

ACT 29

An Act Authorizing Relief for Persons Suffering Property Damage From Hurricane Activity and Making an Appropriation for the Claims Commissions.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is hereby established in each county wherein hurricane damage was incurred on August 5 and 6, 1959, a claims commission. Each claims commission shall be composed of three members who shall be residents of that county. At least one of the members of each commission shall be a qualified appraiser. The members of each commission shall be appointed by the governor in the manner provided for by section 6 of Article IV of the Constitution of the State of Hawaii. Each commission shall continue in existence until all losses within their county shall have been fully determined and certified. The members of each commission shall elect their own chairman and shall serve without pay, but shall be reimbursed by the state for their reasonable expenses. Each member of each commission shall have the power to administer oaths or affirmations with respect to any matters coming within the scope of the duties of each commission.

SECTION 2. In case of the damage or destruction of real or personal property of a taxpayer as the result of the hurricane activity on August 5 and 6, 1959, the tax commissioner is authorized to remit, refund, or forgive the taxes hereinafter mentioned, due or to become due from said taxpayer suffering such loss, in the manner hereinafter set forth, to wit:

The taxpayer shall, on or before December 31, 1959, or such other date as may be prescribed by each claims commission, file a claim, under oath, with each claims commission setting forth the amount of his loss. Each commission shall thereupon investigate such claim and determine the total loss suffered by reason of the damage or destruction of the real or personal property, less insurance recoveries, payments on account of such loss under the Sugar Act of 1948 (61 Stat. 922, Chap. 519) or under Public Law 875, 81st Congress, Second Session, as either act may be amended or supplemented, or other recoveries, and shall certify as soon as practicable the amount of such loss to the tax commissioner. The finding of each commission as to the amounts of such loss shall be final, subject to the provisions of section 2 and 3 hereof. Upon receipt of such certification, the tax commissioner is hereby authorized to and shall remit, refund, or forgive, for a period not to exceed five years com-

mencing with the year 1959, (1) all real property taxes for said year 1959, and thereafter as above provided, due and payable by said taxpayer on account of any real property, and (2) all taxes due under the provisions of chapter 117, Revised Laws of Hawaii 1955, as amended, from said taxpayer on account of any trade or business conducted by said taxpayer for said 1959, and thereafter as above provided, until the amount of such loss certified as aforesaid shall have been fully recovered, whichever shall first occur.

SECTION 3. The claim to be filed on or before December 31, 1959, or such other date as may be prescribed by each claims commission, setting forth the amount of the taxpayer's loss and the certification of each claims commission, shall be subject to review by each commission from time to time in the event substantial new evidence should show more accurately the amount of loss suffered from damage to or destruction of real or personal property resulting from the hurricane activity. In such event, the taxpayer shall have the right to file amended claims and each commission shall have the authority to hold hearings to require further proof from time to time of the amount of the loss claimed in the initial filing of the taxpayer, but in no event shall such amendments or further hearings be allowed or required after December 31, 1961, and the determination of the loss by each commission as of that date shall be final. In the event of any change in the amount of the certification furnished to the tax commissioner, each claims commission shall notify the tax commissioner of such adjustments, and appropriate changes in the remitting, refunding, or forgiveness of taxes above provided for shall be made by the tax commissioner, as the case may be; and any amount of tax refunded exceeding the amount of loss recoverable may be collected in the same manner as the tax due and payable under chapter 117 or chapter 128, as the case may be.

SECTION 4. The University of Hawaii or its designated representatives are hereby directed to establish standards or formulas which will, as accurately as possible, establish the amount of losses sustained by persons from crop damage due to the hurricane activity. All persons filing claims for crop losses shall make available to the University of Hawaii or its designated agents all information deemed necessary by said University or its agents to establish such standards or formulas. Each claims commission shall adopt the standards or formulas established by the University of Hawaii or its designated representatives and shall apply such standards or formulas in certifying the claims of persons suffering crop losses. Each claims commission shall not certify any claim of any person who refuses to make available such information.

SECTION 5. The tax relief authorized by this Act shall not be applicable to transferees, successors, or assignees of a taxpayer unless such transferees, successors or assignees are members of his immediate family. Nor shall such tax relief be applicable if the tax liability of such taxpayer has no reasonable connection to real or personal property so damaged or destroyed.

SECTION 6. The powers and duties conferred upon the farm loan board relative to making emergency loans from the farm loan fund by Chapter 102 of the Revised Laws of Hawaii 1955, as amended, are

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hereby transferred to each of the claims commissions established by this Act and each claims commission established by this Act shall have the power to make emergency loans out of the farm loan fund in accordance with Chapter 102 of the Revised Laws of Hawaii 1955, as amended, until the Department of Economic Development has been created, and its officer or officers have been duly appointed and qualified all in accordance with the Hawaii State Government Reorganization Act of 1959.

SECTION 7. There is hereby appropriated from the general revenues of the state, not otherwise appropriated, the sum of \$5,000, or so much thereof as may be necessary, for all of the claims commissions for the purpose of reimbursement of expenses so incurred by each claims commission from its formation to December 31, 1961.

SECTION 8. Section 121-5(f) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows :

“(f) Losses of property as the result of tidal wave, hurricane, earthquake, or volcanic eruption, or as a result of flood waters overflowing the banks or walls of a river or stream, or from any other natural disaster, to the extent of the amount deductible, under this chapter, not compensated for by insurance or otherwise, may be deducted in the taxable year in which sustained, or at the option of the taxpayer may be deducted in equal installments over a period of five years, the first such year to be the calendar or fiscal year of the taxpayer in which such loss occurred.”

SECTION 9. This Act shall take effect upon its approval.

(Approved November 25, 1959.) **S.B. 79.**
