

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 15-16, 2025

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Lillianne Makaila, Acting Planning Manager
FROM: Ku'upua Kiyuna, Cultural Resource Specialist
SUBJECT: Approval to Proceed to Public Hearing for a Proposed
Administrative Rule to Establish a Priority Waitlist for
Applicants with a Connection to a Place

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission grant its approval to proceed to Public Hearings for a proposed new administrative rule to establish a priority waitlist for applicants with a connection to place.

DISCUSSION:

Over the last five years, DHHL has engaged in planning processes to develop new homestead communities in rural areas. Feedback received during beneficiary consultation and meetings with the wider Native Hawaiian communities included a strong and clear call for DHHL to develop a preference policy of awarding homestead leases to beneficiaries who have a connection to the specific areas that the department is planning to award homestead leases. These communities expressed the need for this policy because maintaining a continuity of settlement by beneficiaries who have a relationship to the area creates a solid foundation for individual and community success. Such success is due to the strong network of family members and/or close neighbors in rural communities, and the generational and place-based knowledge of the landscape and resources. Both are critical to sustainably manage subsistence resources and successfully live in these remote rural areas.

In December 2024, the Department of Hawaiian Home Lands began its process for administrative rulemaking for a proposed rule

that creates a priority waitlist for lineal descendants and former and current residents of an area where the department is planning kuleana homestead lease awards. The chart below summarizes the important actions taken by the HHC and DHHL staff in this process.

December 2024	Draft Rule prepared by staff and presented to HHC
December 2024	Approval to proceed to beneficiary consultation
March-June 2025	Statewide beneficiary consultation
September 2025	For information: presentation of the beneficiary consultation report

Based on comments received during the beneficiary consultation, staff recommends changes for clarity and consistency. Staff believes these changes do not alter the meaning or impact of the proposed rule, rather, the changes respond to comments by clarifying existing language. Staff recommends the following changes:

1. **Clarify that the priority waitlist is optional.** Comments received indicated that the rule was unclear as to whether applicants were required to apply for this priority waitlist if they met the requirements. Therefore, staff recommends the additional language in HAR §10-3-12(b) to clarify that the waitlist is optional and applying for the waitlist is at the beneficiary's discretion.
2. **Clarify that an applicant may only be awarded a lease through the Pilina-Based Priority Waitlist once.** Comments received indicated that many beneficiaries can claim connection to multiple places through lineal descendancy and/or residency. Staff recommends the additional language in HAR §10-3-12(b), which clarifies that if an applicant can establish connection to multiple places, he or she must choose one place to apply to be part of the Pilina-Based Priority Waitlist for.
3. **Include "twenty years" in the definition of "residency."** Comments received indicated that the rule lacked clarity regarding how long a person needs to live, or have lived, in a place to claim residency as their connection to place. Comments included that it would take at least twenty years

for a person to become familiar with the place and its resources and therefore establish residency that is meaningful for the purpose of this waitlist. Accordingly, staff recommends adding twenty years as the minimum amount of time someone must live, or have lived, in a place to establish residency for the purpose of this rule.

4. **Eliminate "familial connection to existing resident" as a way to prove connection to place.** Comments were received expressing disinterest in this option for proving connection to place. This option requires the applicant to prove that their familial connection to a current resident of the place where the department is making kuleana homestead awards and prove that person's residency. It was requested during beneficiary consultation that this option be removed because it dilutes the intention of the rule, which is to prioritize lineal descendants and former and current residents. Therefore, staff recommends eliminating this option to prove connection to place.
5. **Replace "wahi" with "place" and include a section describing how "place" will be defined.** A comment was received to eliminate Hawaiian words from the rule due to the multiple meanings a singular Hawaiian word can have. In the first draft of the rule, the definition of "wahi" or place was purposely left general to create flexibility because staff recognized that communities define their wahi differently and in ways specific to them. The question, "how do you define your wahi?" was asked during beneficiary consultation and no two communities defined their wahi the same. Accordingly, staff recommends replacing the term "wahi" with "place" in the interest of clarity and adding the language in HAR §10-3-12(c), which clarifies that "place" will be defined in the settlement plan, which is designed in consultation with beneficiaries. This will allow each of the communities where the department is planning kuleana homestead awards to define their place accordingly.

The first draft of the rule with the recommended deletions in strikethrough and recommended additions and changes shown in red text is attached below as Exhibit A. The proposed rule with recommended changes incorporated that staff is requesting the

Hawaiian Homes Commission to approve to go to public hearing is attached below as Exhibit B.

RECOMMENDATION

DHHL staff respectfully requests approval of the motion as recommended above.

