
A BILL FOR AN ACT

RELATING TO THE DISTRIBUTION OF LEASES UNDER THE HAWAIIAN HOMES
COMMISSION ACT, 1920, AS AMENDED.

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

1 SECTION 1. The legislature finds that the United States
2 Congress in 1920 created an Act entitled the Hawaiian Homes
3 Commission Act. The Act was introduced by Prince Jonah Kuhio
4 Kalanianaʻole to enable native Hawaiians to return to their lands
5 in order to fully support self-sufficiency, self-determination,
6 and the preservation of the values, traditions, and culture.
7 Once it was established at the national level, the
8 responsibility for implementing the Act was transferred to the
9 newly created State of Hawaii in 1959 and the department of
10 Hawaiian home lands.

11 The legislature finds that one hundred years later only
12 9,800 homesteads have been created on the 203,000 acres of land
13 managed by the department of Hawaiian homelands. Over 28,000
14 native Hawaiian people with a blood quantum of fifty per cent or
15 more are languishing on a waitlist where they are more likely to
16 die than receive a homestead.



1 The legislature further finds that this delay in returning
2 Hawaiians to their lands has contributed to an unacceptable
3 state of affairs including homelessness, incarceration, diabetes
4 and heart disease, low socio-economic indicators, and lack of
5 political muscularity at the state and national levels.

6 The purpose of this Act is to reform the department of
7 Hawaiian home lands and fulfill the promises contained in the
8 Act of Congress of 1920 by disbursing all remaining lands to
9 native Hawaiians within fifteen years, removing financial
10 consideration in awarding leases, and supporting alternative
11 forms of housing such as communal or pu'uhonua models.

12 SECTION 2. Section 204.5 of the Hawaiian Homes Commission
13 Act, 1920, as amended, is amended by amending subsection (a) to
14 read as follows:"

15 **§204.5. Additional powers.** In addition and supplemental
16 to the powers granted to the department by law, and
17 notwithstanding any law to the contrary, the department [~~may~~]
18 shall:

19 (1) With the approval of the governor, undertake and carry
20 out the development of [~~any~~] all Hawaiian home lands
21 available for lease under and pursuant to section 207



1 of this Act by assembling these lands in residential
2 developments and providing for the construction,
3 reconstruction, improvement, alteration, or repair of
4 public facilities therein, including, without
5 limitation, streets, storm drainage systems,
6 pedestrian ways, water facilities and systems,
7 sidewalks, street lighting, sanitary sewerage
8 facilities and systems, utility and service corridors,
9 and utility lines, where applicable, sufficient to
10 adequately service developable improvements therein,
11 sites for schools, parks, off-street parking
12 facilities; and other community facilities ~~[+]~~ in a
13 manner that distributes all remaining Hawaiian home
14 lands to native Hawaiians within fifteen years;

15 (2) With the approval of the governor, undertake and carry
16 out the development of all available lands for
17 homestead, pu'uhonua or communal living arrangements,
18 commercial, and multipurpose projects as provided in
19 section 220.5 of this Act, as a developer under this
20 section or in association with a developer agreement
21 entered into pursuant to this section by providing for



1 the construction, reconstruction, improvement,
2 alteration, or repair of public facilities for
3 development, including, without limitation, streets,
4 storm drainage systems, pedestrian ways, water
5 facilities and systems, sidewalks, street lighting,
6 sanitary sewerage facilities and systems, utility and
7 service corridors, and utility lines, where
8 applicable, sufficient to adequately service
9 developable improvements therein, sites for schools,
10 parks, off-street parking facilities, and other
11 community facilities ~~[+]~~ in a manner that distributes
12 all remaining Hawaiian home lands to native Hawaiians
13 within fifteen years;

14 (3) With the approval of the governor, designate by
15 resolution of the commission all or any portion of a
16 development or multiple developments undertaken
17 pursuant to this section an "undertaking" under part
18 III of chapter 39, Hawaii Revised Statutes ~~[+]~~ in a
19 manner that distributes all remaining Hawaiian home
20 lands to native Hawaiians within fifteen years; and



1 (4) Exercise the powers granted under section 39-53,
2 Hawaii Revised Statutes, including the power to issue
3 revenue bonds from time to time as authorized by the
4 legislature.

5 All provisions of part III of chapter 39, Hawaii Revised
6 Statutes, shall apply to the department and all revenue bonds
7 issued by the department shall be issued pursuant to the
8 provisions of that part, except these revenue bonds shall be
9 issued in the name of the department, and not in the name of the
10 State.

11 As applied to the department, the term "undertaking" as
12 used in part III of chapter 39 shall include a residential
13 development or a development of homestead, commercial, or
14 multipurpose projects under this Act. The term "revenue" as
15 used in part III of chapter 39, shall include all or any portion
16 of the rentals derived from the leasing of Hawaiian home lands
17 or available lands, whether or not the property is a part of the
18 development being financed."

