

JAN 19 2018

A BILL FOR AN ACT

RELATING TO HAWAIIAN HOME LAND BENEFICIARIES.

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, including those who were adopted into a Hawaiian family,
4 in part by ensuring long-term tenancies to beneficiaries and
5 successors of beneficiaries of the Hawaiian Homes Commission
6 Act, 1920, as amended.

7 The legislature finds that some descendants of lessees of
8 Hawaiian home lands do not qualify due to their status of being
9 adopted. This disruption creates undue hardships of
10 displacement and interferes with families' abilities to maintain
11 the equity of their homes and businesses.

12 The legislature further finds that allowing those who were
13 and are adopted into Hawaiian families to become successors of
14 Hawaiian home lands will respect the Hawaiian tradition of hanai
15 and allow children who may not meet the Hawaiian blood
16 requirement for lessees, but whose parents do meet the
17 requirement, to benefit from the Hawaiian Homes Commission Act,



1 1920, as amended. This reform will encourage current lessees to
2 maintain and invest in their residences, as the lessees
3 anticipate that their descendants will be able to make use of
4 the properties for many generations to come.

5 The purpose of this Act is to allow Hawaiian home land
6 beneficiaries to pass along their homestead leases to their
7 adopted children; provided that both parents of the adopted
8 children meet the minimum Hawaiian blood quantum requirement.

9 SECTION 2. Section 209 of the Hawaiian Homes Commission
10 Act, 1920, as amended, is amended by amending subsection (a) to
11 read as follows:

12 "(a) Upon the death of the lessee, the lessee's interest
13 in the tract or tracts and the improvements thereon, including
14 growing crops and aquacultural stock (either on the tract or in
15 any collective contract or program to which the lessee is a
16 party by virtue of the lessee's interest in the tract or
17 tracts), shall vest in the relatives of the decedent as provided
18 in this paragraph. From the following relatives of the lessee
19 who are (1) at least one-quarter Hawaiian, husband, wife,
20 children, grandchildren, brothers, or sisters, [or] (2) native
21 Hawaiian, father and mother, widows or widowers of the children,



1 widows or widowers of the brothers and sisters, or nieces and
2 nephews, or (3) adopted children; provided that both parents
3 meet the minimum Hawaiian blood requirement set forth in this
4 section--the lessee shall designate the person or persons to
5 whom the lessee directs the lessee's interest in the tract or
6 tracts to vest upon the lessee's death. The Hawaiian blood
7 requirements shall not apply to the descendants of those who are
8 not native Hawaiians but who were entitled to the leased lands
9 under section 3 of the Act of May 16, 1934 (48 Stat. 777, 779),
10 as amended, or under section 3 of the Act of July 9, 1952 (66
11 Stat. 511, 513). In all cases that person or persons need not
12 be eighteen years of age. The designation shall be in writing,
13 may be specified at the time of execution of the lease with a
14 right in the lessee in similar manner to change the beneficiary
15 at any time and shall be filed with the department and approved
16 by the department in order to be effective to vest the interests
17 in the successor or successors so named.

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



(1) Husband or wife; or

(2) If there is no husband or wife, then the children[+],
including adopted children; or

(3) If there is no husband, wife, or child, then the
grandchildren; or

(4) If there is no husband, wife, child, or grandchild,
then brothers or sisters; or

(5) If there is no husband, wife, child, grandchild,
brother, or sister, then from the following relatives
of the lessee who are native Hawaiian: father and
mother, widows or widowers of the children, widows or
widowers of the brothers and sisters, or nieces and
nephews.

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

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



1 Upon the death of a lessee who has not designated a
2 successor and who leaves a spouse not qualified to succeed to
3 the lease or children not qualified to succeed to the lease, or
4 upon the death of a lessee leaving no relative qualified to be a
5 lessee of Hawaiian home lands, or the cancellation of a lease by
6 the department, or the surrender of a lease by the lessee, the
7 department shall appraise the value of all the improvements and
8 growing crops or improvements and aquacultural stock, as the
9 case may be, and shall pay to the nonqualified spouse or the
10 nonqualified children as the lessee shall have designated prior
11 to the lessee's death, or to the legal representative of the
12 deceased lessee, or to the previous lessee, as the case may be,
13 the value thereof, less any indebtedness to the department, or
14 for taxes, or for any other indebtedness the payment of which
15 has been assured by the department, owed by the deceased lessee
16 or the previous lessee. These payments shall be made out of the
17 Hawaiian home loan fund and shall be considered an advance
18 therefrom and shall be repaid by the successor or successors to
19 the tract involved. If available cash in the Hawaiian home loan
20 fund is insufficient to make these payments, payments may be
21 advanced from the Hawaiian home general loan fund and shall be



1 repaid by the successor or successors to the tract involved;
2 provided that any repayment for advances made from the Hawaiian
3 home general loan fund shall be at the interest rate established
4 by the department for loans made from the Hawaiian home general
5 loan fund. The successor or successors may be required by the
6 commission to obtain private financing in accordance with
7 section 208(6) to pay off the amount advanced from the Hawaiian
8 home loan fund or Hawaiian home general loan fund."

9 SECTION 3. This Act shall apply to all valid, future
10 leases issued pursuant to section 207 of the Hawaiian Homes
11 Commission Act, 1920, as amended, and all valid leases issued
12 pursuant to section 207 of the Hawaiian Homes Commission Act,
13 1920, as amended, on or before the effective date of this Act.

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



S.B. NO. 2557

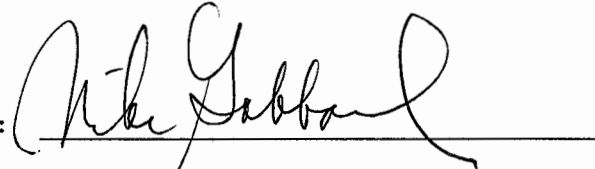
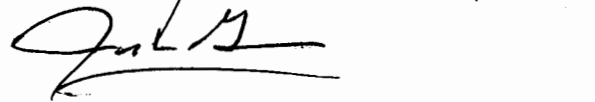
1 States, and effectiveness of the remainder of these amendments
2 or the application thereof shall not be affected.

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

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

8

INTRODUCED BY:

S.B. NO. 2557

Report Title:

Hawaiian Homes Commission Act; Hawaiian Home Lands; Successors;
Blood Quantum; Adopted Children

Description:

Allows Hawaiian homestead lessees who meet the minimum Hawaiian blood quantum requirement who have adopted children to pass their homestead lease to their adopted children.

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