
A BILL FOR AN ACT

RELATING TO THE DISTRIBUTION OF LEASES UNDER THE HAWAIIAN HOMES
COMMISSION ACT, 1920, AS AMENDED.

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

1 SECTION 1. The legislature finds that the United States
2 Congress in 1920 created an Act entitled the Hawaiian Homes
3 Commission Act. The Act was introduced by Prince Jonah Kuhio
4 Kalaniana'ole to enable native Hawaiians to return to their lands
5 in order to fully support self-sufficiency, self-determination,
6 and the preservation of the values, traditions, and culture.
7 Once it was established at the national level, the
8 responsibility for implementing the Act was transferred to the
9 newly created State of Hawaii in 1959 and the department of
10 Hawaiian home lands.

11 The legislature finds that one hundred years later only
12 9,959 homesteads have been created on the 203,000 acres of land
13 managed by the department of Hawaiian homelands. Over 28,000
14 native Hawaiian people with a blood quantum of fifty per cent or
15 more are languishing on a waitlist where they are more likely to
16 die than receive a homestead.



1 The legislature further finds that this delay in returning
2 Hawaiians to their lands has contributed to an unacceptable
3 state of affairs including homelessness, incarceration, diabetes
4 and heart disease, low socio-economic indicators, and lack of
5 political muscularity at the state and national levels.

6 Options to address deficiencies include, engaging the
7 services of individuals to review and revise all DHHL leases to
8 meet compliance with other landowners and State and Federal
9 lending institutions, and adoption of policies for families
10 facing evictions that fail to meet the quantum requirements on
11 succession.

12 The purpose of this Act is to reform the department of
13 Hawaiian home lands and fulfill the promises contained in the
14 Act of Congress of 1920 by disbursing all remaining lands to
15 native Hawaiians within fifteen years, removing financial
16 consideration in awarding leases, and supporting alternative
17 forms of housing such as communal or pu'uhonua models.

18 SECTION 2. Section 204.5 of the Hawaiian Homes Commission
19 Act, 1920, as amended, is amended by amending subsection (a) to
20 read as follows:"



1 **§204.5. Additional powers.** In addition and supplemental
2 to the powers granted to the department by law, and
3 notwithstanding any law to the contrary, the department [~~may~~]
4 shall:

5 (1) With the approval of the governor, undertake and carry
6 out the development of [~~any~~] all Hawaiian home lands
7 available for lease under and pursuant to section 207
8 of this Act by assembling these lands in residential
9 developments and providing for the construction,
10 reconstruction, improvement, alteration, or repair of
11 public facilities therein, including, without
12 limitation, streets, storm drainage systems,
13 pedestrian ways, water facilities and systems,
14 sidewalks, street lighting, sanitary sewerage
15 facilities and systems, utility and service corridors,
16 and utility lines, where applicable, sufficient to
17 adequately service developable improvements therein,
18 sites for schools, parks, off-street parking
19 facilities, and other community facilities[+] in a
20 manner that distributes all remaining Hawaiian home
21 lands to native Hawaiians within fifteen years;



1 (2) With the approval of the governor, undertake and carry
2 out the development of all available lands for
3 homestead, pu'uhonua or communal living arrangements,
4 commercial, and multipurpose projects as provided in
5 section 220.5 of this Act, as a developer under this
6 section or in association with a developer agreement
7 entered into pursuant to this section by providing for
8 the construction, reconstruction, improvement,
9 alteration, or repair of public facilities for
10 development, including, without limitation, streets,
11 storm drainage systems, pedestrian ways, water
12 facilities and systems, sidewalks, street lighting,
13 sanitary sewerage facilities and systems, utility and
14 service corridors, and utility lines, where
15 applicable, sufficient to adequately service
16 developable improvements therein, sites for schools,
17 parks, off-street parking facilities, and other
18 community facilities[+] in a manner that distributes
19 all remaining Hawaiian home lands to native Hawaiians
20 within fifteen years;



1 (3) With the approval of the governor, designate by
2 resolution of the commission all or any portion of a
3 development or multiple developments undertaken
4 pursuant to this section an "undertaking" under part
5 III of chapter 39, Hawaii Revised Statutes[+] in a
6 manner that distributes all remaining Hawaiian home
7 lands to native Hawaiians within fifteen years; and

8 (4) Exercise the powers granted under section 39-53,
9 Hawaii Revised Statutes, including the power to issue
10 revenue bonds from time to time as authorized by the
11 legislature.

12 (5) With the approval of the governor, conduct a
13 management audit and address structural management
14 deficiencies.

