

A Bill for an Act Relating to the Hawaiian Homes Commission Act.

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

SECTION 1. The legislature recognizes that the State has a fiduciary duty to support the rehabilitation of the Hawaiian people, in part by ensuring long-term tenancies to beneficiaries and successors of beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended.

The legislature emphasizes that many descendants of lessees of Hawaiian home lands do not qualify as successors because interracial marriages and blended families produce descendants who are less than twenty-five per cent Hawaiian. These disruptions create undue hardships of displacement and interfere with families' abilities to maintain the equity of their homes and businesses.

The legislature further finds that a reduction in blood quantum requirements for certain successors will lead to a reduction in the trend of "highest bid" and "leapfrog" homestead lease sales. Further, this reform will encourage current lessees to maintain and invest in their residences, as the lessees anticipate that their descendants will be able to make use of the properties for many generations to come.

The purpose of this Act is to reduce the minimum Hawaiian blood quantum requirement of certain successors to lessees of Hawaiian home lands from one quarter to one thirty-second.

SECTION 2. Section 209 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) Upon the death of the lessee, the lessee's interest in the tract or tracts and the improvements thereon, including growing crops and aquacultural stock (either on the tract or in any collective contract or program to which the lessee is a party by virtue of the lessee's interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee who are (1) at least ~~[one-quarter]~~ one thirty-second Hawaiian, ~~[husband, wife,]~~ spouse, children, grandchildren, brothers, or sisters, or (2) native Hawaiian, father and mother, widows or widowers of the children, widows or widowers of the brothers and sisters, or nieces and nephews,—the lessee shall designate the person or persons to whom the lessee directs the lessee's interest in the tract or tracts to vest upon the lessee's death. The Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands under section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as amended, or under section 3 of the Act of July 9, 1952 (66 Stat. 511, 513). In all cases that person or persons need not be eighteen years of age. The designation shall be in writing, may be specified at the time of execution of the lease with a right in the lessee in similar manner to change the beneficiary at any time and shall be filed with the department and approved by the department in order to be effective to vest the interests in the successor or successors so named.

In case of the death of any lessee, except as hereinabove provided, who has failed to specify a successor or successors as approved by the department, the department may select from only the following qualified relatives of the decedent:

- (1) ~~[Husband or wife,]~~ Spouse; or
- (2) If there is no ~~[husband or wife,]~~ spouse, then the children; or

- (3) If there is no [~~husband, wife,~~] spouse or child, then the grandchildren; or
- (4) If there is no [~~husband, wife,~~] spouse, child, or grandchild, then brothers or sisters; or
- (5) If there is no [~~husband, wife,~~] spouse, child, grandchild, brother, or sister, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, widows or widowers of the brothers and sisters, or nieces and nephews.

The rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of the lessee.

In the case of the death of a lessee leaving no designated successor or successors, [~~husband, wife,~~] spouse, children, grandchildren, or relative qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the department is authorized to lease the land to a native Hawaiian as provided in this Act.

Upon the death of a lessee who has not designated a successor and who leaves a spouse not qualified to succeed to the lease or children not qualified to succeed to the lease, or upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall appraise the value of all the improvements and growing crops or improvements and aquacultural stock, as the case may be, and shall pay to the nonqualified spouse or the nonqualified children as the lessee shall have designated prior to the lessee's death, or to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the department, or for taxes, or for any other indebtedness the payment of which has been assured by the department, owed by the deceased lessee or the previous lessee. These payments shall be made out of the Hawaiian home loan fund and shall be considered an advance therefrom and shall be repaid by the successor or successors to the tract involved. If available cash in the Hawaiian home loan fund is insufficient to make these payments, payments may be advanced from the Hawaiian home general loan fund and shall be repaid by the successor or successors to the tract involved; provided that any repayment for advances made from the Hawaiian home general loan fund shall be at the interest rate established by the department for loans made from the Hawaiian home general loan fund. The successor or successors may be required by the commission to obtain private financing in accordance with section 208(6) to pay off the amount advanced from the Hawaiian home loan fund or Hawaiian home general loan fund."

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

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

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

(Approved July 5, 2017.)