and equipment purchased with moneys loaned by the  
9 department, and in any dwellings or other permanent improvements  
10 on any leasehold tract, to the amount of all principal and  
11 interest due and unpaid and of all taxes and insurance and  
12 improvements paid by the department, and any other indebtedness  
13 of the borrower, the payment of which has been assured by the  
14 department. [~~Such~~] The lien shall have priority over any other  
15 obligation for which the property subject to the lien may be  
16 security.

17 (d) The department [~~may,~~] of Hawaiian home lands subject  
18 to this Act and procedures established by rule, may enforce any  
19 lien by declaring the borrower's interest in the property  
20 subject to the lien to be forfeited, any lease held by the  
21 borrower canceled, and shall thereupon order [~~such~~] leasehold



1 premises vacated and the property subject to the lien  
2 surrendered within a reasonable time. The right to the use and  
3 occupancy of the Hawaiian home lands contained in [~~such~~] the  
4 lease shall thereupon revert in the department, and the  
5 department may take possession of the premises covered therein  
6 and the improvements and growing crops or improvements and  
7 aquaculture stock thereon; provided that the department shall  
8 pay to the borrower any difference which may be due [~~him~~] to the  
9 borrower after the appraisal provided for in section 209 has  
10 been made.

11 (e) The department of Hawaiian home lands shall develop  
12 and implement a loan servicing manual, subject to approval by  
13 the commission, that adopts loan mitigation policies,  
14 procedures, and methods, including financial counseling, loan  
15 loss mitigation analysis, loan modification, sale or transfer,  
16 and other options to ensure lessees and borrowers, or their  
17 successors, avoid default, cure delinquencies, and avoid  
18 cancellation or foreclosure; provided that the loan servicing  
19 manual shall incorporate all appropriate federal rules and  
20 regulations, including those that protect active military  
21 service members; provided further that the department shall



1 document all loan loss mitigation activities between the  
2 borrower and the department pursuant to the loan servicing  
3 manual."

4 SECTION 4. Section 222, Hawaiian Homes Commission Act,  
5 1920, as amended, is amended by amending subsection (a) to read  
6 as follows:

7 "(a) The department of Hawaiian home lands may make [~~such~~]  
8 expenditures and shall adopt rules in accordance with  
9 chapter 91, Hawaii Revised Statutes, as are necessary for the  
10 efficient execution of the functions vested in the department by  
11 this Act. All expenditures of the department and all moneys  
12 necessary for loans made by the department, in accordance with  
13 [~~the provisions of~~] this Act, shall be allowed and paid upon the  
14 presentation of itemized vouchers approved by the [~~chairman~~]  
15 chairperson of the commission or the [~~chairman's~~] chairperson's  
16 designated representative. The department shall make an annual  
17 report to the legislature of the State upon the first day of  
18 each regular session and [~~such~~] any special reports as the  
19 legislature may from time to time require. The [~~chairman~~]  
20 chairperson and members of the commission shall give bond as



1 required by law. The sureties upon the bond and the conditions  
2 thereof shall be approved annually by the governor."

3 SECTION 5. Section 228 of the Hawaiian Homes Commission  
4 Act, 1920, as amended, is amended by amending subsection (b) to  
5 read as follows:

6 "(b) [~~Prior to~~] Before the disposition of available land  
7 through a request for proposals for an initial lease for a  
8 commercial or multipurpose project, the department of Hawaiian  
9 home lands shall consult with beneficiaries of the trust in the  
10 master planning of the available lands. The process of  
11 beneficiary consultation shall be as established by the  
12 department and shall:

- 13 (1) Engage beneficiaries and beneficiary-serving  
14 organizations;
- 15 (2) Provide for the timely dissemination of information  
16 about the proposed project and the gathering of input;  
17 [~~and~~]
- 18 (3) Allow for a reasonable time and reasonable access to  
19 relevant information for evaluation and  
20 consideration[~~-~~]; and
- 21 (4) Comply with section \_\_\_\_\_, to the extent applicable."



1 SECTION 6. Section 28-8.3, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) No department of the State other than the attorney  
5 general may employ or retain any attorney, by contract or  
6 otherwise, for the purpose of representing the State or the  
7 department in any litigation, rendering legal counsel to the  
8 department, or drafting legal documents for the department;  
9 provided that the foregoing provision shall not apply to the  
10 employment or retention of attorneys:

11 (1) By the public utilities commission, the labor and  
12 industrial relations appeals board, and the Hawaii  
13 labor relations board;

14 (2) By any court or judicial or legislative office of the  
15 State; provided that if the attorney general is  
16 requested to provide representation to a court or  
17 judicial office by the chief justice or the chief  
18 justice's designee, or to a legislative office by the  
19 speaker of the house of representatives and the  
20 president of the senate jointly, and the attorney  
21 general declines to provide [~~sueh~~] representation on



