
A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. Section 204 of the Hawaiian Homes Commission
2 Act, 1920, as amended, is amended by amending subsection (a) to
3 read as follows:

4 "(a) Upon the passage of this Act, all available lands
5 shall immediately assume the status of Hawaiian home lands and
6 be under the control of the department to be used and disposed
7 of in accordance with the provisions of this Act, except that:

8 (1) In case any available land is under lease by the
9 Territory of Hawaii, by virtue of section 73 of the
10 Hawaiian Organic Act, at the time of the passage of
11 this Act, such land shall not assume the status of
12 Hawaiian home lands until the lease expires or the
13 board of land and natural resources withdraws the
14 lands from the operation of the lease. If the land is
15 covered by a lease containing a withdrawal clause, as
16 provided in section 73(d) of the Hawaiian Organic Act,
17 the board of land and natural resources shall withdraw
18 such lands from the operation of the lease whenever



1 the department gives notice to the board that the
2 department is of the opinion that the lands are
3 required by it for the purposes of this Act; and such
4 withdrawal shall be held to be for a public purpose
5 within the meaning of that term as used in section
6 73(d) of the Hawaiian Organic Act.

- 7 (2) Any available land, including lands selected by the
8 department out of a larger area, as provided by this
9 Act, not leased as authorized by section 207(a) of
10 this Act, may be returned to the board of land and
11 natural resources as provided under section 212 of
12 this Act, or may be retained for management by the
13 department. Any Hawaiian home lands general lease
14 issued by the department after June 30, 1985, shall
15 contain a withdrawal clause allowing the department to
16 withdraw the land leased at any time during the term
17 of the lease for the purposes of this Act.

18 In the management of any retained available lands
19 not required for leasing under section 207(a), the
20 department may dispose of those lands or any
21 improvements thereon to the public, including native
22 Hawaiians, on the same terms, conditions,



1 restrictions, and uses applicable to the disposition
2 of public lands in chapter 171, Hawaii Revised
3 Statutes[+], including, without limitation, the
4 sections of chapter 171, Hawaii Revised Statutes,
5 relating to county zoning, subdivision, and other land
6 use requirements; provided that the department may not
7 sell or dispose of such lands in fee simple except as
8 authorized under section 205 of this Act; provided
9 further that the department is expressly authorized to
10 negotiate, prior to negotiations with the general
11 public, the disposition of Hawaiian home lands or any
12 improvements thereon to a native Hawaiian, or
13 organization or association owned or controlled by
14 native Hawaiians, for commercial, industrial, or other
15 business purposes, in accordance with the procedures
16 set forth in chapter 171, Hawaii Revised Statutes.

- 17 (3) The department, with the approval of the Secretary of
18 the Interior, in order to consolidate its holdings or
19 to better effectuate the purposes of this Act, may
20 exchange the title to available lands for land,
21 privately or publicly owned, of an equal value. All
22 lands so acquired by the department shall assume the



1 status of available lands as though the land were
2 originally designated as available lands under section
3 203 of this Act, and all lands so conveyed by the
4 department shall assume the status of the land for
5 which it was exchanged. The limitations imposed by
6 section 73(1) of the Hawaiian Organic Act and the land
7 laws of Hawaii as to the area and value of land that
8 may be conveyed by way of exchange shall not apply to
9 exchanges made pursuant hereto. No such exchange of
10 land publicly owned by the State shall be made without
11 the approval of two-thirds of the members of the board
12 of land and natural resources. For the purposes of
13 this paragraph, lands "publicly owned" means land
14 owned by a county or the State or the United States."

15 SECTION 2. Section 204.5 of the Hawaiian Homes Commission
16 Act, 1920, as amended, is amended to read as follows:

17 "**§204.5. Additional powers.** (a) In addition and
18 supplemental to the powers granted to the department by law, and
19 notwithstanding any law to the contrary, the department may:

- 20 (1) With the approval of the governor, undertake and carry
21 out the development of any Hawaiian home lands
22 available for lease under and pursuant to section 207



1 of this Act by assembling these lands in residential
2 developments and providing for the construction,
3 reconstruction, improvement, alteration, or repair of
4 public facilities therein, including, without
5 limitation, streets, storm drainage systems,
6 pedestrian ways, water facilities and systems,
7 sidewalks, street lighting, sanitary sewerage
8 facilities and systems, utility and service corridors,
9 and utility lines, where applicable, sufficient to
10 adequately service developable improvements therein,
11 sites for schools, parks, off-street parking
12 facilities, and other community facilities;

13 (2) With the approval of the governor, undertake and carry
14 out the development of available lands for homestead,
15 commercial, and multipurpose projects as provided in
16 section 220.5 of this Act, as a developer under this
17 section or in association with a developer agreement
18 entered into pursuant to this section by providing for
19 the construction, reconstruction, improvement,
20 alteration, or repair of public facilities for
21 development, including, without limitation, streets,
22 storm drainage systems, pedestrian ways, water