15 All provisions of part III of chapter 39, Hawaii Revised
16 Statutes, shall apply to the department and all revenue bonds
17 issued by the department shall be issued pursuant to the
18 provisions of that part, except these revenue bonds shall be
19 issued in the name of the department, and not in the name of the
20 State.



1 As applied to the department, the term "undertaking" as
2 used in part III of chapter 39 shall include a residential
3 development or a development of homestead, commercial, or
4 multipurpose projects under this Act. The term "revenue" as
5 used in part III of chapter 39, shall include all or any portion
6 of the rentals derived from the leasing of Hawaiian home lands
7 or available lands, whether or not the property is a part of the
8 development being financed."

9 SECTION 4. Section 205 of the Hawaiian Homes Commission
10 Act, 1920, is amended to read as follows:

11 " **§205. Sale or lease, limitations on.** Available lands
12 shall be sold or leased [~~only~~]:

13 (1) In the manner and for the purposes set out in this
14 title; [~~or~~] and

15 (2) In a manner that distributes all remaining Hawaiian
16 home lands to native Hawaiians within fifteen years;
17 and

18 [+2+] (3) As may be necessary to complete any valid
19 agreement of sale or lease in effect at the time of
20 the passage of this Act;



1 except that such limitations shall not apply to the unselected
2 portions of lands from which the department has made a selection
3 and given notice thereof, or failed so to select and give notice
4 within the time limit, as provided in paragraph (3) of section
5 204 of this title.

6 SECTION 5. Section 207 of the Hawaiian Homes Commission
7 Act, 1920, as amended, is amended by amending subsection (a) to
8 read as follows:

9 " §207. **Leases to Hawaiians, licenses.** (a) The department
10 is authorized to and shall lease to native Hawaiians the right
11 to the use and occupancy of a tract or tracts of Hawaiian home
12 lands within the following acreage limits per each lessee: (1)
13 not more than forty acres of agriculture lands or lands used for
14 aquaculture purposes; or (2) not more than one hundred acres of
15 irrigated pastoral lands and not more than one thousand acres of
16 other pastoral lands; or (3) not more than one acre of any class
17 of land to be used as a residence lot; provided that in the case
18 of any existing lease of a farm lot in the Kalanianaʻole
19 Settlement on Molokai, a residence lot may exceed one acre but
20 shall not exceed four acres in area, the location of such area
21 to be selected by the department; provided further that a lease



1 granted to any lessee may include two detached farm lots or
2 aquaculture lots, as the case may be, located on the same island
3 and within a reasonable distance of each other, one of which, to
4 be designated by the department, shall be occupied by the lessee
5 as the lessee's home, the gross acreage of both lots not to
6 exceed the maximum acreage of an agricultural, pastoral, or
7 aquacultural lot, as the case may be, as provided in this
8 section.

9 (b) The title to lands so leased shall remain in the
10 State. Applications for tracts shall be made to and granted by
11 the department, under such regulations, not in conflict with any
12 provisions of this title, as the department may prescribe. The
13 department shall, whenever tracts are available, enter into such
14 a lease with any applicant who, in the opinion of the
15 department, is qualified to perform the conditions of such
16 lease[-], however, financial ability to build a dwelling or
17 maintain the property or improvements, or qualify for a loan to
18 build a dwelling or maintain the property or improvements, may
19 not be a consideration by the department.

20 (c) (1) The department is authorized to grant licenses as
21 easements for railroads, telephone lines, electric



1 power and light lines, gas mains, and the like. The
2 department is also authorized to grant licenses for
3 lots within a district in which lands are leased under
4 the provisions of this section, for:

5 (A) Churches, hospitals, public schools, post
6 offices, and other improvements for public
7 purposes; and

8 (B) Theaters, garages, service stations, markets,
9 stores, and other mercantile establishments (all
10 of which shall be owned by native Hawaiians or by
11 organizations formed and controlled by native
12 Hawaiians).

13 (2) The department is also authorized to grant licenses to
14 the United States for reservations, roads, and other
15 rights-of-way, water storage and distribution
16 facilities, and practice target ranges.

17 (3) Any license issued under this subsection shall be
18 subject to such terms, conditions, and restrictions as
19 the department shall determine and shall not restrict
20 the areas required by the department in carrying on



1 its duties, nor interfere in any way with the
2 department's operation or maintenance activities.