Exhibit A

§10-3-12 Awards to Applicants Who are lineal descendants and existing residents. (a) As used in this section: "Familial connection" means an established relationship between the applicant and the wahi that is proven by the applicant's documented genealogy to biological or legal ancestors who resided in the wahi prior to 1900, ~~or the applicant having a family member that is a current resident of the wahi where the award is being made.~~ "Relative" means ~~any of the following individuals: husband, wife, child, grandchild, brother, sister, father, mother, widows or widowers of children, widows or widowers of brothers or sisters, nieces, and nephews.~~ Individuals that are related to the applicant through the traditional practice of hānai will also be considered a relative. "Residency" means the act of living in a particular place for a minimum of twenty years. "Resident" means an eligible applicant who previously resided or currently resides in the wahi in which the award is being made for a minimum of twenty years and can verify his or her residency acceptable to the department. "Wahi" means ~~a place or location in which a new DHHL kuleana homestead development is being made or in close proximity to where the award is being made.~~

(b) The Pilina-Based Priority Waitlist shall be applicable only in wahi where the department is planning kuleana homestead lease awards. Applicants may apply for the Pilina-Based Priority Waitlist for any lease awards in a wahi where the department is also offering kuleana homestead leases. **The Pilina-Based**

Priority Waitlist is an optional waitlist that applicants on the respective Island-wide Waitlist may choose to be listed on if the applicant can establish:

- (1) a former or current residency in the wahi; or
- (2) a familial connection to the wahi.

If the applicant can establish his or her former or current residency or familial connection to multiple places where the department is planning kuleana homestead lease awards, the applicant may only choose one place to apply to be part of the Pilina-Based Priority Waitlist for.

~~In the making of the Pilina-Based Priority, preference shall be given to applicants on the respective Island-wide Waitlist who:~~

- ~~(1) formerly resided or currently reside in the wahi~~
- ~~(2) can establish a lineal descendancy to the wahi; or~~
- ~~(3) can establish a familial connection to the wahi.~~

(c) The department will provide notice to applicants on the respective island-wide waitlists that the department is accepting applications for the Pilina-Based Priority Waitlist. Applicants on the Pilina-Based Priority Waitlist shall be considered for award in their existing rank order on the island-wide waiting list until the Pilina-Based Priority Waitlist is exhausted. For places where an area waiting list exists, awards shall be made first on the area waiting list, then the Pilina-Based Priority Waitlist, then the island-wide waiting list, except as otherwise provided in this chapter.

(d) Applicants interested in being on the Pilina-Based Priority Waitlist shall complete an application form wherein the applicant must establish **their former or current** residency in the wahi or establish a familial connection to the wahi to the satisfaction of the department.

(1) To prove former or current residency, the applicant shall submit with their application any of the following information:

- (A) A government issued identification card with picture and home address;
- (B) School district records;
- (C) Utility bill with a home address;
- (D) Bank statement with a home address; or
- (E) Any other applicable information that helps establish current or former residency.

(2) To prove an applicant's familial connection to the wahi in which the kuleana lease award is being made, the applicant shall submit documentation establishing his or her connection to the wahi ~~either through the applicant's lineal descendency or establishing that a relative of the applicant is a current resident of the wahi.~~ To prove lineal descendency, the applicant shall provide with their application any of the following information:

- (A) Documented genealogy to biological or legal ancestors who resided in the wahi prior to 1900;
- (B) Birth certificates;
- (C) Death certificates;
- (D) Obituaries;
- (E) Marriage certificates;
- (F) Probate records;
- (G) Church records;
- (H) Census records;
- (I) Tax records;
- (J) Land conveyance documents, including but not limited to deeds and land commission awards;
- (K) Oral family history; or

(L) Any other applicable information that helps establish a familial connection between the applicant and the wahi.

~~(3) If the applicant cannot prove lineal descendancy to the wahi or is not a current or former resident of the wahi, or both, the applicant may be considered eligible for the Pilina-Based Priority Waitlist if the applicant has a relative that is a current resident of the wahi. The applicant must provide in his or her application information establishing the relative's residency and what the applicant's relationship is to the resident and provide information demonstrating his or her relative's residency in the wahi by submitting any of the following:~~

- ~~—— (A) Genealogical records;~~
- ~~—— (B) Copy of a state issued photo identification with a home address;~~
- ~~—— (C) Copy of lease agreement;~~
- ~~—— (D) Bank statement with a home address;~~
- ~~—— (E) Utility bill with a home address;~~
- ~~—— (F) Tax records;~~
- ~~—— (G) Signed affidavit; or~~
- ~~—— (H) Any other applicable information that helps establish the relative's current residency.~~

(4) The department will verify the applicant's connection to place by utilizing existing resources, records, and information already collected by the department to the extent feasible.

(e) If the department confirms the applicant's ~~relationship~~ former or current residency in the wahi or familial connection to the wahi, the applicant will be placed on the Pilina-Based Priority Waitlist.

(f) In making subsequent awards, until the Pilina-Based Priority Waitlist is exhausted, applicants will be considered in the order of preference established in HAR § 10-3-12(c) ~~provided:~~

(1) ~~The commission reserves the right to determine which homestead waiting list, or combinations thereof, may be used to make the awards and what list, or combinations thereof, may be used if the original list used to make the awards is exhausted pursuant to HAR §10-3-30(d). Applicants registered on other application lists who accept a kuleana lease award are presumed to have transferred their existing application to the respective island-wide kuleana lease list. Upon lease award approval, their kuleana application will be cancelled.~~

(g) The Pilina-Based Priority Waitlist shall expire when all the lots in the kuleana homestead are awarded. Once an applicant on the Pilina-Based Priority Waitlist becomes a lessee, he or she will be removed from the respective Island Waitlist for the type of lot awarded.

