
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 SECTION 1. Pursuant to section 101, Hawaiian Homes
2 Commission Act, 1920, as amended, the Hawaiian home lands are
3 intended to establish "a permanent land base for the benefit and
4 use of native Hawaiians, upon which they may live, farm, ranch,
5 and otherwise engage in commercial or industrial or any other
6 activities as authorized in this Act." The legislature finds
7 that commercial projects authorized under this Act to raise
8 funds to enable the department of Hawaiian home lands to operate
9 and build the infrastructure necessary for the native Hawaiian
10 beneficiaries to make the homestead lands their home, are well-
11 intentioned. However, while these revenue-raising commercial
12 projects benefit the native Hawaiian beneficiaries indirectly,
13 there are times when commercial projects result in short- and
14 long-term negative consequences for the beneficiaries that are
15 not adequately addressed.

16 The legislature finds that setting aside a portion of those
17 commercial revenues to be used for the benefit of native
18 Hawaiian beneficiaries, beneficiary-controlled organizations,



1 and homestead community associations is consistent with the
2 purpose and intent of the Hawaiian Homes Commission Act, 1920,
3 as amended, and will aid in ensuring that native Hawaiian
4 beneficiaries, either directly or through native Hawaiian
5 community organizations, such as beneficiary-controlled
6 organizations, and homestead community associations, benefit
7 from these commercial projects.

8 The purpose of this Act is to:

- 9 (1) Direct the department of Hawaiian home lands to
10 establish a process for consulting with beneficiaries
11 prior to awarding leases for commercial and
12 multipurpose projects;
- 13 (2) Authorize the extension of commercial and multipurpose
14 project leases to make improvements to the property;
- 15 (3) Set aside twenty per cent of all lease revenues from
16 commercial and multipurpose leases to be deposited
17 into the native Hawaiian rehabilitation trust fund to
18 be used for the benefit of native Hawaiian
19 beneficiaries, beneficiary-controlled organizations,
20 and homestead community associations; and



1 (4) Establish reporting requirements regarding leases of
2 Hawaiian home lands for commercial and multipurpose
3 projects.

4 SECTION 2. The Hawaiian Homes Commission Act, 1920, as
5 amended, is amended by adding a new section to be appropriately
6 designated and to read as follows:

7 **"§ - Commercial leases; extension of term. (a)**
8 Notwithstanding any law to the contrary, the procedures under
9 this section shall apply to commercial and multipurpose projects
10 under section 204 or 220.5, and shall be in addition to any
11 other procedures required by law.

12 (b) Prior to the disposition of available land through a
13 request for proposals for an initial lease for a commercial or
14 multipurpose project, the department shall consult with
15 beneficiaries of the trust in the master planning of the
16 available lands. The process of beneficiary consultation shall
17 be as established by the department and shall:

- 18 (1) Engage beneficiaries and beneficiary-serving
19 organizations;
20 (2) Provide for the timely dissemination of information
21 about the proposed project and the gathering of input;
22 and



1 (3) Allow for a reasonable time and reasonable access to
2 relevant information for evaluation and consideration.

3 (c) Notwithstanding section 220.5(d)(1), the department
4 may extend the term of a lease of Hawaiian home lands for
5 commercial or multipurpose projects and with the approval by the
6 department of a written agreement proposed by the lessee, or the
7 lessee and developer, to:

- 8 (1) Make improvements to the leased property; or
- 9 (2) Obtain financing for the improvement of the leased
10 lands.

11 The extension of the lease pursuant to this section shall be
12 based upon the improvements made or to be made, shall be no
13 longer than twenty years, and shall be granted only once.

14 (d) Before the written agreement is approved, the lessee,
15 or the lessee and developer, shall submit to the department the
16 plans and specifications for the proposed development. The
17 department shall review the plans, specifications, and the
18 written agreement and determine:

- 19 (1) Whether the development is of sufficient value and
20 meets the priorities of the commission to justify an
21 extension of the lease;



1 (2) The estimated time needed to complete the improvements
2 and expected date of completion of the improvements;
3 and

4 (3) The minimum revised annual rent based on the fair
5 market value of the lands to be developed, as
6 determined by an appraiser for the department, and
7 percentage rent where gross receipts exceed a
8 specified amount.

9 No lease extension shall be approved until one-third of the
10 original lease term has expired, and the department and the
11 lessee, or the lessee and developer, mutually agree to the terms
12 and conditions of the written agreement.