- 1 the grounds of conflict of interest, the attorney  
2 general shall retain an attorney for the court,  
3 judicial, or legislative office, subject to approval  
4 by the court, judicial, or legislative office;
- 5 (3) By the legislative reference bureau;
- 6 (4) By any compilation commission that may be constituted  
7 from time to time;
- 8 (5) By the real estate commission for any action involving  
9 the real estate recovery fund;
- 10 (6) By the contractors license board for any action  
11 involving the contractors recovery fund;
- 12 (7) By the office of Hawaiian affairs;
- 13 (8) By the department of commerce and consumer affairs for  
14 the enforcement of violations of chapters 480  
15 and 485A;
- 16 (9) As grand jury counsel;
- 17 (10) By the Hawaii health systems corporation, or its  
18 regional system boards, or any of their facilities;
- 19 (11) By the auditor;
- 20 (12) By the office of ombudsman;
- 21 (13) By the insurance division;



- 1 (14) By the University of Hawaii;
- 2 (15) By the Kahoolawe island reserve commission;
- 3 (16) By the division of consumer advocacy;
- 4 (17) By the office of elections;
- 5 (18) By the campaign spending commission;
- 6 (19) By the Hawaii tourism authority, as provided in
- 7 section 201B-2.5;
- 8 (20) By the division of financial institutions;
- 9 (21) By the office of information practices; [~~or~~]
- 10 (22) By the department of Hawaiian home lands; provided
- 11 that:
- 12 (A) The department of Hawaiian home lands may use the
- 13 services of the attorney general from time to
- 14 time when the interests of the State and the
- 15 department of Hawaiian home lands are aligned;
- 16 and
- 17 (B) Legal fees owed to independent counsel shall be
- 18 paid by the State; or
- 19 [~~(22)~~] (23) By a department, if the attorney general, for
- 20 reasons deemed by the attorney general to be good and
- 21 sufficient, declines to employ or retain an attorney





1 for a department; provided that the governor waives  
2 the provision of this section."

3 2. By amending subsection (c) to read:

4 "(c) Every attorney employed by any department on a full-  
5 time basis, except an attorney employed by the public utilities  
6 commission, the labor and industrial relations appeals board,  
7 the Hawaii labor relations board, the office of Hawaiian  
8 affairs, the Hawaii health systems corporation or its regional  
9 system boards, the department of commerce and consumer affairs  
10 in prosecution of consumer complaints, the insurance division,  
11 the division of consumer advocacy, the University of Hawaii, the  
12 Hawaii tourism authority as provided in section 201B-2.5, the  
13 office of information practices, or the department of Hawaiian  
14 home lands, or as grand jury counsel, shall be a deputy attorney  
15 general."

16 SECTION 7. (a) The legislative reference bureau shall  
17 conduct a study on the potential consequences of creating a  
18 position for the director of Hawaiian home lands that is  
19 separate from the chairperson of the Hawaiian homes commission.  
20 In conducting the study, the bureau shall assume that:



- 1 (1) The governor shall appoint the director of Hawaiian  
2 home lands under section 26-17, Hawaii Revised  
3 Statutes;
- 4 (2) The director of Hawaiian home lands would be a member  
5 of the Hawaiian homes commission;
- 6 (3) The director of Hawaiian home lands would not be  
7 eligible to be considered as the chairperson of the  
8 Hawaiian homes commission;
- 9 (4) The members of the Hawaiian homes commission shall  
10 choose the chairperson amongst their own members; and
- 11 (5) The director of Hawaiian home lands would have the  
12 authority to veto major policy and budgetary decisions  
13 of the Hawaiian homes commission with written  
14 justification.
- 15 (b) The study shall consider the effectiveness; cost;  
16 potential conflicts of interests, such as in contested case  
17 hearings; and other issues that may arise from the proposed  
18 change in the governance structure of the department of Hawaiian  
19 home lands.
- 20 (c) The legislative reference bureau shall submit a report  
21 of its findings and recommendations, including any proposed



1 legislation, to the legislature no later than twenty days prior  
2 to the convening of the regular session of 2022.

3 SECTION 8. Any sitting Hawaiian homes commission member  
4 whose term of office has not expired on the effective date of  
5 this Act and who does not qualify to be a member of the Hawaiian  
6 homes commission under the amendments made by this Act may  
7 continue to serve on the commission until that member's term  
8 expires.

9 SECTION 9. The provisions of the amendments made by this  
10 Act to the Hawaiian Homes Commission Act, 1920, as amended, are  
11 declared to be severable, and if any section, sentence, clause,  
12 or phrase, or the application thereof to any person or  
13 circumstances is held ineffective because there is a requirement  
14 of having the consent of the United States to take effect, then  
15 that portion only shall take effect upon the granting of consent  
16 by the United States and effectiveness of the remainder of these  
17 amendments or the application thereof shall not be affected.

18 SECTION 10. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 11. This Act shall take effect on July 1, 3021.



**Report Title:**

HHCA; Beneficiaries; DHHL; Inter-agency Council; Legal Counsel;  
LRB; Study

**Description:**

Establishes requirements for Hawaiian home lands beneficiary consultation. Amends the membership requirements for the Hawaiian homes commission. Requires quarterly reporting on land dispositions and lease cancellations. Authorizes the governor to establish an inter-agency council, based on a recommendation from the Hawaiian homes commission. Requires DHHL to develop and implement a loan servicing manual. Allows the Hawaiian homes commission to retain separate legal counsel or use the services of the attorney general, as needed. Requires the legislative reference bureau to conduct a study on the potential effects of creating a position for the director of Hawaiian home lands that is separate from the chairperson of the Hawaiian homes commission. Effective 7/1/3021. (HD1)

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