19 SECTION 4. Section 205 of the Hawaiian Homes Commission
20 Act, 1920, is amended to read as follows:



1 " §205. Sale or lease, limitations on. Available lands
2 shall be sold or leased [~~only~~]:

3 (1) In the manner and for the purposes set out in this
4 title; [~~or~~] and

5 (2) In a manner that distributes all remaining Hawaiian
6 home lands to native Hawaiians within fifteen years;
7 and

8 [~~+~~2+] (3) As may be necessary to complete any valid
9 agreement of sale or lease in effect at the time of
10 the passage of this Act;

11 except that such limitations shall not apply to the unselected
12 portions of lands from which the department has made a selection
13 and given notice thereof, or failed so to select and give notice
14 within the time limit, as provided in paragraph (3) of section
15 204 of this title.

16 SECTION 5. Section 207 of the Hawaiian Homes Commission
17 Act, 1920, as amended, is amended by amending subsection (a) to
18 read as follows:

19 " §207. Leases to Hawaiians, licenses. (a) The department
20 is authorized to and shall lease to native Hawaiians the right
21 to the use and occupancy of a tract or tracts of Hawaiian home



1 lands within the following acreage limits per each lessee: (1)
2 not more than forty acres of agriculture lands or lands used for
3 aquaculture purposes; or (2) not more than one hundred acres of
4 irrigated pastoral lands and not more than one thousand acres of
5 other pastoral lands; or (3) not more than one acre of any class
6 of land to be used as a residence lot; provided that in the case
7 of any existing lease of a farm lot in the Kalanianaʻole
8 Settlement on Molokai, a residence lot may exceed one acre but
9 shall not exceed four acres in area, the location of such area
10 to be selected by the department; provided further that a lease
11 granted to any lessee may include two detached farm lots or
12 aquaculture lots, as the case may be, located on the same island
13 and within a reasonable distance of each other, one of which, to
14 be designated by the department, shall be occupied by the lessee
15 as the lessee's home, the gross acreage of both lots not to
16 exceed the maximum acreage of an agricultural, pastoral, or
17 aquacultural lot, as the case may be, as provided in this
18 section.

19 (b) The title to lands so leased shall remain in the
20 State. Applications for tracts shall be made to and granted by
21 the department, under such regulations, not in conflict with any



1 provisions of this title, as the department may prescribe. The
2 department shall, whenever tracts are available, enter into such
3 a lease with any applicant who, in the opinion of the
4 department, is qualified to perform the conditions of such
5 lease[-], however, financial ability to build a dwelling or
6 maintain the property or improvements, or qualify for a loan to
7 build a dwelling or maintain the property or improvements, may
8 not be a consideration by the department.

9 (c) (1) The department is authorized to grant licenses as
10 easements for railroads, telephone lines, electric
11 power and light lines, gas mains, and the like. The
12 department is also authorized to grant licenses for
13 lots within a district in which lands are leased under
14 the provisions of this section, for:

15 (A) Churches, hospitals, public schools, post
16 offices, and other improvements for public
17 purposes; and

18 (B) Theaters, garages, service stations, markets,
19 stores, and other mercantile establishments (all
20 of which shall be owned by native Hawaiians or by



1 organizations formed and controlled by native
2 Hawaiians).

3 (2) The department is also authorized to grant licenses to
4 the United States for reservations, roads, and other
5 rights-of-way, water storage and distribution
6 facilities, and practice target ranges.

7 (3) Any license issued under this subsection shall be
8 subject to such terms, conditions, and restrictions as
9 the department shall determine and shall not restrict
10 the areas required by the department in carrying on
11 its duties, nor interfere in any way with the
12 department's operation or maintenance activities.

13 SECTION 6. Section 214 of the Hawaiian Homes Commission
14 Act, 1920, as amended, is amended by amending subsection (a) to
15 read as follows:

16 " §214. Purposes of loans; authorized actions. (a) The
17 department [~~may~~] shall make loans from revolving funds to any
18 lessee or native Hawaiian to whom, or any cooperative
19 association to which, a lease has been issued, or would
20 otherwise be issued, but for financial reasons, under section
21 207[~~(a)~~] of this Act or a license has been issued under section



1 207(c)(1)(B) of this Act. Such loans may be made for the
2 following purposes:

3 (1) The repair or maintenance or purchase or erection of
4 dwellings on any tract, and the undertaking of other
5 permanent improvements thereon;

6 (2) The purchase of livestock, swine, poultry, fowl,
7 aquaculture stock, and farm and aquaculture equipment;

8 (3) Otherwise assisting in the development of tracts and
9 of farm, ranch, and aquaculture operations, including:

10 (A) The initial and on-going development,
11 improvement, operation, and expansion of
12 homestead farms, ranches, and aquaculture
13 enterprises;

14 (B) The liquidation of indebtedness incurred for any
15 of the foregoing purposes relating to farm loans
16 aged less than five years;

17 (C) The payment of normal and reasonable living
18 expenses of a full-time farmer;

19 (D) The planning, layout, and installation of soil
20 and water conservation practices; and



