

## ACT 316

S.B. NO. 2855

A Bill for an Act Relating to Hawaiian Home Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings.** The legislature finds that the United States Congress in 1921, by setting aside certain public lands to be considered as Hawaiian home lands to be utilized in the rehabilitation of native Hawaiians, did thereby undertake a trust obligation benefitting the aboriginal people. Ahuna v. Department of Hawaiian Home Lands, 64 Haw. 327, 640 P.2d 1161 (1982). The primary asset of the trust are these lands.

The legislature also finds that although the Hawaiian Homes Commission Act, 1920, specifies that the powers and duties of both territorial and state governors, as well as the public land commissioners or public land boards, do not extend to Hawaiian home lands, many thousands of acres of Hawaiian home lands have been withdrawn from the trust by territorial and state executive actions. Other trust lands have been taken or held by government agencies or private entities with no record of transactions, formal conveyances, or compensation. Trust lands were also exchanged for lands of lesser value and other trust lands were leased for nominal rents. While the vast majority of these land misuses occurred before statehood, various agencies continued to use trust lands after statehood.

The legislature further finds that restoring those lands belonging to the trust and compensating the trust for the State's past use of those lands is in accord with the State's responsibility under the Hawaii Admission Act, serves to strengthen the trust, and will better enable the department of Hawaiian home lands and the department's executive board, the Hawaiian homes commission, to accomplish the department's goal of accelerating the settlement of native Hawaiians on Hawaiian home lands.

**SECTION 2.** The purpose of this Act is to:

- (1) Appropriate such funds and to provide such additional means as may be necessary to remedy the State's past wrongful, improper, or unauthorized withdrawals, transfers, takings, or uses of Hawaiian home lands which occurred from August 21, 1959 to the present; and
- (2) Authorize the State to pursue claims against the federal government.

**SECTION 3.** In accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1992-1993 to be exceeded by \$27,895,500, or .896 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

**SECTION 4.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$12,000,000, or so much thereof as may be necessary for fiscal year 1992-1993, for the purpose of paying compensation for the State's uncompensated use of Hawaiian home lands since August 21, 1959, including the use of these lands under governors' executive orders and proclamations. The sum

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appropriated shall be expended by the department of budget and finance upon certification by the office of state planning that a wrongful use has been verified. Compensation may be paid throughout fiscal year 1992-1993, as claims are verified and the amounts of compensation owed are determined. The office of state planning may adopt rules pursuant to chapter 91, Hawaii Revised Statutes, as may be necessary for the purposes of this section.

SECTION 5. (a) The following Hawaiian home lands may be selected by, and used by agreement, by the State, pursuant to the Hawaiian Homes Commission Act, 1920, as amended:

<u>Location and Use</u>	<u>No. of Acres</u>	<u>Tax Map Key No.</u>
<b>Hawaii:</b>		
Humuula game reserve	11,124	3-8-1:8
Puukapu reservoir	23	6-4-2:125
Humuula forest reserve	3,822	3-8-1:13, 13 and 4 por
<b>Maui:</b>		
Kahikinui forest reserve	8,747	2-2-7:5 por., 1-9-7:7, 11, 3 por
<b>Molokai:</b>		
Kalamaula ranger station	7	5-2-8:77 and 83
Molokai high school	10*	5-2-15:2
Palaau state park	234	5-2-13:6
<b>Oahu:</b>		
Nanaikapono school	14	8-9-1:4 por
Nanakuli forest reserve	180	8-9-8:1
Waimanalo forest reserve	1,413	4-1-11:1, 4-1-14:8 and 4-1-14:6

\*portion of Hawaiian home lands

(b) The department of Hawaiian home lands may purchase parcels of public land until December 31, 1993. Notwithstanding any law to the contrary, the department of land and natural resources shall convey by quitclaim deed, with the prior concurrence of the office of state planning, the parcels of land purchased by the department of Hawaiian home lands.

(c) The following public lands may be selected by, and conveyed to, the department of Hawaiian home lands, pursuant to the Hawaiian Homes Commission Act, 1920, as amended, or pursuant to this Act:

<u>Location and Use</u>	<u>No. of Acres</u>	<u>Remarks</u>
<b>Oahu:</b>		
Ewa	200	Part of land acquired by the State next to Kapolei Villages

Camp Andrews	30	Within Nanakuli Homestead, TMK No. 8-9-02:1, TMK No. 2-9-02:1
<b>Hawaii:</b> Kailua-Kona Mauka	150	Part of land acquired by State next to Kealahou, TMK No. 7-4-08:12 por

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$925,500, or so much thereof as may be necessary for fiscal year 1992-1993, for the purpose of paying moneys owed to the department of Hawaiian home lands as the department's thirty per cent entitlement for the use of public lands at Honokawai, Maui, formerly under lease for the sugarcane cultivation on November 7, 1978, pursuant to Section 1 of Article XII of the Constitution of the State of Hawaii. The sum appropriated shall be expended by the department of budget and finance.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$640,000, or so much thereof as may be necessary for fiscal year 1992-1993, to assist the state task force on department of Hawaiian home lands title and related claims in preparing the remaining claims package for submission to the legislature in 1993. The sum shall be expended by the office of the governor.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$350,000, or so much thereof as may be necessary for fiscal year 1992-1993, to pursue Hawaiian home lands trust claims against the federal government. The sum shall be expended by the department of the attorney general.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1992-1993, to conduct an audit of the sugarcane lease entitlement to Hawaiian home lands. The sum shall be expended by the department of Hawaiian home lands.

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of \$13,880,000, or so much thereof as may be necessary for fiscal year 1992-1993, to provide investment capital for the development of Hawaiian home lands for residential, agricultural, and other purposes permitted by the Hawaiian Homes Commission Act, 1920, as amended; provided that the project shall include the construction of on-site and off-site improvements at:

- (1) Nanakuli, Waianae, Kauhale Nani, Lualualei, Paheehee ridge, Oahu;
- (2) Puupulehu, Waimea, Panaewa, Puukapu, Hawaii;
- (3) Anahola, Kauai; and
- (4) Hoolehua, Molokai;

and provided further that funds not needed in a cost element may be used in another cost element.

The sum appropriated shall be expended by the department of Hawaiian home lands.

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SECTION 11. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to the end the provisions of this Act are severable.

SECTION 12. This Act shall take effect upon its approval; except that sections 3, 5, 6, 7, 8, and 9 shall take effect on July 1, 1992.

(Approved July 1, 1992.)