
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. Development by the government is often viewed
2 as a way to stimulate the economy during economic recessions or
3 depressions. The economic effects of construction projects are
4 widespread, as they create other types of jobs to support the
5 construction industry.

6 The department of Hawaiian home lands is a state agency
7 that has the ability to create construction projects in
8 residential and commercial markets. Specifically, there are
9 areas that the department has identified as areas of commercial
10 growth. The legislature finds that it is in the State's best
11 interest to attract and secure private sector commercial
12 development projects to these areas. These developments would
13 support the department's homesteading programs, benefit the
14 increasing population base in the area of the commercial
15 development by creating additional jobs, and create residential
16 communities surrounding the commercial development.

17 The legislature declares that providing the department of
18 Hawaiian home lands with the authority to issue long-term



1 commercial leases is in the interest of the Hawaiian home lands
2 trust fund and the public.

3 The purpose of this Act is to grant the department of
4 Hawaiian home lands the authority to negotiate and extend
5 commercial leases for aggregate lease terms of up to ninety-nine
6 years.

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

10 **"§204. Control by department of "available lands," return**
11 **to board of land and natural resources, when; other lands, use**

12 **of.** (a) Upon the passage of this Act, all available lands
13 shall immediately assume the status of Hawaiian home lands and
14 be under the control of the department to be used and disposed
15 of in accordance with the provisions of this Act, except that:

16 (1) In case any available land is under lease by the
17 Territory of Hawaii, by virtue of section 73 of the
18 Hawaiian Organic Act, at the time of the passage of
19 this Act, such land shall not assume the status of
20 Hawaiian home lands until the lease expires or the
21 board of land and natural resources withdraws the
22 lands from the operation of the lease. If the land is



1 covered by a lease containing a withdrawal clause, as
2 provided in section 73(d) of the Hawaiian Organic Act,
3 the board of land and natural resources shall withdraw
4 such lands from the operation of the lease whenever
5 the department gives notice to the board that the
6 department is of the opinion that the lands are
7 required by it for the purposes of this Act; and such
8 withdrawal shall be held to be for a public purpose
9 within the meaning of that term as used in section
10 73(d) of the Hawaiian Organic Act.

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



1 In the management of any retained available lands not
2 required for leasing under section 207(a), the
3 department may dispose of those lands or any
4 improvements thereon to the public, including native
5 Hawaiians, on the same terms, conditions,
6 restrictions, and uses applicable to the disposition
7 of public lands in chapter 171, Hawaii Revised
8 Statutes; provided that ~~[the]~~:

9 (A) The department may not sell or dispose of such
10 lands in fee simple except as authorized under
11 section 205 of this Act; ~~[provided further that~~
12 ~~the]~~

13 (B) The department is expressly authorized to
14 negotiate, prior to negotiations with the general
15 public, the disposition of Hawaiian home lands or
16 any improvements thereon to a native Hawaiian, or
17 organization or association owned or controlled
18 by native Hawaiians, for commercial, industrial,
19 or other business purposes, in accordance with
20 the procedures set forth in chapter 171, Hawaii
21 Revised Statutes~~[]~~; and



1 (C) Notwithstanding sections 171-36(a)(2) and 171-
2 95(a)(2), Hawaii Revised Statutes, the term of
3 any existing lease or lease hereafter entered
4 into pursuant to this section, including any
5 extensions or renewals thereof, shall not exceed
6 ninety-nine years in the aggregate.

7 (3) The department, with the approval of the Secretary of
8 the Interior, in order to consolidate its holdings or
9 to better effectuate the purposes of this Act, may
10 exchange the title to available lands for land,
11 privately or publicly owned, of an equal value. All
12 lands so acquired by the department shall assume the
13 status of available lands as though the [~~land~~] lands
14 were originally designated as available lands under
15 section 203 of this Act, and all lands so conveyed by
16 the department shall assume the status of the land for
17 which it was exchanged. The limitations imposed by
18 section 73(1) of the Hawaiian Organic Act and the land
19 laws of Hawaii as to the area and value of land that
20 may be conveyed by way of exchange shall not apply to
21 exchanges made pursuant hereto. No such exchange of
22 land publicly owned by the State shall be made without



1 the approval of two-thirds of the members of the board
2 of land and natural resources. For the purposes of
3 this paragraph, lands "publicly owned" means land
4 owned by a county or the State or the United States."

5 SECTION 3. Chapter 220.5 of the Hawaiian Homes Commission
6 Act, 1920, as amended, is amended by amending subsection (d) to
7 read as follows:

8 "(d) [~~Any~~] The term of any project developer agreement
9 entered into pursuant to this section may [~~provide for options~~
10 ~~for renewal of the term of the project developer agreement;~~] be
11 extended or renewed; provided that:

12 (1) The term of any one project developer agreement,
13 including any extensions or renewals thereof, whether
14 such project developer agreement is existing or
15 hereafter entered into pursuant to this section,
16 shall not exceed [~~sixty-five~~] ninety-nine years[+] in
17 the aggregate;

18 (2) Any lands disposed of under a project developer
19 agreement shall be subject to withdrawal at any time
20 during the term of the agreement, with reasonable
21 notice; and



1 (3) The rental shall be reduced in proportion to the value
2 of the portion withdrawn and the developer shall be
3 entitled to receive from the department the
4 proportionate value of the developer's permanent
5 improvements so taken in the proportion that they bear
6 to the unexpired term of the agreement, with the value
7 of the permanent improvements determined on the basis
8 of fair market value or depreciated value, whichever
9 is less; or the developer, in the alternative, may
10 remove and relocate the developer's improvements to
11 the remainder of the lands occupied by the developer."

12 SECTION 4. The provisions of the amendments made by this
13 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
14 declared to be severable, and if any section, sentence, clause,
15 or phrase, or the application thereof to any person or
16 circumstances is held ineffective because there is a requirement
17 of having the consent of the United States to take effect, then
18 that portion only shall take effect upon the granting of consent
19 by the United States and effectiveness of the remainder of these
20 amendments or the application thereof shall not be affected.

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2020.



Report Title:

Hawaiian Homes Commission Act

Description:

Authorizes the department of Hawaiian home lands to issue long term commercial leases. Effective 07/01/2020. (HB949 HD1)

