

Congress Has Recognized That a *Special Political Relationship* Exists Between the United States and the Native Hawaiian People

- * Hawaiian Homes Commission Act (1921)
- * Admission Act (1959)
- * Native Hawaiians have been included in numerous programs benefitting other Native Americans
- * 1993 Apology Resolution
- * Native Hawaiian Education Act of 1994

**HAWAIIAN HOMES COMMISSION ACT,
1920 -- § 201.5 -- Federal Reaffirmation.**

The United States and State of Hawaii hereby reaffirm and recognize that:

(1) The native Hawaiian people are a distinct native, indigenous people who have maintained their own language, culture, and traditions, and have established Hawaiian home lands areas protected under federal and state law;

(2) The United States has a unique trust responsibility to promote the welfare of the aboriginal, indigenous people of the State, and the federal government has delegated broad authority to the State to act for their betterment; and

(3) The aboriginal, indigenous people of the State retain their inherent sovereign authority and their right to organize for their common welfare.

HAWAIIAN HOMES COMMISSION ACT, 1920§ 201.5. Community based governance on Hawaiian home lands.

It is the policy of the State to support participation in governance by promoting the empowerment of democratically-elected Hawaiian homestead community self- governance organizations.

In furtherance of this policy, and with the consent of the Congress of the United States, the State may delegate to a democratically-elected organization representing a Hawaiian homestead community or communities the authorities delegated to the State by the United States relating to the administration of the Hawaiian Homes Commission Act, 1920, as amended.

The commission may establish a working relationship with a democratically-elected Hawaiian homestead community self- governance organization to promote community welfare. The selection of authorities to be delegated shall be left to the Hawaiian homes commission's discretion. The commission may establish criteria to determine the boundaries and location of a Hawaiian homestead community and whether a Hawaiian homestead community organization is eligible for delegation. Criteria for eligibility shall include but not be limited to the following:

- (1) The organization and its leadership is a bona fide representative body of native Hawaiian residents, homestead lessees, qualified successors residing within the homestead community, and native Hawaiians who have designated that homestead community as their primary choice of residence with the department of Hawaiian home lands and who are awaiting an award of a lease under this Act;
- (2) The organization is governed by free and fair elections; and
- (3) The organization demonstrates sufficient capacity to implement the authorities that are delegated.

The commission may contract with and delegate authority to a Hawaiian homestead community self-governance organization to perform governmental services for the homestead community represented by that homestead organization. Any such contract shall include a requirement that the government service shall be performed at a level and quality comparable to the services that would otherwise be provided by the department of Hawaiian home lands.

The department of Hawaiian home lands may adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to implement this section.

ELECTING HAWAIIAN HOMES **COMMISSIONERS**

Promotes Accountability

Governance by the Effected Beneficiaries

A Step Toward Self-Determination and Self-Governance

Who Should Vote?

Current Lessees

Other Residents Living on Home Lands

Other Eligible Beneficiaries
(currently on waiting list?)

Elected by Districts or State wide?

How Should the Districts Be Established?

Hawai'i Constitution--Article VIII

Section 1. The legislature shall create counties, and may create other political subdivisions within the State, and provide for the government thereof. Each political subdivision shall have and exercise such powers as shall be conferred under general laws.

Section 2. Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law....

Section 3. The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivisions....

The Findings in the 1994 Native Hawaiian Education Act reconfirm:

* that “Native Hawaiians are a *distinct and unique indigenous people*,”

* that the Kingdom of Hawai`i was overthrown with the assistance of officials of the United States,

* that the United States had apologized for “the deprivation of the rights of Native Hawaiians to self-determination,” and

* that “Congress had affirmed the *special relationship* between the United States and the Native Hawaiians” through the enactment of the Hawaiian Homes Commission Act, the 1959 Admission Act, and other listed statutes.

The 1993 Apology Resolution

The Congress—

.....

(4) expresses its commitment to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii, in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people; and

(5) urges the President of the United States to also acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and the Native Hawaiian people.
(Emphasis added.)

Do Native Hawaiians Already Have Same Legal Status as Indian Tribes?

* Congress has repeatedly said that the United States has a “special political relationship” with the Native Hawaiian People.

* In the Defense Appropriate Act of 2001, Congress granted a procurement preference to “a qualified firm under 51% ownership by an **Indian tribe**, as defined in 25 U.S.C. sec. 450b(e), or a **Native Hawaiian organization**, as defined in 15 U.S.C. 637(a)(15).”

* 15 U.S.C. 637(a)(15): “the term ‘*Native Hawaiian Organization*’ means any community service organization serving Native Hawaiians in the State of Hawaii which –

(A) is a nonprofit corporation that has filed articles of incorporation with the director (or the designee thereof) of the Hawaii Department of Commerce and Consumer Affairs....,

(B) is controlled by Native Hawaiians, and

(C) whose business activities will principally benefit such Native Hawaiians.