
A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

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

1 SECTION 1. Section 201, Hawaiian Homes Commission Act,
2 1920, as amended, is amended by adding a new definition to be
3 appropriately inserted and to read as follows:
4 "Beneficiary consultation" means, at a minimum, the
5 direct, timely, affirmative, and interactive process of
6 beneficiary organizations, as defined in 43 Code of Federal
7 Regulations parts 47 and 48, on regulations, legislative
8 proposals, or department of Hawaiian home lands programmatic or
9 policy actions that have a substantial direct effect or
10 implications on one or more homestead areas, or that involves
11 the disposition of trust lands to non-beneficiary individuals or
12 organizations in which the department of Hawaiian home lands
13 provides at least forty-five days to receive input from
14 beneficiaries and beneficiary organizations. "Beneficiary
15 consultation" includes communications conducted through
16 in-person listening sessions, mail, email, or social media, and



1 includes specific notification to all registered beneficiary
2 organizations."

3 SECTION 2. Section 204, Hawaiian Homes Commission Act,
4 1920, as amended, is amended by amending subsection (a) to read
5 as follows:

6 "(a) Upon the passage of this Act, all available lands
7 shall immediately assume the status of Hawaiian home lands and
8 be under the control of the department to be used and disposed
9 of in accordance with the provisions of this Act, except that:

10 (1) In case any available land is under lease by the
11 Territory of Hawaii, by virtue of section 73 of the
12 Hawaiian Organic Act, at the time of the passage of
13 this Act, such land shall not assume the status of
14 Hawaiian home lands until the lease expires or the
15 board of land and natural resources withdraws the
16 lands from the operation of the lease. If the land is
17 covered by a lease containing a withdrawal clause, as
18 provided in section 73(d) of the Hawaiian Organic Act,
19 the board of land and natural resources shall withdraw
20 such lands from the operation of the lease whenever
21 the department gives notice to the board that the



1 department is of the opinion that the lands are
2 required by it for the purposes of this Act; and such
3 withdrawal shall be held to be for a public purpose
4 within the meaning of that term as used in
5 section 73(d) of the Hawaiian Organic Act.

6 (2) Any available land, including lands selected by the
7 department out of a larger area, as provided by this
8 Act, not leased as authorized by section 207(a) of
9 this Act, may be returned to the board of land and
10 natural resources as provided under section 212 of
11 this Act, or may be retained for management by the
12 department. Any Hawaiian home lands general lease
13 issued by the department after June 30, 1985, shall
14 contain a withdrawal clause allowing the department to
15 withdraw the land leased at any time during the term
16 of the lease for the purposes of this Act.

17 In the management of any retained available lands
18 not required for leasing under section 207(a), the
19 department may dispose of those lands or any
20 improvements thereon to the public, including native
21 Hawaiians, on the same terms, conditions,



1 restrictions, and uses applicable to the disposition
2 of public lands in chapter 171, Hawaii Revised
3 Statutes; provided that the department may not sell or
4 dispose of such lands in fee simple except as
5 authorized under section 205 of this Act; provided
6 further that the department shall not dispose of such
7 lands or extend a general lease to non-beneficiaries
8 unless there are no applicants seeking, on a waitlist
9 or otherwise, to enter into a lease to the use and
10 occupancy of a tract or tracts of Hawaiian home lands
11 under section 207(a) or section 207(c)(1)(B); provided
12 further that the department is expressly authorized to
13 negotiate, prior to negotiations with the general
14 public, the disposition of Hawaiian home lands or any
15 improvements thereon to a native Hawaiian, or
16 organization or association owned or controlled by
17 native Hawaiians, for commercial, industrial, or other
18 business purposes, in accordance with the procedures
19 set forth in chapter 171, Hawaii Revised Statutes[-];
20 provided further that the department, prior to the
21 disposition of Hawaiian home lands or any improvements



1 thereon, short- or long-term, including easements,
2 shall be required to notify beneficiaries through
3 beneficiary consultation; provided further that any
4 trust land disposition, including a lease, license or
5 revocable permit issued to a non-beneficiary
6 individual, firm, or organization, by the department
7 requires evidence presented to the department that the
8 lessee or licensee has entered into a homestead
9 beneficiary agreement. For the purposes of this
10 paragraph, "homestead beneficiary agreement" means a
11 contract or agreement signed by a homestead
12 association as defined under title 43 Code of Federal
13 Regulations section 47.10, wherein non-beneficiary
14 lessees provide specific amenities and funding to the
15 homestead association for community programs and
16 services;

