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## 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. The legislature recognizes that the State has a  
2 fiduciary duty to support the rehabilitation of the Hawaiian  
3 people, in part by ensuring long-term tenancies to beneficiaries  
4 and transferees and successors of beneficiaries of the Hawaiian  
5 Homes Commission Act, 1920, as amended.

6           The legislature emphasizes that many descendants of lessees  
7 of Hawaiian home lands do not qualify as transferees or  
8 successors because interracial marriages and blended families  
9 produce descendants who are less than twenty-five per cent  
10 Hawaiian. These disruptions create undue hardships of  
11 displacement and interfere with families' abilities to maintain  
12 the equity of their homes and businesses.

13           The legislature further finds that a reduction in blood  
14 quantum requirements for certain transferees and successors will  
15 lead to a reduction in the trend of "highest bid" and "leapfrog"  
16 homestead lease sales. Further, this reform will encourage  
17 current lessees to maintain and invest in their residences, as



1 the lessees anticipate that their descendants will be able to  
2 make use of the properties for many generations to come.

3 The purpose of this Act is to reduce the minimum Hawaiian  
4 blood quantum requirement of certain transferees and successors  
5 to lessees of Hawaiian home lands from twenty-five to one per  
6 cent.

7 SECTION 2. Section 208 of the Hawaiian Homes Commission  
8 Act, 1920, as amended, is amended to read as follows:

9 "§208. **Conditions of leases.** Each lease made under the  
10 authority granted the department by section 207 of this Act, and  
11 the tract in respect to which the lease is made, shall be deemed  
12 subject to the following conditions, whether or not stipulated  
13 in the lease:

14 (1) The original lessee shall be a native Hawaiian, not  
15 less than eighteen years of age. In case two lessees  
16 either original or in succession marry, they shall  
17 choose the lease to be retained, and the remaining  
18 lease shall be transferred, quitclaimed, or canceled  
19 in accordance with the provisions of succeeding  
20 sections.



- 1           (2) The lessee shall pay a rental of \$1 a year for the  
2           tract and the lease shall be for a term of ninety-nine  
3           years; except that the department may extend the term  
4           of any lease; provided that the approval of any  
5           extension shall be subject to the condition that the  
6           aggregate of the initial ninety-nine year term and any  
7           extension granted shall not be for more than one  
8           hundred ninety-nine years.
- 9           (3) The lessee may be required to occupy and commence to  
10          use or cultivate the tract as the lessee's home or  
11          farm or occupy and commence to use the tract for  
12          aquaculture purposes, as the case may be, within one  
13          year after the commencement of the term of the lease.
- 14          (4) The lessee thereafter, for at least such part of each  
15          year as the department shall prescribe by rules, shall  
16          occupy and use or cultivate the tract on the lessee's  
17          own behalf.
- 18          (5) The lessee shall not in any manner transfer to, or  
19          otherwise hold for the benefit of, any other person or  
20          group of persons or organizations of any kind, except  
21          a native Hawaiian or Hawaiians, and then only upon the



1 approval of the department, or agree so to transfer,  
2 or otherwise hold, the lessee's interest in the tract;  
3 except that the original lessee [7] or any lessee who  
4 has received an interest in the tract through  
5 succession or transfer, with the approval of the  
6 department, also may transfer the lessee's interest in  
7 the tract to the following qualified relatives of the  
8 lessee who are at least [~~one-quarter~~] one thirty-  
9 second Hawaiian: [~~husband, wife,~~] spouse, child, [~~or~~]  
10 grandchild [~~A lessee who is at least one-quarter~~  
11 ~~Hawaiian who has received an interest in the tract~~  
12 ~~through succession or transfer may, with the approval~~  
13 ~~of the department, transfer the lessee's leasehold~~  
14 ~~interest to a brother or sister who is at least one-~~  
15 ~~quarter Hawaiian.], brother, or sister. Such interest  
16 shall not, except in pursuance of such a transfer to  
17 or holding for or agreement with a native Hawaiian or  
18 Hawaiians or qualified relative who is at least [~~one-~~  
19 ~~quarter~~] one thirty-second Hawaiian approved of by the  
20 department or for any indebtedness due the department  
21 or for taxes or for any other indebtedness the payment~~



1 of which has been assured by the department, including  
2 loans from other agencies where such loans have been  
3 approved by the department, be subject to attachment,  
4 levy, or sale upon court process. The lessee shall  
5 not sublet the lessee's interest in the tract or  
6 improvements thereon; provided that a lessee may be  
7 permitted, with the approval of the department, to  
8 rent to a native Hawaiian or Hawaiians, lodging either  
9 within the lessee's existing home or in a separate  
10 residential dwelling unit constructed on the premises.

