

117TH CONGRESS
2D SESSION

H. R. 9614

To amend the Hawaiian Homes Commission Act, 1920, to reduce the minimum blood quantum for successor lessees and applicants on the Application Waiting List, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2022

Mr. KAHELE introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To amend the Hawaiian Homes Commission Act, 1920, to reduce the minimum blood quantum for successor lessees and applicants on the Application Waiting List, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hawaiian Home Lands
5 Preservation Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

1 (1) The United States of America and the State
2 of Hawaii have a fiduciary duty to support the reha-
3 bilitation of the Hawaiian people, in part by ensur-
4 ing long-term tenancies to beneficiaries and succes-
5 sors of beneficiaries of the Hawaiian Homes Com-
6 mission Act, 1920.

7 (2) In advocating for the Hawaiian Homes
8 Commission Act, Prince Jonah Kūhiō Kalanianaʻole,
9 the Territory of Hawaii's non-voting delegate to
10 Congress, anticipated future interracial marriages of
11 the Hawaiian people and originally advocated for a
12 blood quantum requirement of $\frac{1}{32}$ to perpetuate na-
13 tive Hawaiian presence on the land. However, Dele-
14 gate Kūhiō compromised for a 50 percent blood
15 quantum requirement to get a homestead lease as a
16 necessary concession to powerful sugar and ranching
17 interests. At the time of the creation of the Hawai-
18 ian Homes Commission Act, a $\frac{1}{32}$ blood quantum
19 essentially meant that anyone who had Hawaiian an-
20 cestry would qualify for the Hawaiian homesteading
21 program.

22 (3) Realizing that native Hawaiians were being
23 quickly displaced from their land due to interracial
24 marriages the State of Hawaii and the United

1 States of America lowered the blood quantum re-
2 quirement for qualified lessee successors—

3 (A) to 25 percent for spouse and children
4 on October 27, 1986;

5 (B) to 25 percent for grandchildren on
6 June 27, 1997; and

7 (C) to 25 percent for brothers and sisters
8 on April 20, 2005.

9 (4) One hundred years later, many descendants
10 of qualified Hawaiian home lands beneficiaries do
11 not qualify as successors because interracial mar-
12 riages and blended families produce descendants who
13 are less than 25 percent Hawaiian. These disrup-
14 tions create undue hardships of displacement and
15 interfere with families' abilities to maintain the eq-
16 uity of their homes and businesses.

17 (5) Throughout the entire history of the Hawai-
18 ian Homes Commission Act, as of December 31,
19 2021, less than 10,000 residential, agricultural, and
20 pastoral leases have been issued while a backlog of
21 46,307 lease applications held by 28,971 native Ha-
22 waiians remains.

23 (6) In 2020, the median age of an applicant on
24 the Application Waiting List was 59 years compared
25 to 57 in 2014. Further, in 2020, 35 percent of the

1 applicants were over age 65 compared to 16 percent
2 in 2003. The increase in the upper age ranges have
3 increased the median age of the applicants on the
4 Application Waiting List by two years. The urgency
5 for applicants to designate successors will only grow
6 as the median age of applicants on the Application
7 Waiting List increases.

8 (7) Consistent with trust law and applicable
9 State duties, the government is required to explore
10 and identify solutions that are just and equitable for
11 all beneficiaries, irrespective of their leasehold stand-
12 ing.

13 (8) A reduction in blood quantum requirements
14 for successor lessees and applicants on the Applica-
15 tion Waiting List is an important step to continue
16 access to the Hawaiian Home Lands program and to
17 prevent generationally held homestead leases from
18 being lost when elderly lessees or applicants on the
19 Application Waiting List, many of whom are older
20 than 70 years of age, die without a qualified suc-
21 cessor.

22 **SEC. 3. AMENDMENT TO THE HAWAIIAN HOMES COMMIS-**
23 **SION ACT, 1920.**

24 For the purposes of the requirements of section 4 of
25 the Act entitled “An Act to provide for the admission of

1 the State of Hawaii into the Union”, approved March 18,
2 1959 (73 Stat. 4), the consent of the United States shall
3 be deemed to be granted with respect to an amendment
4 to Hawaiian Homes Commission Act, 1920, adopted by
5 the State of Hawaii in the manner required for State legis-
6 lation, that amends section 209 to read as follows:

7 **“SEC. 209. SUCCESSORS TO LESSEES AND APPLICANTS ON**
8 **THE APPLICATION WAITING LIST.**

9 “(a) Upon the death of the lessee, the lessee’s interest
10 in the tract or tracts and the improvements thereon, in-
11 cluding growing crops and aquacultural stock (either on
12 the tract or in any collective contract or program to which
13 the lessee is a party by virtue of the lessee’s interest in
14 the tract or tracts), shall vest in the relatives of the dece-
15 dent as provided in this subsection. The lessee shall des-
16 ignate the person or persons to whom the lessee directs
17 the lessee’s interest in the tract or tracts to vest upon the
18 lessee’s death from the following relatives of the lessee who
19 are at least $\frac{1}{32}$ native Hawaiian:

20 “(1) spouse, children, grandchildren, brothers,
21 or sisters;

22 “(2) a father and mother;

23 “(3) widows or widowers of the children;

24 “(4) widows or widowers of the brothers and
25 sisters; or

1 “(5) nieces and nephews.