3 SECTION 6. Section 214 of the Hawaiian Homes Commission
4 Act, 1920, as amended, is amended by amending subsection (a) to
5 read as follows:

6 " **§214. Purposes of loans; authorized actions.** (a) The
7 department [~~may~~] shall make loans from revolving funds to any
8 lessee or native Hawaiian to whom, or any cooperative
9 association to which, a lease has been issued, or would
10 otherwise be issued, but for financial reasons, under section
11 207[~~(a)~~] of this Act or a license has been issued under section
12 207(c)(1)(B) of this Act. Such loans may be made for the
13 following purposes:

- 14 (1) The repair or maintenance or purchase or erection of
15 dwellings on any tract, and the undertaking of other
16 permanent improvements thereon;
- 17 (2) The purchase of livestock, swine, poultry, fowl,
18 aquaculture stock, and farm and aquaculture equipment;
- 19 (3) Otherwise assisting in the development of tracts and
20 of farm, ranch, and aquaculture operations, including:



- 1 (A) The initial and on-going development,
2 improvement, operation, and expansion of
3 homestead farms, ranches, and aquaculture
4 enterprises;
- 5 (B) The liquidation of indebtedness incurred for any
6 of the foregoing purposes relating to farm loans
7 aged less than five years;
- 8 (C) The payment of normal and reasonable living
9 expenses of a full-time farmer;
- 10 (D) The planning, layout, and installation of soil
11 and water conservation practices; and
- 12 (E) Providing relief and rehabilitation to homestead
13 farmers and ranchers due to damage by rain and
14 windstorms, droughts, tidal wave, earthquake,
15 volcanic eruption, and other natural
16 catastrophes, and for livestock disease,
17 epidemics, crop blights, and serious effects of
18 prolonged shipping and dock strikes;
- 19 (4) The cost of breaking up, planting, and cultivating
20 land and harvesting crops, the cost of excavating or
21 constructing aquaculture ponds and tanks, the purchase



1 of seeds, fertilizers, feeds, insecticides, medicines,
2 and chemicals for disease and pest control for
3 animals, fish, shellfish, and crops, and the related
4 supplies required for farm, ranch, and aquaculture
5 operations, the erection of fences and other permanent
6 improvements for farm, ranch, and aquaculture purposes
7 and the expense of marketing; and

8 (5) To assist licensees in the operation or erection of
9 theaters, garages, service stations, markets, stores,
10 and other mercantile establishments, all of which
11 shall be owned by native Hawaiians or by organizations
12 formed and controlled by native Hawaiians.

13 (b) In addition the department may:

14 (1) Use moneys in the Hawaiian home operating fund, with
15 the prior approval of the governor, to match federal,
16 state, or county funds available for the same purposes
17 and to that end, enter into an undertaking, agree to
18 conditions, transfer funds therein available for
19 expenditure, and do and perform other acts and things,
20 as may be necessary or required, as a condition to



- 1 securing matching funds for the department's projects
2 or works;
- 3 (2) Loan or guarantee the repayment of or otherwise
4 underwrite any authorized loan or portion thereof to
5 lessees in accordance with section 215;
- 6 (3) Loan or guarantee the repayment of or otherwise
7 underwrite any authorized loan or portion thereof to a
8 cooperative association in accordance with section
9 215;
- 10 (4) Permit and approve loans made to lessees by government
11 agencies or private lending institutions, where the
12 department assures the payment of these loans;
13 provided that upon receipt of notice of default in the
14 payment of the assured loans, the department may, upon
15 failure of the lessee to cure the default within sixty
16 days, cancel the lease and pay the outstanding balance
17 in full or may permit the new lessee to assume the
18 outstanding debt; and provided further that the
19 department shall reserve the following rights:
- 20 (A) The right of succession to the lessee's interest
21 and assumption of the contract of loan;



1 (B) The right to require that written notice be given
2 to the department immediately upon default or
3 delinquency of the lessee; and
4 (C) Any other rights enumerated at the time of
5 assurance necessary to protect the monetary and
6 other interests of the department;
7 (5) Secure, pledge, or otherwise guarantee the repayment
8 of moneys borrowed by the department from government
9 agencies or private lending institutions and pay the
10 interim interest or advances required for loans;
11 provided that the State's liability, contingent or
12 otherwise, either on moneys borrowed by the department
13 or on departmental guarantees of loans made to lessees
14 under this paragraph and paragraphs (2), (3), and (4)
15 of this subsection, shall at no time exceed
16 \$100,000,000; the department's guarantee of repayment
17 shall be adequate security for a loan under any state
18 law prescribing the nature, amount, or form of
19 security or requiring security upon which loans may be
20 made;