11 (6) Notwithstanding the provisions of paragraph (5), the  
12 lessee, with the consent and approval of the  
13 commission, may mortgage or pledge the lessee's  
14 interest in the tract or improvements thereon to a  
15 recognized lending institution authorized to do  
16 business as a lending institution in either the State  
17 or elsewhere in the United States; provided the loan  
18 secured by a mortgage on the lessee's leasehold  
19 interest is insured or guaranteed by the Federal  
20 Housing Administration, Department of Veterans  
21 Affairs, or any other federal agency and their



1           respective successors and assigns, which are  
2           authorized to insure or guarantee such loans, or any  
3           acceptable private mortgage insurance as approved by  
4           the commission. The mortgagee's interest in any such  
5           mortgage shall be freely assignable. Such mortgages,  
6           to be effective, must be consented to and approved by  
7           the commission and recorded with the department.

8                         Further, notwithstanding the authorized purposes  
9           of loan limitations imposed under section 214 of this  
10          Act and the authorized loan amount limitations imposed  
11          under section 215 of this Act, loans made by lending  
12          institutions as provided in this paragraph, insured or  
13          guaranteed by the Federal Housing Administration,  
14          Department of Veterans Affairs, or any other federal  
15          agency and their respective successors and assigns, or  
16          any acceptable private mortgage insurance, may be for  
17          such purposes and in such amounts, not to exceed the  
18          maximum insurable limits, together with such  
19          assistance payments and other fees, as established  
20          under section 421 of the Housing and Urban Rural  
21          Recovery Act of 1983 which amended Title II of the



1 National Housing Act of 1934 by adding section 247,  
2 and its implementing regulations, to permit the  
3 Secretary of Housing and Urban Development to insure  
4 loans secured by a mortgage executed by the homestead  
5 lessee covering a homestead lease issued under section  
6 207(a) of this Act and upon which there is located a  
7 one to four family single family residence.

8 (7) The lessee shall pay all taxes assessed upon the tract  
9 and improvements thereon. The department may pay such  
10 taxes and have a lien therefor as provided by section  
11 216 of this Act.

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

18 SECTION 3. Section 209 of the Hawaiian Homes Commission  
19 Act, 1920, as amended, is amended by amending subsection (a) to  
20 read as follows:



1           "(a) Upon the death of the lessee, the lessee's interest  
2 in the tract or tracts and the improvements thereon, including  
3 growing crops and aquacultural stock (either on the tract or in  
4 any collective contract or program to which the lessee is a  
5 party by virtue of the lessee's interest in the tract or  
6 tracts), shall vest in the relatives of the decedent as provided  
7 in this paragraph. From the following relatives of the lessee  
8 who are (1) at least [~~one-quarter~~] one thirty-second Hawaiian,  
9 [~~husband, wife,~~] spouse, children, grandchildren, brothers, or  
10 sisters, or (2) native Hawaiian, father and mother, widows or  
11 widowers of the children, widows or widowers of the brothers and  
12 sisters, or nieces and nephews,--the lessee shall designate the  
13 person or persons to whom the lessee directs the lessee's  
14 interest in the tract or tracts to vest upon the lessee's death.  
15 The Hawaiian blood requirements shall not apply to the  
16 descendants of those who are not native Hawaiians but who were  
17 entitled to the leased lands under section 3 of the Act of May  
18 16, 1934 (48 Stat. 777, 779), as amended, or under section 3 of  
19 the Act of July 9, 1952 (66 Stat. 511, 513). In all cases that  
20 person or persons need not be eighteen years of age. The  
21 designation shall be in writing, may be specified at the time of





1 execution of the lease with a right in the lessee in similar  
2 manner to change the beneficiary at any time and shall be filed  
3 with the department and approved by the department in order to  
4 be effective to vest the interests in the successor or  
5 successors so named.