2 “(b) The Hawaiian blood requirements shall not
3 apply to the descendants of those who are not native Ha-
4 waiians, but who were entitled to the leased lands under
5 section 3 of the Act of May 16, 1934 (48 Stat. 777, 779)
6 or under section 3 of the Act of July 9, 1952 (66 Stat.
7 511, 513).

8 “(c) In the case of the death of an applicant while
9 on the department’s Application Waiting List, the position
10 on the Application Waiting List held by the applicant shall
11 vest in the relatives of the decedent as provided in this
12 subsection. The applicant shall designate the person in
13 whom the position on the Application Waiting List shall
14 vest from the following relatives of the applicant who are
15 at least $\frac{1}{32}$ native Hawaiian:

16 “(1) spouse, children, grandchildren, brothers,
17 or sisters;

18 “(2) a father and mother;

19 “(3) widows or widowers of the children;

20 “(4) widows or widowers of the brothers and
21 sisters; or

22 “(5) nieces and nephews.

23 “(d) Person or persons designated under subsection
24 (a) or (c) are not required to be 18 years of age or older.

25 The designation shall be in writing, may be specified at

1 the time of execution of the lease with a right in the lessee
2 in similar manner to change the beneficiary at any time
3 and shall be filed with the department and approved by
4 the department in order to be effective to vest the interests
5 in the successor or successors so named.

6 “(e) Except as provided in subsection (b), in case of
7 the death of any lessee or applicant on the Application
8 Waiting List, who has failed to specify a successor or suc-
9 cessors as approved by the department, the department
10 may select from only the following qualified relatives of
11 the decedent:

12 “(1) Spouse.

13 “(2) If there is no spouse, then the children.

14 “(3) If there is no spouse or child, then the
15 grandchildren.

16 “(4) If there is no spouse, child, or grandchild,
17 then brothers or sisters.

18 “(5) If there is no spouse, child, grandchild,
19 brother, or sister, then from the following relatives
20 of the lessee—

21 “(A) father and mother;

22 “(B) widows or widowers of the children;

23 “(C) widows or widowers of the brothers
24 and sisters; or

25 “(D) nieces and nephews.

1 “(f) The rights to the use and occupancy of the tract
2 or tracts may be made effective as of the date of the death
3 of the lessee. In the case of the death of a lessee leaving
4 no designated successor or successors, spouse, children,
5 grandchildren, or relative qualified to be a lessee of Ha-
6 waiian home lands, the land subject to the lease shall re-
7 sume its status as unleased Hawaiian home lands and the
8 department is authorized to lease the land to a native Ha-
9 waiian as provided in this Act.

10 “(g) Upon the death of a lessee who has not des-
11 ignated a successor and who leaves a spouse not qualified
12 to succeed to the lease or children not qualified to succeed
13 to the lease, or upon the death of a lessee leaving no rel-
14 ative qualified to be a lessee of Hawaiian home lands, or
15 the cancellation of a lease by the department, or the sur-
16 render of a lease by the lessee, the department shall ap-
17 praise the value of all the improvements and growing crops
18 or improvements and aquacultural stock, as the case may
19 be, and shall pay to the non-qualified spouse or the non-
20 qualified children as the lessee shall have designated prior
21 to the lessee’s death, or to the legal representative of the
22 deceased lessee, or to the previous lessee, as the case may
23 be, the value thereof, less any indebtedness to the depart-
24 ment, or for taxes, or for any other indebtedness the pay-

1 ment of which has been assured by the department, owed
2 by the deceased lessee or the previous lessee.

3 “(h) Payments under subsection (g) shall be made
4 out of the Hawaiian home loan fund and shall be consid-
5 ered an advance therefrom and shall be repaid by the suc-
6 cessor or successors to the tract involved. If available cash
7 in the Hawaiian home loan fund is insufficient to make
8 these payments, payments may be advanced from the Ha-
9 waiian home general loan fund and shall be repaid by the
10 successor or successors to the tract involved. Any repay-
11 ment for advances made from the Hawaiian home general
12 loan fund shall be at the interest rate established by the
13 department for loans made from the Hawaiian home gen-
14 eral loan fund. The successor or successors may be re-
15 quired by the commission to obtain private financing in
16 accordance with section 208(6) to pay off the amount ad-
17 vanced from the Hawaiian home loan fund or Hawaiian
18 home general loan fund.”.

19 **SEC. 4. SEVERABILITY CLAUSE.**

20 This Act and the amendments made by this Act to
21 the Hawaiian Homes Commission Act, 1920, are declared
22 to be severable. If any section, sentence, clause, or phrase,
23 or the application thereof to any person or circumstance

- 1 is held ineffective the remainder of the amendments or the
- 2 application thereof shall not be affected.