(1) If the Pilina-Based Priority Waitlist has been exhausted and there are remaining lots to award, then the department will utilize the respective Island Waitlist to award the remaining lots until all lots have been awarded.

(2) If all lots have been awarded and there are still applicants on the Pilina-Based Priority Waitlist, the remaining applicants who did not receive an award will return to their respective Island Waitlists in their original rank order by date of application.

Exhibit B

§10-3-12 Awards to Applicants Who are Lineal Descendants or Previous or Existing Residents. (a) As used in this section:

"Familial connection" means an established relationship between the applicant and the place where the department is planning kuleana homestead lease awards that is proven by the applicant's documented genealogy to biological or legal ancestors who resided in that place prior to 1900. "Residency" means the act of living in a particular place for a minimum of twenty years. "Resident" means an eligible applicant who previously resided or currently resides in the place in which the award is being made for a minimum of twenty years and can verify his or her residency acceptable to the department.

(b) The Pilina-Based Priority Waitlist shall be applicable only in places where the department is planning kuleana homestead lease awards. Applicants may apply for the Pilina-Based Priority Waitlist for any lease awards in a place where the department is also offering kuleana homestead leases. The Pilina-Based Priority Waitlist is an optional waitlist that applicants on the respective Island-wide Waitlist may choose to be listed on if the applicant can establish:

- (1) a former or current residency in the place; or
- (2) a familial connection to the place.

If the applicant can establish his or her former or current residency or familial connection to multiple places where the department is planning kuleana homestead lease awards, the applicant may only choose one place to apply to be part of the Pilina-Based Priority Waitlist for.

(c) The area where applicants must establish their residency or familial connection to may be larger than the footprint of the planned kuleana homestead settlement. The specific areas to which this rule applies shall be defined in

the settlement plan that is developed for the kuleana homestead. For existing kuleana homesteads, the area shall be defined by the location and description of the tract of land included in the settlement plan that was approved by the commission.

(d) The department will provide notice to applicants on the respective island-wide waitlists that the department is accepting applications for the Pilina-Based Priority Waitlist. Applicants on the Pilina-Based Priority Waitlist shall be considered for award in their existing rank order on the island-wide waiting list. For places where an area waiting list exists, awards shall be made first on the area waiting list, then the Pilina-Based Priority Waitlist, then the island-wide waiting list, except as otherwise provided in this chapter.

(e) Applicants interested in being on the Pilina-Based Priority Waitlist shall complete an application form wherein the applicant must establish their former or current residency in the place or establish a familial connection to the place to the satisfaction of the department.

(1) To prove former or current residency, the applicant shall submit with their application any of the following pieces of information:

- (A) A government issued identification card with picture and home address;
- (B) School district records;
- (C) Utility bill with a home address;
- (D) Bank statement with a home address; or
- (E) Any other applicable information that helps establish current or former residency.

(2) To prove an applicant's familial connection to the place in which the kuleana lease award is being made, the applicant shall submit documentation establishing his or her connection to the place through the applicant's lineal

descendancy. To prove lineal descendancy, the applicant shall provide with their application any of the following pieces of information:

- (A) Documented genealogy to biological or legal ancestors who resided in the place prior to 1900;
- (B) Birth certificates;
- (C) Death certificates;
- (D) Obituaries;
- (E) Marriage certificates;
- (F) Probate records;
- (G) Church records;
- (H) Census records;
- (I) Tax records;
- (J) Land conveyance documents, including but not limited to deeds and land commission awards;
- (K) Oral family history; or
- (L) Any other applicable information that helps establish a familial connection between the applicant and the place.

(3) The department will verify the applicant's connection to place by utilizing existing resources, records, and information already collected by the department to the extent feasible.

(f) If the department confirms the applicant's former or current residency of the place or familial connection to the place, the applicant will be placed on the Pilina-Based Priority Waitlist.

(g) In making subsequent awards, until the Pilina-Based Priority Waitlist is exhausted, applicants will be considered in the order of preference established in HAR § 10-3-12(c).

(h) The Pilina-Based Priority Waitlist shall expire when all the lots in the kuleana homestead are awarded. Once an

applicant on the Pilina-Based Priority Waitlist becomes a lessee, he or she will be removed from the respective Island Waitlist for the type of lot awarded.

(1) If the Pilina-Based Priority Waitlist has been exhausted and there are remaining lots to award, then the department will utilize the respective island-wide waitlist to award the remaining lots until all lots have been awarded.

(2) If all lots have been awarded and there are still applicants on the Pilina-Based Priority Waitlist, the remaining applicants who did not receive an award will return to the respective island-wide waitlist in their original rank order by date of application. Those applicants may apply for a Pilina-Based Priority Waitlist for another area that he or she meets the qualifications established in HAR § 10-3-12(b) for.