
A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

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

1 SECTION 1. Section 204.5 of the Hawaiian Homes Commission
2 Act of 1920, as amended, 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



1 adequately service developable improvements therein,
2 sites for schools, parks, off-street parking
3 facilities, and other community facilities;

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



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

6 (4) Exercise the powers granted under section 39-53,
7 Hawaii Revised Statutes, including the power to issue
8 revenue bonds from time to time as authorized by the
9 legislature.

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

16 As applied to the department, the term "undertaking" as
17 used in part III of chapter 39 shall include a residential
18 development or a development of homestead, commercial, or
19 multipurpose projects under this Act. The term "revenue" as
20 used in part III of chapter 39, shall include all or any portion
21 of the rentals derived from the leasing of Hawaiian home lands



1 or available lands, whether or not the property is a part of the
2 development being financed."

3 SECTION 2. Section 215, of the Hawaiian Homes Commission
4 Act of 1920, as amended, is amended to read as follows:

5 "§215. **Conditions of loans.** Except as otherwise provided
6 in section 213(c), each contract of loan with the lessee or any
7 successor or successors to the lessee's interest in the tract or
8 with any agricultural, mercantile, or aquacultural cooperative
9 association composed entirely of lessees shall be held subject
10 to the following conditions whether or not stipulated in the
11 contract loan:

12 (1) At any time, the outstanding amount of loans made to
13 any lessee, or successor or successors in interest,
14 for the repair, maintenance, purchase, and erection of
15 a dwelling and related permanent improvements shall
16 not exceed fifty per cent of the maximum single
17 residence loan amount allowed in Hawaii by the United
18 States Department of Housing and Urban Development's
19 Federal Housing Administration (FHA), for the
20 development and operation of a farm, ranch, or
21 aquaculture operation shall not exceed \$50,000, except
22 that when loans are made to an agricultural or



1 aquacultural cooperative association for the purposes
2 stated in section 214(a)(4), the loan limit shall be
3 determined by the department on the basis of the
4 proposed operations and the available security of the
5 association, and for the development and operation of
6 a mercantile establishment shall not exceed the loan
7 limit determined by the department on the basis of the
8 proposed operations and the available security of the
9 lessee or of the organization formed and controlled by
10 lessees; provided that the department shall only seek
11 or agree to lower allowable loan amounts in
12 consultation with the beneficiaries of the trust;
13 provided further that upon the death of a lessee
14 leaving no relative qualified to be a lessee of
15 Hawaiian home lands, or the cancellation of a lease by
16 the department, or the surrender of a lease by the
17 lessee, the department shall make the payment provided
18 for by section 209(a), the amount of any such payment
19 shall be considered as part or all, as the case may
20 be, of any such loan to the successor or successors,
21 without limitation as to the above maximum amounts;
22 provided further that in case of the death of a



1 lessee, or cancellation of a lease by the department,
2 or the surrender of a lease by the lessee, the
3 successor or successors to the tract shall assume any
4 outstanding loan or loans thereon, if any, without
5 limitation as to the above maximum amounts but subject
6 to paragraph (3).

7 (2) The loans shall be repaid in periodic installments,
8 such installments to be monthly, quarterly,
9 semiannual, or annual as may be determined by the
10 department in each case. The term of any loan shall
11 not exceed thirty years. Payments of any sum in
12 addition to the required installments, or payment of
13 the entire amount of the loan, may be made at any time
14 within the term of the loan. All unpaid balances of
15 principal shall bear interest at the rate of two and
16 one-half per cent or higher as established by rule
17 adopted by the department, payable periodically or
18 upon demand by the department, as the department may
19 determine. The payment of any installment due shall
20 be postponed in whole or in part by the department for
21 such reasons as it deems good and sufficient and until
22 such later date as it deems advisable. Such postponed



1 payments shall continue to bear interest on the unpaid
2 principal at the rate established for the loan.

- 3 (3) In the case of the death of a lessee the department
4 shall, in any case, permit the successor or successors
5 to the tract to assume the contract of loan subject to
6 paragraph (1). In case of the cancellation of a lease
7 by the department or the surrender of a lease by the
8 lessee, the department may, at its option declare all
9 installments upon the loan immediately due and
10 payable, or permit the successor or successors to the
11 tract to assume the contract of loan subject to
12 paragraph (1). The department may, in such cases
13 where the successor or successors to the tract assume
14 the contract of loan, waive the payment, wholly or in
15 part, of interest already due and delinquent upon the
16 loan, or postpone the payment of any installment
17 thereon, wholly or in part, until such later dates as
18 it deems advisable. Such postponed payments shall,
19 however, continue to bear interest on the unpaid
20 principal at the rate established for the loan.
21 Further, the department may, if it deems it advisable
22 and for the best interests of the lessees, write off



1 and cancel, wholly or in part, the contract of loan of
2 the deceased lessee, or previous lessee, as the case
3 may be, where such loans are delinquent and deemed
4 uncollectible. Such write off and cancellation shall
5 be made only after an appraisal of all improvements
6 and growing crops or improvements and aquaculture
7 stock, as the case may be, on the tract involved, such
8 appraisal to be made in the manner and as provided for
9 by section 209(a). In every case, the amount of such
10 appraisal, or any part thereof, shall be considered as
11 part or all, as the case may be, of any loan to such
12 successor or successors, subject to paragraph (1).

13 (4) No part of the moneys loaned shall be devoted to any
14 purpose other than those for which the loan is made.