- 17 (3) [~~The department, with the approval of the Secretary of~~
18 ~~the Interior, in order to~~] To consolidate its holdings
19 or to better effectuate the purposes of this Act, the
20 department, with the approval of the Secretary of the
21 Interior, may exchange the title to available lands



1 for land, privately or publicly owned, of an equal
2 value. All lands so acquired by the department shall
3 assume the status of available lands as though the
4 land were originally designated as available lands
5 under section 203 of this Act, and all lands so
6 conveyed by the department shall assume the status of
7 the land for which it was exchanged. The limitations
8 imposed by section 73(1) of the Hawaiian Organic Act
9 and the land laws of Hawaii as to the area and value
10 of land that may be conveyed by way of exchange shall
11 not apply to exchanges made pursuant hereto. No such
12 exchange of land publicly owned by the State shall be
13 made without the approval of two-thirds of the members
14 of the board of land and natural resources. For the
15 purposes of this paragraph, lands "publicly owned"
16 means land owned by a county or the State or the
17 United States."

18 SECTION 3. Section 207, Hawaiian Homes Commission Act,
19 1920, as amended, is amended to read as follows:

20 "§207. Leases to Hawaiians, licenses. (a) The department
21 is authorized to lease to native Hawaiians the right to the use



1 and occupancy of a tract or tracts of Hawaiian home lands within
2 the following acreage limits per each lessee: (1) not more than
3 forty acres of agriculture lands or lands used for aquaculture
4 purposes; or (2) not more than one hundred acres of irrigated
5 pastoral lands and not more than one thousand acres of other
6 pastoral lands; or (3) not more than one acre of any class of
7 land to be used as a residence lot; provided that in the case of
8 any existing lease of a farm lot in the Kalaniana'ole Settlement
9 on Molokai, a residence lot may exceed one acre but shall not
10 exceed four acres in area, the location of such area to be
11 selected by the department; provided further that a lease
12 granted to any lessee may include two detached farm lots or
13 aquaculture lots, as the case may be, located on the same island
14 and within a reasonable distance of each other, one of which, to
15 be designated by the department, shall be occupied by the lessee
16 as the lessee's home, the gross acreage of both lots not to
17 exceed the maximum acreage of an agricultural, pastoral, or
18 aquacultural lot, as the case may be, as provided in this
19 section.

20 (b) The title to lands so leased shall remain in the
21 State. Applications for tracts shall be made to and granted by



1 the department, under such regulations, not in conflict with any
2 provisions of this title, as the department may prescribe. The
3 department shall, whenever tracts are available, enter into such
4 a lease with any applicant who, in the opinion of the
5 department, is qualified to perform the conditions of such
6 lease[-]; provided that, notwithstanding any law to the contrary
7 and unless otherwise determined through the promulgation of
8 federal regulations, the department shall be prohibited from
9 establishing additional criteria to enter into such a lease with
10 an applicant without notifying beneficiaries through beneficiary
11 consultation.

12 (c) (1) The department is authorized to grant licenses or
13 enter into a general lease as easements for railroads, telephone
14 lines, electric power and light lines, gas mains, and the like.
15 The department is also authorized to grant licenses for lots
16 within a district in which lands are leased under the provisions
17 of this section, for:

18 (A) Churches, hospitals, public schools, post
19 offices, and other improvements for public
20 purposes; and



- 1 (B) Theaters, garages, service stations, markets,
2 stores, and other mercantile establishments (all
3 of which shall be owned by native Hawaiians or by
4 organizations formed and controlled by native
5 Hawaiians).
- 6 (2) The department is also authorized to grant licenses to
7 the United States for reservations, roads, and other
8 rights-of-way, water storage and distribution
9 facilities, and practice target ranges.
- 10 (3) Any license issued or general lease entered into under
11 this subsection shall be subject to such terms,
12 conditions, and restrictions as the department shall
13 determine and shall not restrict the areas required by
14 the department in carrying on its duties, nor
15 interfere in any way with the department's operation
16 or maintenance activities.
- 17 (d) Unless otherwise determined through the promulgation
18 of federal regulations, the department may grant a license or
19 enter into a general lease for public purpose or mercantile
20 establishments under this section; provided that the department,
21 prior to the disposition of Hawaiian home lands, short- or long-



1 term, including easements, shall be required to notify
2 beneficiaries through beneficiary consultation."

