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# A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.

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

1 SECTION 1. Section 208 of the Hawaiian Homes Commission  
2 Act, 1920, as amended, is amended to read as follows:

3 "§208. Conditions of leases. Each lease made under the  
4 authority granted the department by section 207 of this Act, and  
5 the tract in respect to which the lease is made, shall be deemed  
6 subject to the following conditions, whether or not stipulated  
7 in the lease:

8 (1) The original lessee shall be a native Hawaiian, not  
9 less than eighteen years of age. In case two lessees  
10 either original or in succession marry, they shall  
11 choose the lease to be retained, and the remaining  
12 lease shall be transferred, quitclaimed, or canceled  
13 in accordance with the provisions of succeeding  
14 sections.

15 (2) The lessee shall pay a rental of \$1 a year for the  
16 tract and the lease shall be for a term of ninety-nine  
17 years; except that the department may extend the term  
18 of any lease; provided that the approval of any



1 extension shall be subject to the condition that the  
2 aggregate of the initial ninety-nine year term and any  
3 extension granted shall not be for more than one  
4 hundred ninety-nine years.

5 (3) The lessee may be required to occupy and commence to  
6 use or cultivate the tract as the lessee's home or  
7 farm or occupy and commence to use the tract for  
8 aquaculture purposes, as the case may be, within one  
9 year after the commencement of the term of the lease.

10 (4) The lessee thereafter, for at least such part of each  
11 year as the department shall prescribe by rules, shall  
12 occupy and use or cultivate the tract on the lessee's  
13 own behalf.

14 (5) The lessee shall not in any manner transfer to, or  
15 otherwise hold for the benefit of, any other person or  
16 group of persons or organizations of any kind, except  
17 a native Hawaiian or Hawaiians, and then only upon the  
18 approval of the department, or agree so to transfer,  
19 or otherwise hold, the lessee's interest in the tract;  
20 except that the lessee, with the approval of the  
21 department, also may transfer the lessee's interest in  
22 the tract to the following qualified relatives of the



1 lessee who are at least one-quarter Hawaiian: husband,  
2 wife, child, or grandchild. A lessee who is at least  
3 one-quarter Hawaiian who has received an interest in  
4 the tract through succession or transfer may, with the  
5 approval of the department, transfer the lessee's  
6 leasehold interest to a brother or sister who is at  
7 least one-quarter Hawaiian. Such interest shall not,  
8 except in pursuance of such a transfer to or holding  
9 for or agreement with a native Hawaiian or Hawaiians  
10 or qualified relative who is at least one-quarter  
11 Hawaiian approved of by the department or for any  
12 indebtedness due the department or for taxes assessed  
13 upon the tract and improvements thereon or for any  
14 other indebtedness the payment of which has been  
15 assured by the department, including loans from other  
16 agencies where such loans have been approved by the  
17 department, be subject to attachment, levy, or sale  
18 upon court process. The lessee shall not sublet the  
19 lessee's interest in the tract or improvements  
20 thereon; provided that a lessee may be permitted, with  
21 the approval of the department, to rent to a native  
22 Hawaiian or Hawaiians, lodging either within the



1 lessee's existing home or in a separate residential  
2 dwelling unit constructed on the premises. The terms,  
3 conditions, and restrictions governing the transfer of  
4 the lessee's leasehold interest in the tract shall be  
5 prescribed by rules adopted by the department pursuant  
6 to chapter 91, Hawaii Revised Statutes.

7 (6) Notwithstanding the provisions of paragraph (5), the  
8 lessee, with the consent and approval of the  
9 commission, may mortgage or pledge the lessee's  
10 interest in the tract or improvements thereon to a  
11 recognized lending institution authorized to do  
12 business as a lending institution in either the State  
13 or elsewhere in the United States; provided the loan  
14 secured by a mortgage on the lessee's leasehold  
15 interest is insured or guaranteed by the Federal  
16 Housing Administration, Department of Veterans  
17 Affairs, or any other federal agency and their  
18 respective successors and assigns, which are  
19 authorized to insure or guarantee such loans, or any  
20 acceptable private mortgage insurance as approved by  
21 the commission. The mortgagee's interest in any such  
22 mortgage shall be freely assignable. Such mortgages,



1 to be effective, must be consented to and approved by  
2 the commission and recorded with the department.

3 Further, notwithstanding the authorized purposes  
4 of loan limitations imposed under section 214 of this  
5 Act and the authorized loan amount limitations imposed  
6 under section 215 of this Act, loans made by lending  
7 institutions as provided in this paragraph, insured or  
8 guaranteed by the Federal Housing Administration,  
9 Department of Veterans Affairs, or any other federal  
10 agency and their respective successors and assigns, or  
11 any acceptable private mortgage insurance, may be for  
12 such purposes and in such amounts, not to exceed the  
13 maximum insurable limits, together with such  
14 assistance payments and other fees, as established  
15 under section 421 of the Housing and Urban Rural  
16 Recovery Act of 1983 which amended Title II of the  
17 National Housing Act of 1934 by adding section 247,  
18 and its implementing regulations, to permit the  
19 Secretary of Housing and Urban Development to insure  
20 loans secured by a mortgage executed by the homestead  
21 lessee covering a homestead lease issued under section



1           207(a) of this Act and upon which there is located a  
2           one to four family single family residence.

3           (7) The lessee shall pay all taxes assessed upon the tract  
4           and improvements thereon. The department may pay such  
5           taxes and have a lien therefor as provided by section  
6           216 of this Act.

7           (8) The lessee shall perform such other conditions, not in  
8           conflict with any provision of this Act, as the  
9           department may stipulate in the lease; provided that  
10          an original lessee shall be exempt from all taxes for  
11          the first seven years after commencement of the term  
12          of the lease."

13          SECTION 2. The provisions of the amendments made by this  
14          Act to the Hawaiian Homes Commission Act, 1920, as amended, are  
15          declared to be severable, and if any section, sentence, clause,  
16          or phrase, or the application thereof to any person or  
17          circumstances is held ineffective because there is a requirement  
18          of having the consent of the United States to take effect, then  
19          that portion only shall take effect upon the granting of consent  
20          by the United States and effectiveness of the remainder of these  
21          amendments or the application thereof shall not be affected.

22          SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.



**Report Title:**

Hawaiian Homes Commission Act.

**Description:**

Authorizes the department of Hawaiian home lands to prescribe via administrative rules terms, conditions, and restrictions on the transfer of homestead leases. (SD1)

