

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.

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

1           SECTION 1. Section 214, Hawaiian Homes Commission Act,  
2 1920, as amended, is amended by amending subsection (b) to read  
3 as follows:

4           "(b) In addition the department may:

5           (1) Use moneys in the Hawaiian home operating fund, with  
6 the prior approval of the governor, to match federal,  
7 state, or county funds available for the same purposes  
8 and to that end, enter into such undertaking, agree to  
9 such conditions, transfer funds therein available for  
10 such expenditure, and do and perform such other acts  
11 and things, as may be necessary or required, as a  
12 condition to securing matching funds for such projects  
13 or works;

14           (2) Loan or guarantee the repayment of or otherwise  
15 underwrite any authorized loan or portion thereof to  
16 lessees in accordance with section 215;

- 1           (3) Loan or guarantee the repayment of or otherwise  
2           underwrite any authorized loan or portion thereof to a  
3           cooperative association in accordance with section 215;
- 4           (4) Permit and approve loans made to lessees by government  
5           agencies or private lending institutions, where the  
6           department assures the payment of such loans; provided  
7           that upon receipt of notice of default in the payment  
8           of such assured loans, the department may, upon failure  
9           of the lessee to cure the default within sixty days,  
10          cancel the lease and pay the outstanding balance in  
11          full or may permit the new lessee to assume the  
12          outstanding debt; and provided further that the  
13          department shall reserve the following rights: the  
14          right of succession to the lessee's interest and  
15          assumption of the contract of loan; the right to  
16          require that written notice be given to the department  
17          immediately upon default or delinquency of the lessee;  
18          and any other rights enumerated at the time of  
19          assurance necessary to protect the monetary and other  
20          interests of the department;
- 21          (5) Secure, pledge, or otherwise guarantee the repayment of  
22          moneys borrowed by the department from government

1 agencies or private lending institutions and pay the  
2 interim interest or advances required for loans;  
3 provided that the State's liability, contingent or  
4 otherwise, either on moneys borrowed by the department  
5 or on departmental guarantees of loans made to lessees  
6 under this paragraph and paragraphs (2), (3), and (4)  
7 of this subsection, shall at no time exceed  
8 [~~\$50,000,000;~~] \$100,000,000; the department's guarantee  
9 of repayment shall be adequate security for a loan  
10 under any state law prescribing the nature, amount, or  
11 form of security or requiring security upon which loans  
12 may be made;

- 13 (6) Use available loan fund moneys or other funds  
14 specifically available for such purposes as cash  
15 guarantees when required by lending agencies;
- 16 (7) Exercise the functions and reserved rights of a lender  
17 of money or mortgagee of residential property in all  
18 direct loans made by government agencies or by private  
19 lending institutions to lessees the repayment of which  
20 is assured by the department. The functions and  
21 reserved rights shall include but not be limited to,  
22 the purchasing, repurchasing, servicing, selling,

1           foreclosing, buying upon foreclosure, guaranteeing the  
2           repayment, or otherwise underwriting, of any loan, the  
3           protecting of security interest, and after  
4           foreclosures, the repairing, renovating, or  
5           modernization and sale of property covered by the loan  
6           and mortgage;

7           (8) Pledge receivables of loan accounts outstanding as  
8           collateral to secure loans made by government agencies  
9           or private lending institutions to the department, the  
10          proceeds of which shall be used by the department to  
11          make new loans to lessees or to finance the development  
12          of available lands for purposes permitted by this Act;  
13          provided that any loan agreement entered into under  
14          this paragraph by the department shall include a  
15          provision that the money borrowed by the department is  
16          not secured directly or indirectly by the full faith  
17          and credit or the general credit of the State or by any  
18          revenues or taxes of the State other than the  
19          receivables specifically pledged to repay the loan;  
20          provided further that in making loans or developing  
21          available lands out of money borrowed under this  
22          paragraph, the department may establish, revise,

S.B. NO. 1290

1 charge, and collect fees, premiums, and charges as  
 2 necessary, reasonable, or convenient, to assure  
 3 repayment of the funds borrowed, and the fees,  
 4 premiums, and charges shall be deposited into the  
 5 Hawaiian home trust fund; and provided further that no  
 6 moneys of the Hawaiian home loan fund may be pledged as  
 7 security under this paragraph; and

8 (9) Notwithstanding any other provisions of this Act to the  
 9 contrary, transfer into the Hawaiian home trust fund  
 10 any available and unpledged moneys from any loan funds,  
 11 the Hawaiian loan guarantee fund, or any fund or  
 12 account succeeding thereto, except the Hawaiian home  
 13 loan fund, for use as cash guarantees or reserves when  
 14 required by a federal agency authorized to insure or  
 15 guarantee loans to lessees."

16 SECTION 2. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 3. This Act shall take effect upon its approval.

19  
 20 INTRODUCED BY: *S.S.T.J.*

21 BY REQUEST

**Report Title:**

Loans made to Hawaiian Home Lands lessees

**Description:**

Increases the limit the department is currently authorized to borrow or guarantee on loans from \$50,000,000 to \$100,000,000 to cover the department's guarantee requirements for its housing program.

JUSTIFICATION SHEET

DEPARTMENT: HAWAIIAN HOME LANDS

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED

PURPOSE: Increases the limit the department is currently authorized to borrow or guarantee on loans from \$50,000,000 to \$100,000,000 to cover the department's guarantee requirements for its housing program.

MEANS: Hawaiian Homes Commission Act, 1920, As Amended

JUSTIFICATION: Impact on the Public:

The department's ability to guarantee loans is directly tied to its ability to deliver home ownership opportunities to its beneficiaries. The increase in this ceiling will spur construction of affordable units, create jobs, and keep millions of dollars in Hawaii's local economy. This benefits the entire state.

Impact on the Department and other agencies:

In the past, financial institutions have been reluctant to make mortgage loans to Hawaiian home lands beneficiaries because of the inalienability of the trust lands as stipulated in the Hawaiian Homes Commission Act. As part of the department's housing strategy, the department has been involved with innovative loan programs in order to help lenders better underwrite mortgages made on trust lands.

This amendment would increase DHHL's access to external sources of loan financing for home construction. Addressing the infrastructure and housing needs of unimproved and awarded lots is a primary objective in the department's near-term capital program.

GENERAL FUND: \$0.00

OTHER FUNDS: \$0.00

PPBS PROGRAM

DESIGNATION: HHL 602

OTHER AFFECTED

AGENCIES: Budget and Finance

EFFECTIVE DATE: Upon approval