
A BILL FOR AN ACT

RELATING TO HAWAIIAN HOME LAND BENEFICIARIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature recognizes that the State has a
2 fiduciary duty to support the rehabilitation of the Hawaiian
3 people, including those who were adopted into a Hawaiian family,
4 in part by ensuring long-term tenancies to beneficiaries and
5 successors of beneficiaries of the Hawaiian Homes Commission
6 Act, 1920, as amended.

7 The legislature finds that there is a need to clarify that
8 some descendants of lessees of Hawaiian home lands qualify for
9 homestead leases regardless of their status of being adopted.
10 This disruption of preventing families of passing on their
11 homestead leases creates undue hardships of displacement and
12 interferes with families' abilities to maintain the equity of
13 their homes and businesses.

14 The legislature further finds that allowing those who were
15 and are adopted into Hawaiian families to become successors of
16 Hawaiian home lands will allow children who were adopted to
17 benefit from the Hawaiian Homes Commission Act, 1920, as



1 amended. This reform will encourage current lessees to maintain
2 and invest in their residences, as the lessees anticipate that
3 their descendants will be able to make use of the properties for
4 many generations to come.

5 The purpose of this Act is to allow Hawaiian home land
6 beneficiaries to pass along their homestead leases to their
7 adopted children; provided that the adopted children meet the
8 minimum Hawaiian blood quantum requirement for lease
9 successorship.

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

13 "(a) Upon the death of the lessee, the lessee's interest
14 in the tract or tracts and the improvements thereon, including
15 growing crops and aquacultural stock (either on the tract or in
16 any collective contract or program to which the lessee is a
17 party by virtue of the lessee's interest in the tract or
18 tracts), shall vest in the relatives of the decedent as provided
19 in this paragraph. From the following relatives of the lessee
20 who are (1) at least one-quarter Hawaiian, husband, wife,
21 children, grandchildren, brothers, or sisters, [œ] (2) native



1 Hawaiian, father and mother, widows or widowers of the children,
2 widows or widowers of the brothers and sisters, or nieces and
3 nephews, or (3) adopted children; provided that the adopted
4 children meet the minimum Hawaiian blood quantum requirement,
5 prior to adoption, set forth in this section--the lessee shall
6 designate the person or persons to whom the lessee directs the
7 lessee's interest in the tract or tracts to vest upon the
8 lessee's death. The Hawaiian blood requirements shall not apply
9 to the descendants of those who are not native Hawaiians but who
10 were entitled to the leased lands under section 3 of the Act of
11 May 16, 1934 (48 Stat. 777, 779), as amended, or under section 3
12 of the Act of July 9, 1952 (66 Stat. 511, 513). In all cases
13 that person or persons need not be eighteen years of age. The
14 designation shall be in writing, may be specified at the time of
15 execution of the lease with a right in the lessee in similar
16 manner to change the beneficiary at any time and shall be filed
17 with the department and approved by the department in order to
18 be effective to vest the interests in the successor or
19 successors so named.

20 In case of the death of any lessee, except as hereinabove
21 provided, who has failed to specify a successor or successors as



1 approved by the department, the department may select from only
2 the following qualified relatives of the decedent:

- 3 (1) Husband or wife; or
- 4 (2) If there is no husband or wife, then the children[~~r~~],
5 including adopted children; provided that the adopted
6 children meet the minimum Hawaiian blood quantum
7 requirement, prior to adoption, set forth in this
8 section; or
- 9 (3) If there is no husband, wife, or child, then the
10 grandchildren; or
- 11 (4) If there is no husband, wife, child, or grandchild,
12 then brothers or sisters; or
- 13 (5) If there is no husband, wife, child, grandchild,
14 brother, or sister, then from the following relatives
15 of the lessee who are native Hawaiian: father and
16 mother, widows or widowers of the children, widows or
17 widowers of the brothers and sisters, or nieces and
18 nephews.

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



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

7 Upon the death of a lessee who has not designated a
8 successor and who leaves a spouse not qualified to succeed to
9 the lease or children not qualified to succeed to the lease, or
10 upon the death of a lessee leaving no relative qualified to be a
11 lessee of Hawaiian home lands, or the cancellation of a lease by
12 the department, or the surrender of a lease by the lessee, the
13 department shall appraise the value of all the improvements and
14 growing crops or improvements and aquacultural stock, as the
15 case may be, and shall pay to the nonqualified spouse or the
16 nonqualified children as the lessee shall have designated prior
17 to the lessee's death, or to the legal representative of the
18 deceased lessee, or to the previous lessee, as the case may be,
19 the value thereof, less any indebtedness to the department, or
20 for taxes, or for any other indebtedness the payment of which
21 has been assured by the department, owed by the deceased lessee



1 or the previous lessee. These payments shall be made out of the
2 Hawaiian home loan fund and shall be considered an advance
3 therefrom and shall be repaid by the successor or successors to
4 the tract involved. If available cash in the Hawaiian home loan
5 fund is insufficient to make these payments, payments may be
6 advanced from the Hawaiian home general loan fund and shall be
7 repaid by the successor or successors to the tract involved;
8 provided that any repayment for advances made from the Hawaiian
9 home general loan fund shall be at the interest rate established
10 by the department for loans made from the Hawaiian home general
11 loan fund. The successor or successors may be required by the
12 commission to obtain private financing in accordance with
13 section 208(6) to pay off the amount advanced from the Hawaiian
14 home loan fund or Hawaiian home general loan fund."

15 SECTION 3. This Act shall apply to all valid leases issued
16 pursuant to section 207 of the Hawaiian Homes Commission Act,
17 1920, as amended, existing as of the effective date of this Act
18 or issued on or after the effective date of this Act.

19 SECTION 4. The amendments made by this Act to the Hawaiian
20 Homes Commission Act, 1920, as amended, are declared to be
21 severable, and if any section, sentence, clause, or phrase, or



1 the application thereof to any person or circumstances is held
2 ineffective because there is a requirement of having the consent
3 of the United States to take effect, then that portion only
4 shall take effect upon the granting of consent by the United
5 States, and effectiveness of the remainder of these amendments
6 or the application thereof shall not be affected.

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval by
10 the governor of the State of Hawaii with the consent of the
11 United States Congress.

12



Report Title:

Hawaiian Homes Commission Act; Hawaiian Home Lands; Successors;
Adopted Children

Description:

Allows Hawaiian homestead lessees to pass their homestead lease to their adopted children; provided that the adopted children meet the minimum Hawaiian blood quantum requirement for lease successorship prior to adoption. (SD1)

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