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# A BILL FOR AN ACT

RELATING TO LAND USE.

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

1           SECTION 1. Section 208, Hawaiian Homes Commission Act,  
2 1920, as amended, is 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



1 of any lease; provided that the approval of any  
2 extension shall be subject to the condition that the  
3 aggregate of the initial ninety-nine year term and any  
4 extension granted shall not be for more than one  
5 hundred ninety-nine years.

6 (3) The lessee may be required to occupy and commence to  
7 use or cultivate the tract as the lessee's home or  
8 farm or occupy and commence to use the tract for  
9 aquaculture purposes, as the case may be, within one  
10 year after the commencement of the term of the lease.

11 (4) The lessee thereafter, for at least such part of each  
12 year as the department shall prescribe by rules, shall  
13 occupy and use or cultivate the tract on the lessee's  
14 own behalf.

15 (5) The lessee shall not in any manner 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 the approval of the



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



1 to be effective, must be consented to and approved by  
2 the commission and recorded with the department.

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



1 207(a) of this Act and upon which there is located a  
2 one to four family single family residence.

3 (7) The lessee shall not operate a commercial landfill on  
4 the tract, permit operation of a commercial landfill  
5 on the tract, or permit the disposal of solid waste on  
6 the tract for a commercial purpose.

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

11 [~~8~~] (9) The lessee shall perform such other conditions,  
12 not in conflict with any provision of this Act, as the  
13 department may stipulate in the lease; provided that  
14 an original lessee shall be exempt from all taxes for  
15 the first seven years after commencement of the term  
16 of the lease."

17 SECTION 2. Section 342H-52, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 " ~~[+]~~§342H-52 ~~[+]~~ **Prohibition.** No person, including any  
20 federal agency, the State, or any county, shall construct,  
21 operate, modify, expand, or close a municipal solid waste



1 landfill unit, or any component of a municipal solid waste  
 2 landfill unit, without first obtaining a permit from the  
 3 director[-]; provided that the director shall not issue a permit  
 4 for the construction or operation of a new municipal solid waste  
 5 landfill unit that is to be located within fifteen miles of any  
 6 Hawaiian home lands in existence at the time of the application  
 7 for the permit, measured from the nearest point of the municipal  
 8 solid waste landfill to the nearest tract of Hawaiian home  
 9 lands. All permits for municipal solid waste landfill units  
 10 shall be subject to such terms and conditions as the director  
 11 determines are necessary to protect human health or the  
 12 environment."

13 SECTION 3. This Act does not affect rights and duties that  
 14 matured, penalties that were incurred, and proceedings that were  
 15 begun before its effective date.

16 SECTION 4. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect upon its approval.  
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INTRODUCED BY:

DH Hlt

Stanford Mori  
E. E. J.

JAN 23 2020



# H.B. NO. 2688

**Report Title:**

HHCA; Department of Hawaiian Home Lands; Hawaiian Homes Commission Act; Department of Health; Landfills; Ban; Land Use

**Description:**

Prohibits the commercial operation of a landfill on or within 15 miles of any tract leased pursuant to the Hawaiian Homes Commission Act.

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

