
A BILL FOR AN ACT

RELATING TO HAWAIIAN AFFAIRS.

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

1 SECTION 1. Section 204.5, Hawaiian Homes Commission Act,
2 is amended to read as follows:
3 "**§204.5. Additional powers.** In addition and supplemental
4 to the powers granted to the department by law, and
5 notwithstanding any law to the contrary, the department may:
6 (1) With the approval of the governor, undertake and carry
7 out the development of any Hawaiian home lands
8 available for lease under and pursuant to section 207
9 of this Act by assembling these lands in residential
10 developments and providing for the construction,
11 reconstruction, improvement, alteration, or repair of
12 public facilities therein, including, without
13 limitation, streets, storm drainage systems,
14 pedestrian ways, water facilities and systems,
15 sidewalks, street lighting, sanitary sewerage
16 facilities and systems, utility and service corridors,
17 and utility lines, where applicable, sufficient to
18 adequately service developable improvements therein,



1 sites for schools, parks, off-street parking
2 facilities, and other community facilities;

3 (2) With the approval of the governor, undertake and carry
4 out the development of available lands for homestead,
5 commercial, and multipurpose projects as provided in
6 section 220.5 of this Act, as a developer under this
7 section or in association with a developer agreement
8 entered into pursuant to this section by providing for
9 the construction, reconstruction, improvement,
10 alteration, or repair of public facilities for
11 development, including, without limitation, streets,
12 storm drainage systems, pedestrian ways, water
13 facilities and systems, sidewalks, street lighting,
14 sanitary sewerage facilities and systems, utility and
15 service corridors, and utility lines, where
16 applicable, sufficient to adequately service
17 developable improvements therein, sites for schools,
18 parks, off-street parking facilities, and other
19 community facilities;

20 (3) With the approval of the governor, designate by
21 resolution of the commission all or any portion of a
22 development or multiple developments undertaken



1 pursuant to this section an "undertaking" under part
2 III of chapter 39, Hawaii Revised Statutes; ~~and~~

3 (4) Exercise the powers granted under section 39-53,
4 Hawaii Revised Statutes, including the power to issue
5 revenue bonds from time to time as authorized by the
6 legislature~~[-]~~; and

7 (5) Exercise the powers granted to the office of Hawaiian
8 affairs under article XII of the Constitution of the
9 State of Hawaii and chapter 10, Hawaii Revised
10 Statutes, if an unappealable federal court decision
11 determines that the existence of the office of
12 Hawaiian affairs is in violation of the United States
13 Constitution.

14 All provisions of part III of chapter 39, Hawaii Revised
15 Statutes, shall apply to the department and all revenue bonds
16 issued by the department shall be issued pursuant to the
17 provisions of that part, except these revenue bonds shall be
18 issued in the name of the department, and not in the name of the
19 State.

20 As applied to the department, the term "undertaking" as
21 used in part III of chapter 39 shall include a residential
22 development or a development of homestead, commercial, or



1 multipurpose projects under this Act. The term "revenue" as
2 used in part III of chapter 39, shall include all or any portion
3 of the rentals derived from the leasing of Hawaiian home lands
4 or available lands, whether or not the property is a part of the
5 development being financed."

6 SECTION 2. Chapter 10, Hawaii Revised Statutes, is amended
7 by adding a new section to be appropriately designated and to
8 read as follows:

9 "§10- Office of Hawaiian affairs; transfer of authority
10 and revenues; when operative. (a) If an unappealable federal
11 court decision determines that the existence of the office of
12 Hawaiian affairs is in violation of the United States
13 Constitution, then the powers established and proceeds, income,
14 and revenue identified under this chapter shall be transferred
15 from the office of Hawaiian affairs to the department of
16 Hawaiian home lands; provided that any moneys transferred to the
17 department of Hawaiian home lands from the office of Hawaiian
18 affairs pursuant to this section shall be expended or
19 administered in accordance with the Hawaiian Homes Commission
20 Act of 1920, as amended.

21 (b) Upon receiving notification of the unappealable
22 federal court decision that determined that the existence of the



1 office of Hawaiian affairs is in violation of the United States
2 Constitution, the governor shall issue a declaration that
3 establishes a date upon which the transfer described in
4 subsection (a) is to occur. The governor shall have the power
5 to do all things necessary to effectuate the expedient transfer
6 described in subsection (a); provided that the governor shall
7 report to the legislature, not later than twenty days prior to
8 the convening of the regular session immediately succeeding the
9 transfer, all actions taken pursuant to this section."

10 SECTION 3. The provisions of the amendments made by
11 section 1 of this Act to the Hawaiian Homes Commission Act,
12 1920, as amended, are declared to be severable, and if any
13 section, sentence, clause, or phrase, or the application thereof
14 to any person or circumstances is held ineffective because there
15 is a requirement of having the consent of the United States to
16 take effect, then that portion only shall take effect upon the
17 granting of consent by the United States and effectiveness of
18 the remainder of these amendments or the application thereof
19 shall not be affected.

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon the
2 ratification of a state constitutional amendment that authorizes
3 the transfer of powers of the office of Hawaiian affairs and the
4 moneys owed as its pro rata share of public land trust revenues
5 to the department of Hawaiian home lands if an unappealable
6 federal court decision determines that the existence of the
7 office of Hawaiian affairs is in violation of the United States
8 Constitution.

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INTRODUCED BY:

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JAN 23 2006



HB 2238

Report Title:

Office of Hawaiian Affairs; Transfer of Powers

Description:

Provides for the transfer of the powers of the office of Hawaiian affairs and the moneys owed as its pro rata share of public land trust revenues to the department of Hawaiian home lands if an unappealable federal court decision determines that the existence of the office of Hawaiian affairs is in violation of the United States Constitution.