6 In case of the death of any lessee, except as hereinabove  
7 provided, who has failed to specify a successor or successors as  
8 approved by the department, the department may select from only  
9 the following qualified relatives of the decedent:

- 10 (1) [~~Husband or wife,~~] Spouse; or  
11 (2) If there is no [~~husband or wife,~~] spouse, then the  
12 children; or  
13 (3) If there is no [~~husband, wife,~~] spouse or child, then  
14 the grandchildren; or  
15 (4) If there is no [~~husband, wife,~~] spouse, child, or  
16 grandchild, then brothers or sisters; or  
17 (5) If there is no [~~husband, wife,~~] spouse, child,  
18 grandchild, brother, or sister, then from the  
19 following relatives of the lessee who are native  
20 Hawaiian: father and mother, widows or widowers of



1           the children, widows or widowers of the brothers and  
2           sisters, or nieces and nephews.

3   The rights to the use and occupancy of the tract or tracts may  
4   be made effective as of the date of the death of the lessee.

5           In the case of the death of a lessee leaving no designated  
6   successor or successors, [~~husband, wife,~~] spouse, children,  
7   grandchildren, or relative qualified to be a lessee of Hawaiian  
8   home lands, the land subject to the lease shall resume its  
9   status as unleased Hawaiian home lands and the department is  
10  authorized to lease the land to a native Hawaiian as provided in  
11  this Act.

12          Upon the death of a lessee who has not designated a  
13  successor and who leaves a spouse not qualified to succeed to  
14  the lease or children not qualified to succeed to the lease, or  
15  upon the death of a lessee leaving no relative qualified to be a  
16  lessee of Hawaiian home lands, or the cancellation of a lease by  
17  the department, or the surrender of a lease by the lessee, the  
18  department shall appraise the value of all the improvements and  
19  growing crops or improvements and aquacultural stock, as the  
20  case may be, and shall pay to the nonqualified spouse or the  
21  nonqualified children as the lessee shall have designated prior



1 to the lessee's death, or to the legal representative of the  
2 deceased lessee, or to the previous lessee, as the case may be,  
3 the value thereof, less any indebtedness to the department, or  
4 for taxes, or for any other indebtedness the payment of which  
5 has been assured by the department, owed by the deceased lessee  
6 or the previous lessee. These payments shall be made out of the  
7 Hawaiian home loan fund and shall be considered an advance  
8 therefrom and shall be repaid by the successor or successors to  
9 the tract involved. If available cash in the Hawaiian home loan  
10 fund is insufficient to make these payments, payments may be  
11 advanced from the Hawaiian home general loan fund and shall be  
12 repaid by the successor or successors to the tract involved;  
13 provided that any repayment for advances made from the Hawaiian  
14 home general loan fund shall be at the interest rate established  
15 by the department for loans made from the Hawaiian home general  
16 loan fund. The successor or successors may be required by the  
17 commission to obtain private financing in accordance with  
18 section 208(6) to pay off the amount advanced from the Hawaiian  
19 home loan fund or Hawaiian home general loan fund."

20 SECTION 4. The provisions of the amendments made by this  
21 Act to the Hawaiian Homes Commission Act, 1920, as amended, are



1 declared to be severable, and if any section, sentence, clause,  
 2 or phrase, or the application thereof to any person or  
 3 circumstances is held ineffective because there is a requirement  
 4 of having the consent of the United States to take effect, then  
 5 that portion only shall take effect upon the granting of consent  
 6 by the United States and effectiveness of the remainder of these  
 7 amendments or the application thereof shall not be affected.

8 SECTION 5. Statutory material to be repealed is bracketed  
 9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval by  
 11 the governor of the State of Hawaii with the consent of the  
 12 United States Congress.

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INTRODUCED BY: Lynn De Crite

~~James~~ Nicole E. Lowen

Felicia Paul Cindy Evans

[Signature]

[Signature]

[Signature]



# H.B. NO. 1931

**Report Title:**

Hawaiian Home Lands; Transferees; Successors; Blood Quantum

**Description:**

Reduces the minimum Hawaiian blood quantum requirement of certain transferees and successors to lessees of Hawaiian home lands from one-quarter to one thirty-second.

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

