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# 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 project leases to be  
17 deposited into the native Hawaiian rehabilitation fund  
18 to 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 and multipurpose project leases;

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

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

19 (1) Engage beneficiaries and beneficiary-serving  
20 organizations;



1       (2) Provide for the timely dissemination of information  
2       about the proposed project and the gathering of input;  
3       and

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

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

11       (1) Make improvements to the leased property; or

12       (2) Obtain financing for the improvement of the leased  
13       lands.

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

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



1       (1) Whether the development is of sufficient value and  
2           meets the priorities of the commission to justify an  
3           extension of the lease;

4       (2) The estimated time needed to complete the improvements  
5           and expected date of completion of the improvements;  
6           and

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

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

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

20       (f) The department shall submit an annual report to the  
21       legislature and the United States Department of the Interior, no  
22       later than twenty days prior to the convening of each regular



1 session, beginning with the regular session of 2011, of all  
2 leases of available lands for commercial and multipurpose  
3 projects, including the following:

4 (1) The total number of leases;

5 (2) Acreage of each lease;

6 (3) Terms of each lease;

7 (4) Whether the lessee is a beneficiary or beneficiary  
8 controlled organization; and

9 (5) Whether the lease was for retained available lands not  
10 required for leasing under section 207(a), and was  
11 negotiated with a native Hawaiian, or organization or  
12 association owned or controlled by native Hawaiians,  
13 under section 204(a)(2).

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

18 SECTION 3. Section 213, Hawaiian Homes Commission Act,  
19 1920, as amended, is amended by amending subsection (i) to read  
20 as follows:

21 "(i) Native Hawaiian rehabilitation fund. Pursuant to  
22 Article XII, Section 1, of the State Constitution, thirty



1 percent of the state receipts, derived from lands previously  
2 cultivated as sugarcane lands under any other provision of law  
3 and from water licenses, and twenty per cent of all revenues  
4 from lease agreements and land use instruments under section  
5       , shall be deposited into this fund. The department shall  
6 use this money for the rehabilitation of native Hawaiians,  
7 native Hawaiian families, and Hawaiian homestead communities,  
8 which shall include the educational, economic, political,  
9 social, and cultural processes by which the general welfare and  
10 conditions of native Hawaiians are thereby improved and  
11 perpetuated.

12       The native Hawaiian rehabilitation fund shall be subject to  
13 the following conditions:

14       (1) All moneys received by the fund shall be deposited  
15           into the state treasury and kept separate and apart  
16           from all other moneys in the state treasury;

17       (2) The director of finance shall serve as a custodian of  
18           the fund. All payments from the fund shall be made by  
19           the director of finance only upon vouchers approved by  
20           the commission;

21       (3) The commission shall develop guidelines for the  
22           investment of moneys in the fund;



- 1           (4) The commission may invest and reinvest in investments  
2           authorized by chapter 88, Hawaii Revised Statutes.  
3           The commission may hold, purchase, sell, assign,  
4           transfer, or dispose of any securities and investments  
5           in which any of the moneys shall have been invested,  
6           as well as the proceeds of such investments; and
- 7           (5) The commission may pay out of any of the moneys held  
8           for investment, a reasonable amount to any person for  
9           supplying investment advisory or consultive services;  
10          and to meet such other costs incident to the prudent  
11          investment of moneys as the commission may approve.

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

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

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. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Public Lands; Extension of Leases

**Description:**

Establishes 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 20 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 20 per cent of revenues generated from lease agreements and land use instruments to be deposited into the Native Hawaiian rehabilitation fund. Effective 7/1/50.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