- 1 (6) Use available loan fund moneys or other funds
2 specifically available for guarantee purposes as cash
3 guarantees when required by lending agencies;
- 4 (7) Exercise the functions and reserved rights of a lender
5 of money or mortgagee of residential property in all
6 direct loans made by government agencies or by private
7 lending institutions to lessees the repayment of which
8 is assured by the department. The functions and
9 reserved rights shall include but not be limited to,
10 the purchasing, repurchasing, servicing, selling,
11 foreclosing, buying upon foreclosure, guaranteeing the
12 repayment, or otherwise underwriting, of any loan, the
13 protecting of security interest, and after
14 foreclosures, the repairing, renovating, or
15 modernization and sale of property covered by the loan
16 and mortgage;
- 17 (8) Pledge receivables of loan accounts outstanding as
18 collateral to secure loans made by government agencies
19 or private lending institutions to the department, the
20 proceeds of which shall be used by the department to
21 make new loans to lessees or to finance the



1 development of available lands for purposes permitted
2 by this Act; provided that any loan agreement entered
3 into under this paragraph by the department shall
4 include a provision that the money borrowed by the
5 department is not secured directly or indirectly by
6 the full faith and credit or the general credit of the
7 State or by any revenues or taxes of the State other
8 than the receivables specifically pledged to repay the
9 loan; provided further that in making loans or
10 developing available lands out of money borrowed under
11 this paragraph, the department may establish, revise,
12 charge, and collect fees, premiums, and charges as
13 necessary, reasonable, or convenient, to assure
14 repayment of the funds borrowed, and the fees,
15 premiums, and charges shall be deposited into the
16 Hawaiian home trust fund; and provided further that no
17 moneys of the Hawaiian home loan fund may be pledged
18 as security under this paragraph; and

19 (9) Notwithstanding any other provisions of this Act to
20 the contrary, transfer into the Hawaiian home trust
21 fund any available and unpledged moneys from any loan



1 funds, the Hawaiian loan guarantee fund, or any fund
2 or account succeeding thereto, except the Hawaiian
3 home loan fund, for use as cash guarantees or reserves
4 when required by a federal agency authorized to insure
5 or guarantee loans to lessees.

6 SECTION 7. Section 219.1 of the Hawaiian Homes Commission
7 Act, 1920, as amended, is amended by amending subsection (a) to
8 read as follows:

9 " §219.1. **General assistance.** (a) The department is
10 authorized to and shall carry on any activities it deems
11 necessary to assist the lessees in obtaining maximum utilization
12 of the leased lands, including taking any steps necessary to
13 develop these lands for their highest and best use commensurate
14 with the purposes for which the land is being leased as provided
15 for in section 207, and assisting the lessees in all phases of
16 farming, ranching, and aquaculture operations and the marketing
17 of their agricultural [or] aquacultural produce and livestock.

18 (b) Notwithstanding any law to the contrary, the
19 department either alone or together with any other governmental
20 agency, may:



- 1 (1) Form an insurance company, association (nonprofit or
2 otherwise), pool, or trust;
- 3 (2) Acquire an existing insurance company;
- 4 (3) Enter into arrangements with one or more insurance
5 companies; or
- 6 (4) Undertake any combination of the foregoing; upon such
7 terms and conditions and for such periods, as the
8 commission shall approve, to provide homeowner
9 protection, including hurricane coverage, for lessees
10 participating in such undertaking. Such undertaking
11 shall be subject to the provisions of chapter 431P,
12 including but not limited to section 431P-10(b), and
13 chapter 431.
- 14 (c) The department, if experiencing any of the power as
15 authorized under subsection (b) may:
- 16 (1) Issue revenue bonds under and pursuant to part III of
17 chapter 39, Hawaii Revised Statutes, to establish
18 necessary reserves to provide for the payment of
19 claims in excess of reserves and for other related
20 purposes; or to pay any liability incurred that is
21 self-insured or uninsured by the commission including



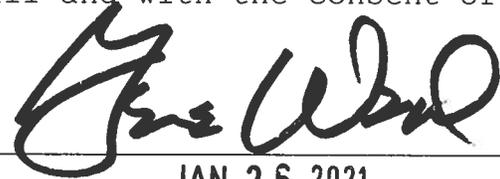
1 without limitations, liabilities for damage to
2 property, comprehensive liability, environmental, or
3 other losses; and

4 (2) Invest funds held in reserve, which are not required
5 for immediate disbursement, in property or securities
6 in which savings banks may legally invest funds
7 subject to their control or as the commission may
8 authorize by resolution. "

9 SECTION 9. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 10. This Act shall take effect upon the approval
12 of the Governor of the State of Hawaii and with the consent of
13 the United States.

INTRODUCED BY:



JAN 26 2021



H.B. NO. 1185

Report Title:

Hawaiian Home Lands; Lease Distribution

Description:

Requires Hawaiian Homes Commission to distribute leases to all beneficiaries within 10 years. Removes financial consideration in obtaining a lease. Requires the construction of pu'uhonuas or communal living arrangements by the department.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