3 SECTION 4. Section 213, Hawaiian Homes Commission Act,
4 1920, as amended, is amended by amending subsections (b) and (c)
5 to read as follows:

6 "(b) Hawaiian home loan fund. The moneys in this fund
7 shall be available for the purposes enumerated in section 214
8 and for payments provided in section 209 and shall not be
9 expended for any other purpose except as provided in subsection
10 (e).

11 Any interest or other earnings arising out of investments
12 from this fund shall be credited to and deposited into this
13 fund; provided that any interest or other earnings may be
14 credited to and deposited into the Hawaiian home operating
15 fund[~~-~~] upon the department's notification of beneficiaries
16 through beneficiary consultation.

17 (c) Hawaiian home general loan fund. Moneys appropriated
18 by the legislature for the construction of homes but not
19 otherwise set aside for a particular fund, for construction of
20 replacement homes, for home repairs or additions, or for the
21 development and operation of a farm, ranch, or aquaculture



1 operation; moneys transferred from other funds; and installments
2 of principal paid by the lessees upon loans made to them from
3 this fund, or as payments representing reimbursements on account
4 of advances, but not including interest on such loans or
5 advances, shall be deposited into this fund. The moneys in the
6 fund shall be used for purposes enumerated in section 214 and
7 for payments provided in section 209; provided that, in addition
8 to the conditions enumerated in section 215, farm loans shall be
9 subject to the following conditions:

- 10 (1) To be eligible for a farm loan, the applicant shall
11 derive, or present an acceptable plan to derive, a
12 major portion of the applicant's income from farming;
- 13 (2) Farm loans made for the purpose of soil and water
14 conservation shall not exceed \$20,000 and shall be for
15 a term not to exceed ten years;
- 16 (3) Subsidies and grants or cost-sharing funds entitled
17 and received by the lessee for soil and water
18 conservation purposes shall be assigned to the
19 department for the repayment of the outstanding farm
20 indebtedness; and



1 (4) The lessee shall carry out recommended farm management
2 practices approved by a qualified agricultural agency.

3 The department may create an account within this fund to
4 support the guarantee of repayment of loans made by government
5 agencies or private lending institutions to a holder of a
6 general lease under section 207(a) or license issued under
7 section 207(c)(1)(B).

8 The department may create an account within this fund for
9 moneys borrowed from government agencies or private lending
10 institutions to be used for any of the purposes enumerated in
11 section 214. Installments of principal and that part of the
12 interest equal to the interest charged to the department by the
13 lender paid by the lessees on the loans made to them from this
14 account shall be deposited into the same account. Any
15 additional interest or other earnings arising out of investments
16 from this account shall be credited to and deposited into this
17 fund; provided that any interest or other earnings may be
18 credited to and deposited into the Hawaiian home receipts
19 fund[-] upon the department notifying beneficiaries through
20 beneficiary consultation."



1 SECTION 5. Section 214, Hawaiian Homes Commission Act,
2 1920, as amended, is amended by amending subsection (a) to read
3 as follows:

4 "(a) The department [~~may~~] shall make loans from revolving
5 funds to any lessee or native Hawaiian to whom, or any
6 cooperative association to which, a lease has been issued under
7 section 207(a) of this Act or a license has been issued under
8 section 207(c)(1)(B) of this Act. Such loans [~~may~~] shall be
9 made for the following purposes:

- 10 (1) The repair or maintenance or purchase or erection of
11 dwellings on any tract, and the undertaking of other
12 permanent improvements thereon;
- 13 (2) The purchase of livestock, swine, poultry, fowl,
14 aquaculture stock, and farm and aquaculture equipment;
- 15 (3) Otherwise assisting in the development of tracts and
16 of farm, ranch, and aquaculture operations, including:
- 17 (A) The initial and on-going development,
18 improvement, operation, and expansion of
19 homestead farms, ranches, and aquaculture
20 enterprises;



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



1 aquaculture operations [~~7~~]; and the erection of fences
2 and other permanent improvements for farm, ranch, and
3 aquaculture purposes and the expense of marketing; and
4 (5) To assist licensees in the operation or erection of
5 theaters, garages, service stations, markets, stores,
6 and other mercantile establishments, all of which
7 shall be owned by native Hawaiians or by organizations
8 formed and controlled by native Hawaiians."