1 facilities and systems, sidewalks, street lighting,
2 sanitary sewerage facilities and systems, utility and
3 service corridors, and utility lines, where
4 applicable, sufficient to adequately service
5 developable improvements therein, sites for schools,
6 parks, off-street parking facilities, and other
7 community facilities; provided that any development of
8 available lands for a commercial project pursuant to
9 this section, including any portion of a multipurpose
10 project that is not a homestead project, shall be
11 developed in compliance with county zoning,
12 subdivision, and other land use requirements;

13 (3) With the approval of the governor, designate by
14 resolution of the commission all or any portion of a
15 development or multiple developments undertaken
16 pursuant to this section an "undertaking" under part
17 III of chapter 39, Hawaii Revised Statutes; and

18 (4) Exercise the powers granted under section 39-53,
19 Hawaii Revised Statutes, including the power to issue
20 revenue bonds from time to time as authorized by the
21 legislature.



1 (b) All provisions of part III of chapter 39, Hawaii
2 Revised Statutes, shall apply to the department and all revenue
3 bonds issued by the department shall be issued pursuant to the
4 provisions of that part, except these revenue bonds shall be
5 issued in the name of the department, and not in the name of the
6 State.

7 As applied to the department, the term "undertaking" as
8 used in part III of chapter 39 shall include a residential
9 development or a development of homestead, commercial, or
10 multipurpose projects under this Act. The term "revenue" as
11 used in part III of chapter 39, shall include all or any portion
12 of the rentals derived from the leasing of Hawaiian home lands
13 or available lands, whether or not the property is a part of the
14 development being financed."

15 SECTION 3. Section 220.5 of the Hawaiian Homes Commission
16 Act, 1920, as amended, is amended as follows:

17 1. By amending subsection (a) to read:

18 "(a) Notwithstanding any law to the contrary, the
19 department [~~is~~] shall be authorized to enter into and carry out
20 contracts to develop available lands for homestead, commercial,
21 and multipurpose projects; provided that [~~the~~]:



1 (1) The department shall not be subject to the
2 requirements of competitive bidding if no state funds
3 are to be used in the development of the project[-];
4 and

5 (2) Any development of available lands for a commercial
6 project pursuant to this section, including any
7 portion of a multipurpose project that is not a
8 homestead project, shall be developed in compliance
9 with county zoning, subdivision, and other land use
10 requirements."

11 2. By amending subsection (c) to read:

12 "(c) Any project developer agreement entered into pursuant
13 to this section shall include the following terms and
14 conditions, wherever appropriate:

15 (1) A requirement that the developer file with the
16 department a good and sufficient bond conditioned upon
17 the full and faithful performance of all the terms,
18 covenants, and conditions of the project developer
19 agreement;

20 (2) The use or uses to which the land will be put;

21 (3) The dates on which the developer must submit to the
22 department for approval preliminary plans and final



1 plans and specifications for the total development. No
2 construction shall commence until the department has
3 approved the final plans and specifications; provided
4 that construction on an incremental basis may be
5 permitted by the department;

6 (4) The date of completion of the total development,
7 including the date of completion of any permitted
8 incremental development;

9 (5) The minimum requirements for off-site and on-site
10 improvements that the developer must install,
11 construct, and complete by the date of completion of
12 the total development. The department may permit
13 incremental development and establish the minimum
14 requirements for off-site and on-site improvements
15 that must be installed, constructed, and completed
16 prior to the date of completion of the total
17 development; [and]

18 (6) A requirement that the developer develop the
19 commercial project, or the portion of the multipurpose
20 project that is not a homestead project, in compliance
21 with county zoning, subdivision, and other land use
22 requirements; and



1 [~~6~~] (7) Any other terms and conditions deemed necessary
 2 by the department to protect the interests of the
 3 State and the department."

4 SECTION 4. This Act does not affect rights and duties that
 5 matured, penalties that were incurred, and proceedings that were
 6 begun, before its effective date.

7 SECTION 5. The provisions of the amendments made by this
 8 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
 9 declared to be severable, and if any section, sentence, clause,
 10 or phrase, or the application thereof to any person or
 11 circumstances is held ineffective because there is a requirement
 12 of having the consent of the United States to take effect, then
 13 that portion only shall take effect upon the granting of consent
 14 by the United States and effectiveness of the remainder of these
 15 amendments or the application thereof shall not be affected.

16 SECTION 6. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect upon its approval.

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HB LRB 08-1093.doc



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Report Title:

Hawaiian Homes Commission Act; Available Lands; Zoning

Description:

Clarifies that land use laws apply to available Hawaiian home lands that are disposed of to the public and are not leased to native Hawaiians for homesteading purposes.

