

Statement For the Record

U.S. Department of the Interior

before the

United States Senate

Committee on Energy and Natural Resources

Subcommittee on Water and Power

S.J. Res. 12 – To Consent to Certain Amendments Enacted by the Legislature of

the State of Hawai‘i to the Hawaiian Homes Commission Act, 1920

April 16, 2013

Thank you for providing the Department of the Interior the opportunity to provide its views on Senate Joint Resolution 12 which proposes to consent to and approve three amendments, Act 107, 2000 Hawai‘i Session Laws, Act 12, 2002 Haw. Sess. Laws, and Act 16, 2005 Haw. Sess. Laws., proposed by the legislature of the State of Hawai‘i to the Hawaiian Homes Commission Act (HHCA), 1920, as amended. Specifically, S.J. Res. 12 seeks to amend the HHCA to allow the interest rate on loans from the Hawaiian home-loan fund and the Hawaiian home general loan fund to be set by the Hawaiian Homes Commission through an administrative rule, rather than by law. S.J. Res. 12 also changes the qualifications of homestead lessees by authorizing a Hawaiian Homes Commission Act homestead lessee to transfer, or designate a successor to, their leasehold interest to a brother or sister who is at least one-quarter Native Hawaiian.

By way of background, Congress enacted the HHCA in 1921 to provide a homesteading program on approximately 200,000 acres of land, called the “available lands,” for native Hawaiians. In section 4 of the Hawai‘i Admission Act, 73 Stat. 4, Congress required “the consent of the United States” to certain State of Hawai‘i enactments amending the HHCA. In section 204 of the Hawaiian Home Lands Recovery Act (HHLRA) of November 2, 1995, 109 Stat. 361, Congress formalized the role of the Department in securing any required congressional consent and approval to State enactments.

The HHLRA provides that the Department is to review proposed state amendments to the HHCA to determine whether congressional approval is needed to effectuate the United States’ consent required under Section 4 of the Hawai‘i Admission Act. If the Department deems that

congressional approval is not required, it so notifies the State of Hawai‘i and Congress. If the Department deems that congressional approval is required, as the Department has for the three proposed amendments that are the subject of S.J. Res. 12, the Department is to submit a draft joint resolution approving the amendments to Congress, together with a recommendation on whether they should be approved. Here, we wish to acknowledge that the introduced bill was a product of close collaboration among the Committee on Energy and Natural Resources, the Department, and the Hawai‘i Senate delegation.

In carrying out the Department’s statutory trust responsibilities to the beneficiaries of the HHCA, the Department obtained input from participants during a Beneficiary Forum with the Department’s Office of Native Hawaiian Relations. The forum was held in May 2008 in Hawai‘i to discuss with leaders of the Native Hawaiian beneficiary community the State enactments proposed to amend the HHCA. Due to public request, the Department extended the comment period and conducted an electronic consultation with the Native Hawaiian community.

Based upon the Department’s review and the criteria listed in section 4 of the Hawai‘i Admission Act, the Department determined that Act 107, 2000 Haw. Sess. Laws, Act 12, 2002 Haw. Sess. Laws, and Act 16, 2005 Haw. Sess. Laws, require congressional consent before such proposed amendments take on the force of law. The Department supports the United States consenting to and approving of Act 107 and remains neutral on the consenting to and approving of Acts 12 and 16.

This concludes the Department’s prepared testimony on S.J. Res. 12, and the Department would be happy to answer any questions the Subcommittee may have.