

ACT 4

A Bill for an Act Amending the Hawaiian Homes Commission Act, 1920, as Amended.

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

SECTION 1. Section 213(b) of the Hawaiian Homes Commission Act of 1920, as amended, is hereby amended by adding the following paragraphs:

"Subject to repeal or amendment of this authorization and to the recall, by the legislature, of the moneys herein loaned, thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5 million, which additional amount is hereinafter called "Additional Receipts," shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and interest of all outstanding loans and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$2,500,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the "Additional Receipts—Development Fund Portion," is to be transferred to the Hawaiian home development fund in section 213(c), to be used in accordance with the amended provisions thereof.

Fifteen per cent of the annual Additional Receipts, hereinafter called the "Additional Receipts—Loan Fund Portion," shall be retained in the special revolving fund and be used for and in connection with the purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased, with loans by the department or by financial institutions, governmental or private. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

(1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;

(2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of ten thousand dollars (\$10,000.00); provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation

of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of ten thousand dollars (\$10,000.00) under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions of section 215(3);

(3) Where the dwelling is on Hawaiian home lands, only the department may make loans, and the department shall be governed by, and the loans made in connection with the purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216 and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home loan fund, Hawaiian home operating fund or Hawaiian home development fund or otherwise require the consent of the United States;

(4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or financial institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, however, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;

(5) The department shall establish interest rate or rates at two and one-half per cent per annum or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by financial institutions to native Hawaiians is higher, pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;

(6) The department may borrow and deposit into the special revolving account for the purposes of purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of

(8) hereinafter, from financial institutions, governmental or private, and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;

(7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee the repayment of or otherwise underwrite, the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;

(8) The department may exercise the functions and reserved

rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans by financial institutions made to Hawaiians under this program. The functions and reserved rights shall include but not be limited to, the purchasing, re-purchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment or otherwise underwriting, of any loan, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.”

SECTION 2. Section 213(c) is hereby amended by adding there-to the following paragraphs:

“With respect to the Additional Receipts—Development Fund Portion, fifteen per cent thereof shall be used, with prior written approval of the governor, for the construction of sanitary sewage facilities, for the construction of roads through and over Hawaiian home lands and for other nonrevenue-producing improvements, and the remaining eighty-five per cent shall be segregated into a special account which may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education after consultation with the University of Hawaii and the department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of the lessees, the funds to be used primarily at the pre-school and elementary grade levels.

Only so much of the Additional Receipts—Development Fund Portion not encumbered at the time of appropriate legislative action directing repayment, shall be repaid to the general fund of the State.”

SECTION 3. All provisions of this amendment shall be liberally construed so as to facilitate the maximum number of loans to Hawaiians.

SECTION 4. The department shall promulgate rules and regulations not inconsistent with the provisions of this legislative amendment to the Act in furtherance of the purposes of this legislative amendment.

SECTION 5. This authorization shall not be construed as an irrevocable amendment to the Hawaiian Homes Commission Act and any repeal or amendment of the authorization and recall of moneys

loaned herein shall not be construed as a present or then reduction or impairment of the funds of the Act.

SECTION 6. The provisions of this legislative amendment are declared to be severable, and if any section, sentence, clause or phrase of this legislative amendment or the application thereof to any person or circumstances is held ineffective because it requires consent of Congress to take effect, then, that portion only shall take effect upon the granting of consent of Congress and the effectiveness of the remainder of this legislative amendment or the application thereof shall not be affected.

SECTION 7. This Act shall take effect upon its approval.
(Approved May 3, 1965.) **H.B. 938.**