

JAN 28 2009

A BILL FOR AN ACT

RELATING TO HAWAIIAN HOME LANDS.

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

1 SECTION 1. Section 208, Hawaiian Homes Commission Act, is
2 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, for monetary
15 consideration or other remuneration, transfer to, or
16 otherwise hold for the benefit of, any other person or
17 group of persons or organizations of any kind [~~except~~
18 ~~a native Hawaiian or Hawaiians, and then only upon the~~
19 ~~approval of the department,~~] or agree so to transfer,
20 or otherwise hold, the lessee's interest in the tract;
21 except that the lessee, with or without monetary
22 consideration or other remuneration and with the



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



1 the approval of the department, to rent to a native
2 Hawaiian or Hawaiians, lodging either within the
3 lessee's existing home or in a separate residential
4 dwelling unit constructed on the premises.

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



1 Further, notwithstanding the authorized purposes
2 of loan limitations imposed under section 214 of this
3 Act and the authorized loan amount limitations imposed
4 under section 215 of this Act, loans made by lending
5 institutions as provided in this paragraph, insured or
6 guaranteed by the Federal Housing Administration,
7 Department of Veterans Affairs, or any other federal
8 agency and their respective successors and assigns, or
9 any acceptable private mortgage insurance, may be for
10 such purposes and in such amounts, not to exceed the
11 maximum insurable limits, together with such
12 assistance payments and other fees, as established
13 under section 421 of the Housing and Urban Rural
14 Recovery Act of 1983 which amended Title II of the
15 National Housing Act of 1934 by adding section 247,
16 and its implementing regulations, to permit the
17 Secretary of Housing and Urban Development to insure
18 loans secured by a mortgage executed by the homestead
19 lessee covering a homestead lease issued under section
20 207(a) of this Act and upon which there is located a
21 one to four family single family residence.



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

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

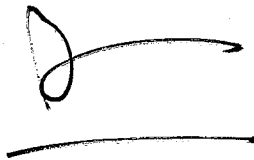
11 SECTION 2. This Act does not affect rights and duties that
 12 matured, penalties that were incurred, and proceedings that were
 13 begun, before its effective date.

14 SECTION 3. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:



~~_____~~ ^{PK}
 Michelle N. Sudani
 J. Kalani Eguchi



Report Title:

Department of Hawaiian Home Lands; Leases

Description:

Prohibits alienation of lease by a lessee for consideration, except to immediate family.