13 (e) The department shall deposit twenty per cent of all
14 revenues generated from lease agreements and land use
15 instruments subject to this section in the native Hawaiian
16 rehabilitation fund under section 213(i).

17 (f) The department shall submit an annual report to the
18 legislature and the United States Department of the Interior, no
19 later than twenty days prior to the convening of each regular
20 session, beginning with the regular session of 2011, of all
21 leases of available lands for commercial and multipurpose
22 projects, including the following:



- 1 (1) The total number of leases;
- 2 (2) Acreage of each lease;
- 3 (3) Terms of each lease;
- 4 (4) Whether the lessee is a beneficiary or beneficiary
5 controlled organization; and
- 6 (5) Whether the lease was for retained available lands not
7 required for leasing under section 207(a), and was
8 negotiated with a native Hawaiian, or organization or
9 association owned or controlled by native Hawaiians,
10 under section 204(a)(2).

11 (g) As used in this section, "improvements" means any
12 renovation, rehabilitation, reconstruction, or construction of
13 the property, including minimum requirements for off-site and
14 on-site improvements."

15 SECTION 3. Section 213, Hawaii Revised Statutes, is
16 amended by amending subsection (i) to read as follows:

17 "(i) Native Hawaiian rehabilitation fund. Pursuant to
18 Article XII, Section 1, of the State Constitution, thirty
19 percent of the state receipts, derived from lands previously
20 cultivated as sugarcane lands under any other provision of law
21 and from water licenses, and twenty per cent of all revenues
22 from lease agreements and land use instruments under section



1 _____, shall be deposited into this fund. The department shall
2 use this money for the rehabilitation of native Hawaiians,
3 native Hawaiian families, and Hawaiian homestead communities,
4 which shall include the educational, economic, political,
5 social, and cultural processes by which the general welfare and
6 conditions of native Hawaiians are thereby improved and
7 perpetuated.

8 The native Hawaiian rehabilitation fund shall be subject to
9 the following conditions:

- 10 (1) All moneys received by the fund shall be deposited
11 into the state treasury and kept separate and apart
12 from all other moneys in the state treasury;
- 13 (2) The director of finance shall serve as a custodian of
14 the fund. All payments from the fund shall be made by
15 the director of finance only upon vouchers approved by
16 the commission;
- 17 (3) The commission shall develop guidelines for the
18 investment of moneys in the fund;
- 19 (4) The commission may invest and reinvest in investments
20 authorized by chapter 88, Hawaii Revised Statutes.
21 The commission may hold, purchase, sell, assign,
22 transfer, or dispose of any securities and investments



1 in which any of the moneys shall have been invested,
2 as well as the proceeds of such investments; and
3 (5) The commission may pay out of any of the moneys held
4 for investment, a reasonable amount to any person for
5 supplying investment advisory or consultive services;
6 and to meet such other costs incident to the prudent
7 investment of moneys as the commission may approve.

8 Any payment of principal, interest, or other earnings
9 arising out of the loan or investment of money from this fund
10 shall be credited to and deposited into this fund.

11 Sections 214, 215, 216, and 217 shall not apply to
12 administration of this fund. The department is authorized to
13 adopt rules under chapter 91, Hawaii Revised Statutes, necessary
14 to administer and carry out the purposes of this fund."

15 SECTION 4. The provisions of the amendments made by this
16 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
17 declared to be severable, and if any section, sentence, clause,
18 or phrase, or the application thereof to any person or
19 circumstances is held ineffective because there is a requirement
20 of having the consent of the United States to take effect, then
21 that portion only shall take effect upon the granting of consent



1 by the United States and effectiveness of the remainder of these
2 amendments or the application thereof shall not be affected.

3 SECTION 5. New statutory material is underscored.

4 SECTION 6. This Act shall take effect on July 1, 2010.

5



Report Title:

Public Lands; Extension of Leases

Description:

Established procedures for the department of Hawaiian home lands for purpose of determining the disposition of lands for commercial and multipurpose projects. Limits extension of leases to not longer than twenty years, to be granted only once. Specifies disposition of proceeds. Requires DHHL to submit annual report to legislature and the U.S. Dept. of Interior. Specifies twenty percent of revenues generated from lease agreements and land use instruments to be deposited into the Native Hawaiian rehabilitation fund. Eff 7/1/2010. (SD1)

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