- 1 (E) Providing relief and rehabilitation to homestead
2 farmers and ranchers due to damage by rain and
3 windstorms, droughts, tidal wave, earthquake,
4 volcanic eruption, and other natural
5 catastrophes, and for livestock disease,
6 epidemics, crop blights, and serious effects of
7 prolonged shipping and dock strikes;
- 8 (4) The cost of breaking up, planting, and cultivating
9 land and harvesting crops, the cost of excavating or
10 constructing aquaculture ponds and tanks, the purchase
11 of seeds, fertilizers, feeds, insecticides, medicines,
12 and chemicals for disease and pest control for
13 animals, fish, shellfish, and crops, and the related
14 supplies required for farm, ranch, and aquaculture
15 operations, the erection of fences and other permanent
16 improvements for farm, ranch, and aquaculture purposes
17 and the expense of marketing; and
- 18 (5) To assist licensees in the operation or erection of
19 theaters, garages, service stations, markets, stores,
20 and other mercantile establishments, all of which



1 shall be owned by native Hawaiians or by organizations
2 formed and controlled by native Hawaiians.

3 (b) In addition the department may:

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

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

16 (3) Loan or guarantee the repayment of or otherwise
17 underwrite any authorized loan or portion thereof to a
18 cooperative association in accordance with section
19 215;

20 (4) Permit and approve loans made to lessees by government
21 agencies or private lending institutions, where the



1 department assures the payment of these loans;
2 provided that upon receipt of notice of default in the
3 payment of the assured loans, the department may, upon
4 failure of the lessee to cure the default within sixty
5 days, cancel the lease and pay the outstanding balance
6 in full or may permit the new lessee to assume the
7 outstanding debt; and provided further that the
8 department shall reserve the following rights:

9 (A) The right of succession to the lessee's interest
10 and assumption of the contract of loan;

11 (B) The right to require that written notice be given
12 to the department immediately upon default or
13 delinquency of the lessee; and

14 (C) Any other rights enumerated at the time of
15 assurance necessary to protect the monetary and
16 other interests of the department;

17 (5) Secure, pledge, or otherwise guarantee the repayment
18 of moneys borrowed by the department from government
19 agencies or private lending institutions and pay the
20 interim interest or advances required for loans;
21 provided that the State's liability, contingent or



1 otherwise, either on moneys borrowed by the department
2 or on departmental guarantees of loans made to lessees
3 under this paragraph and paragraphs (2), (3), and (4)
4 of this subsection, shall at no time exceed
5 \$100,000,000; the department's guarantee of repayment
6 shall be adequate security for a loan under any state
7 law prescribing the nature, amount, or form of
8 security or requiring security upon which loans may be
9 made;

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



1 protecting of security interest, and after
2 foreclosures, the repairing, renovating, or
3 modernization and sale of property covered by the loan
4 and mortgage;

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



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

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

15 SECTION 7. Section 219.1 of the Hawaiian Homes Commission
16 Act, 1920, as amended, is amended by amending subsection (a) to
17 read as follows:

18 " **§219.1. General assistance.** (a) The department is
19 authorized to and shall carry on any activities it deems
20 necessary to assist the lessees in obtaining maximum utilization
21 of the leased lands, including taking any steps necessary to



1 develop these lands for their highest and best use commensurate
2 with the purposes for which the land is being leased as provided
3 for in section 207, and assisting the lessees in all phases of
4 farming, ranching, and aquaculture operations and the marketing
5 of their agricultural [or] aquacultural produce and livestock.

6 (b) Notwithstanding any law to the contrary, the
7 department either alone or together with any other governmental
8 agency, may:

- 9 (1) Form an insurance company, association (nonprofit or
10 otherwise), pool, or trust;
- 11 (2) Acquire an existing insurance company;
- 12 (3) Enter into arrangements with one or more insurance
13 companies; or
- 14 (4) Undertake any combination of the foregoing; upon such
15 terms and conditions and for such periods, as the
16 commission shall approve, to provide homeowner
17 protection, including hurricane coverage, for lessees
18 participating in such undertaking. Such undertaking
19 shall be subject to the provisions of chapter 431P,
20 including but not limited to section 431P-10(b), and
21 chapter 431.



1 (c) The department, if experiencing any of the power as
2 authorized under subsection (b) may:

3 (1) Issue revenue bonds under and pursuant to part III of
4 chapter 39, Hawaii Revised Statutes, to establish
5 necessary reserves to provide for the payment of
6 claims in excess of reserves and for other related
7 purposes; or to pay any liability incurred that is
8 self-insured or uninsured by the commission including
9 without limitations, liabilities for damage to
10 property, comprehensive liability, environmental, or
11 other losses; and

12 (2) Invest funds held in reserve, which are not required
13 for immediate disbursement, in property or securities
14 in which savings banks may legally invest funds
15 subject to their control or as the commission may
16 authorize by resolution. "

17 SECTION 9. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 10. This Act shall take effect upon the approval
20 of the Governor of the State of Hawaii and with the consent of
21 the United States.



H.B. NO. 2731

INTRODUCED BY:

Ann Wood
~~_____~~

JAN 23 2020



H.B. NO. 2731

Report Title:

Hawaiian Home Lands; Lease Distribution

Description:

Requires Hawaiian Homes Commission to distribute leases to all beneficiaries within 10 years. Removes financial consideration in obtaining a lease. Requires the construction of pu'uhonuas or communal living arrangements by the department.

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

