

JAN 23 2020

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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. Section 210, Hawaiian Homes Commission Act,  
2 1920, as amended, is amended to read as follows:  
3           "**§210. Cancellation of leases.** Whenever the department  
4 has reason to believe that any condition enumerated in section  
5 208, or any provision of section 209, of this title has been  
6 violated, the department shall give due notice and afford  
7 opportunity for a hearing to the lessee of the tract in respect  
8 to which the alleged violation relates or to the successor of  
9 the lessee's interest therein, as the case demands. If upon  
10 such hearing the department finds that the lessee or the  
11 lessee's successor has violated any condition in respect to the  
12 leasing of such tract, the department may declare the lessee's  
13 interest in the tract and all improvements thereon to be  
14 forfeited and the lease in respect thereto canceled, and shall  
15 thereupon order the tract to be vacated within a reasonable  
16 time[-]; provided that the department shall not cancel a lease  
17 based solely on a loan delinquency or default, unless all loan



1 servicing procedures identified in the loan servicing manual  
2 adopted pursuant to section 216 of this Act have been exhausted.  
3 The right to the use and occupancy of the Hawaiian home lands  
4 contained in such tract shall thereupon revert in the department  
5 and the department may take possession of the tract and the  
6 improvements thereon."

7 SECTION 2. Section 216, Hawaiian Homes Commission Act,  
8 1920, as amended, is amended to read as follows:

9 "§216. Insurance by borrowers; acceleration of loans; lien  
10 and enforcement thereof[-]; loan servicing manual; requirements.

11 (a) The department may require the borrower to insure, in such  
12 amount as the department may prescribe, any livestock,  
13 aquaculture stock, swine, poultry, fowl, machinery, equipment,  
14 dwellings, and permanent improvements purchased or constructed  
15 out of any moneys loaned or assured by the department; or, in  
16 lieu thereof, the department may directly take out such  
17 insurance and add the cost thereof to the amount of principal  
18 payable under the loan.

19 (b) Whenever the department has reason to believe that the  
20 borrower has violated any condition enumerated in paragraph (2),  
21 (4), (5), or (6) of section 215 of this Act, the department



1 shall give due notice and afford opportunity for a hearing to  
2 the borrower or the successor or successors to his interest, as  
3 the case demands. If upon such hearing the department finds  
4 that the borrower has violated the condition, the department may  
5 declare all principal and interest of the loan immediately due  
6 and payable notwithstanding any provision in the contract of  
7 loan to the contrary[-], subject to the policies and procedures  
8 provided in the loan servicing manual identified herein.

9 (c) The department shall have a first lien upon the  
10 borrower's or lessee's interest in any lease, growing crops,  
11 aquacultural stock, either on his tract or share in any  
12 collective contract or program, livestock, swine, poultry, fowl,  
13 aquaculture stock, machinery, and equipment purchased with  
14 moneys loaned by the department, and in any dwellings or other  
15 permanent improvements on any leasehold tract, to the amount of  
16 all principal and interest due and unpaid and of all taxes and  
17 insurance and improvements paid by the department, and any other  
18 indebtedness of the borrower, the payment of which has been  
19 assured by the department. Such lien shall have priority over  
20 any other obligation for which the property subject to the lien  
21 may be security.



1 (d) The department may, subject to this Act and procedures  
2 established by rule, enforce any lien by declaring the  
3 borrower's interest in the property subject to the lien to be  
4 forfeited, any lease held by the borrower canceled, and shall  
5 thereupon order such leasehold premises vacated and the property  
6 subject to the lien surrendered within a reasonable time. The  
7 right to the use and occupancy of the Hawaiian home lands  
8 contained in such lease shall thereupon revert in the  
9 department, and the department may take possession of the  
10 premises covered therein and the improvements and growing crops  
11 or improvements and aquaculture stock thereon; provided that the  
12 department shall pay to the borrower any difference which may be  
13 due him after the appraisal provided for in section 209 has been  
14 made.

15 (e) The department shall develop and implement a loan  
16 servicing manual, subject to approval by the commission, that  
17 adopts loan mitigation policies, procedure, and methods,  
18 including financial counseling, loan loss mitigation analysis,  
19 forbearance, loan modification, sale or transfer, and other  
20 options to ensure lessees and borrowers, or their successors,  
21 avoid default, cure delinquencies, and avoid cancellation or



1 foreclosure; provided that the loan servicing manual shall  
2 incorporate all appropriate federal rules and regulations,  
3 including those that protect active military service members;  
4 provided further that the department shall document all loan  
5 loss mitigation activities between the borrower and the  
6 department pursuant to the loan servicing manual."

7 SECTION 3. The provisions of the amendments made by this  
8 Act to the Hawaiian Homes Commission Act, 1920, as amended, are  
9 declared to be severable, and if any section, sentence, clause,  
10 or phrase, or the application thereof to any person or  
11 circumstances is held ineffective because there is a requirement  
12 of having the consent of the United States to take effect, then  
13 that portion only shall take effect upon the granting of consent  
14 by the United States and effectiveness of the remainder of these  
15 amendments or the application thereof shall not be affected.

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

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# S.B. NO. 2826

1 SECTION 5. This Act shall take effect upon its approval by  
2 the governor of the State of Hawaii with the consent of the  
3 United States.

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INTRODUCED BY: ~~\_\_\_\_\_~~  
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# S.B. NO. 2826

**Report Title:**

Hawaiian Homes Commission Act; DHHL; Loan Services; Manual

**Description:**

Clarifies that DHHL shall not cancel a lease solely based on a loan default or delinquency unless all loan loss mitigation procedures are exhausted pursuant to the loan servicing manual. Requires DHHL to develop and implement a loan servicing manual.

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