15 (5) The borrower or the successor to the borrower's
16 interest shall comply with such other conditions, not
17 in conflict with any provision of this Act, as the
18 department may stipulate in the contract of loan.

19 (6) The borrower or the successor to the borrower's
20 interest shall comply with the conditions enumerated
21 in section 208, and with section 209 of this Act in
22 respect to the lease of any tract.



1 (7) Whenever the department shall determine that a
 2 borrower is delinquent in the payment of any
 3 indebtedness to the department, it may require such
 4 borrower to execute an assignment to it, not to
 5 exceed, however, the amount of the total indebtedness
 6 of such borrower, including the indebtedness to others
 7 the payment of which has been assured by the
 8 department of all moneys due or to become due to such
 9 borrower by reason of any agreement or contract,
 10 collective or otherwise, to which the borrower is a
 11 party. Failure to execute such an assignment when
 12 requested by the department shall be sufficient ground
 13 for cancellation of the borrower's lease or interest
 14 therein."

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

17 1. By amending subsections (a) and (b) to read:

18 "(a) Notwithstanding any law to the contrary, the
 19 department is authorized to enter into and carry out contracts
 20 to develop available lands for homestead[+] projects, and
 21 commercial[+] and multipurpose projects[+] in consultation with
 22 the beneficiaries of the trust; provided that the department



1 shall not be subject to the requirements of competitive bidding
2 if no state funds are to be used in the development of the
3 project.

4 (b) Notwithstanding any law to the contrary, the
5 department is authorized to enter into project developer
6 agreements with qualified developers for, or in connection with,
7 any homestead[+] project, commercial, or multipurpose project
8 in consultation with the beneficiaries of the trust, or portion
9 of any project; provided that prior to entering into a project
10 developer agreement with a developer, the department shall:

- 11 (1) Set by appraisal the minimum rental of the lands to be
12 disposed of on the basis of the fair market value of
13 the lands;
- 14 (2) Give notice of the proposed disposition in accordance
15 with applicable procedures and requirements of section
16 171-60(a)(3), Hawaii Revised Statutes;
- 17 (3) Establish reasonable criteria for the selection of the
18 private developer[+], in consultation with the
19 beneficiaries of the trust if the project includes any
20 commercial development; and
- 21 (4) Determine within forty-five days of the last day for
22 filing applications the applicant or applicants who



1 meet the criteria for selection, and notify all
2 applicants of its determination within seven days of
3 such determination. If only one applicant meets the
4 criteria for selection as the developer, the
5 department then may negotiate the details of the
6 project developer agreement with the developer;
7 provided that the terms of the project developer
8 agreement shall not be less than those proposed by the
9 developer in the application. If two or more
10 applicants meet the criteria for selection, the
11 department shall consider all of the relevant facts of
12 the disposition or contract, the proposals submitted
13 by each applicant, and the experience and financial
14 capability of each applicant and, within forty-five
15 days from the date of selection of the applicants that
16 met the criteria, shall select the applicant who
17 submitted the best proposal. The department then may
18 negotiate the details of the disposition with the
19 developer, including providing benefits to promote
20 native Hawaiian socio-economic advancement; provided
21 that the terms of the project developer agreement



1 shall not be less than those proposed by the developer
2 in the application."

3 2. By amending subsection (g) to read:

4 "(g) As used in this section, the following words and
5 terms shall have the following meanings unless the context
6 indicates another or different meaning or intent:

7 "Commercial project" means a project or that portion of a
8 multipurpose project, including single-family or multiple-family
9 residential, agricultural, pastoral, aquacultural, industrial,
10 business, hotel and resort, or other commercial uses designed
11 and intended to generate revenues as authorized by this Act [+] .

12 "Consultation with the beneficiaries of the trust" means a
13 process of engaging individual beneficiaries, and beneficiary
14 and beneficiary-serving organizations, that provides for the
15 timely and meaningful dissemination of information and the
16 gathering of input, and allows for a reasonable time and
17 reasonable access to relevant information for evaluation and
18 consideration.

19 ."Developer" means any person, partnership, cooperative,
20 firm, nonprofit or for-profit corporation, or public agency
21 possessing the competence, expertise, experience, and resources,



1 including financial, personal, and tangible resources, required
2 to carry out a project [+] _.

3 "Homestead project" means a project or that portion of a
4 multipurpose project, including residential, agricultural,
5 pastoral, or aquacultural uses designed and intended for
6 disposition to native Hawaiians under this Act; provided that
7 this term shall also include community facilities for homestead
8 areas [+] _.

9 "Multipurpose project" means a combination of a commercial
10 project and a homestead project [+] _.

11 "Project" means a specific undertaking to develop,
12 construct, reconstruct, rehabilitate, renovate, or to otherwise
13 improve or enhance land or real property [+] _.

14 "Project developer agreement" means any lease, sublease,
15 conditional leasing agreement, disposition agreement, financing
16 agreement, or other agreement or combination of agreement,
17 entered into under this section by the department, for the
18 purpose of developing one or more projects."

19 SECTION 4. The provisions of the amendments made by this
20 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
21 declared to be severable, and if any section, sentence, clause,
22 or phrase, or the application thereof to any person or



1 circumstances is held ineffective because there is a requirement
2 of having the consent of the United States to take effect, then
3 that portion only shall take effect upon the granting of consent
4 by the United States and effectiveness of the remainder of these
5 amendments or the application thereof shall not be affected.

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Hawaiian Homes Commission Act; Beneficiary Consultation

Description:

Provides for required consultation with beneficiaries when a project includes commercial development and prior to lowering allowable loan amounts. (SD1)