9 SECTION 6. Section 216, Hawaiian Homes Commission Act,
10 1920, as amended, is amended to read as follows:

11 **"§216. Insurance by borrowers; acceleration of loans; lien**
12 **and enforcement thereof.** (a) The department may require the
13 borrower to insure [~~7, in such amount as the department may~~
14 ~~prescribe,~~] any livestock, aquaculture stock, swine, poultry,
15 fowl, machinery, equipment, dwellings, and permanent
16 improvements purchased or constructed out of any moneys loaned
17 or assured by the department [~~7, or,~~] in such amounts as the
18 department may prescribe. In lieu thereof, the department may
19 directly take out such insurance and add the cost thereof to the
20 amount of principal payable under the loan.



1 (b) Whenever the department has reason to believe that the
2 borrower has violated any condition enumerated in paragraph (2),
3 (4), (5), or (6) of section 215 of this Act, the department
4 shall give due notice and afford opportunity for a hearing to
5 the borrower or the successor or successors to his interest, as
6 the case demands. If upon such hearing the department finds
7 that the borrower has violated the condition, the department may
8 declare all principal and interest of the loan immediately due
9 and payable notwithstanding any provision in the contract of
10 loan to the contrary.

11 (c) The department shall have a first lien upon the
12 borrower's or lessee's interest in any lease, growing crops,
13 aquacultural stock, either on his tract or share in any
14 collective contract or program, livestock, swine, poultry, fowl,
15 aquaculture stock, machinery, and equipment purchased with
16 moneys loaned by the department, and in any dwellings or other
17 permanent improvements on any leasehold tract, to the amount of
18 all principal and interest due and unpaid and of all taxes and
19 insurance and improvements paid by the department, and any other
20 indebtedness of the borrower, the payment of which has been
21 assured by the department. Such lien shall have priority over



1 any other obligation for which the property subject to the lien
2 may be security.

3 (d) The department may, subject to this Act and procedures
4 established by rule, enforce any lien by declaring the
5 borrower's interest in the property subject to the lien to be
6 forfeited, any lease held by the borrower canceled, and shall
7 thereupon order such leasehold premises vacated and the property
8 subject to the lien surrendered within a reasonable time. The
9 right to the use and occupancy of the Hawaiian home lands
10 contained in such lease shall thereupon revert in the
11 department, and the department may take possession of the
12 premises covered therein and the improvements and growing crops
13 or improvements and aquaculture stock thereon; provided that the
14 department shall pay to the borrower any difference which may be
15 due him after the appraisal provided for in section 209 has been
16 made.

17 (e) The department shall submit a quarterly report to the
18 legislature and beneficiaries. The report shall include data on
19 the inventory of formerly leased properties and disposition
20 status of homestead properties and improvements under the
21 control of the department. The department shall post and



1 maintain a listing of such properties on its website and conduct
2 auctions of properties to the beneficiaries on the waitlist at
3 least twice per year."

4 SECTION 7. Section 221, Hawaiian Homes Commission Act,
5 1920, as amended, is amended to read as follows:

6 "§221. Water. (a) When used in this section:

7 (1) The term "water license" means any license issued by
8 the board of land and natural resources granting to
9 any person the right to the use of government-owned
10 water; and

11 (2) The term "surplus water" means so much of any
12 government-owned water covered by a water license or
13 so much of any privately owned water as is in excess
14 of the quantity required for the use of the licensee
15 or owner, respectively.

16 (b) All water licenses issued after the passage of this
17 Act shall be deemed subject to the condition, whether or not
18 stipulated in the license, that the licensee shall, upon the
19 demand of the department, grant to it the right to use, free of
20 all charge, any water which the department deems necessary
21 adequately to supply the livestock, aquaculture operations,



1 agriculture operations, or domestic needs of individuals upon
2 any tract.

3 (c) [~~In order~~] To adequately [~~to~~] supply livestock, [~~the~~]
4 aquaculture operations, [~~the~~] agriculture operations, or [~~the~~]
5 domestic needs of individuals upon any tract, the department [~~is~~
6 authorized] may:

7 (1) [~~to use,~~] Use free of all charge, government-owned
8 water not covered by any water license or covered by a
9 water license issued after the passage of this Act or
10 covered by a water license issued previous to the
11 passage of this Act but containing a reservation of
12 such water for the benefit of the public, and

13 (2) [~~to contract~~] Contract with any person for the right
14 to use or to acquire, under eminent domain proceedings
15 similar, as near as may be, to the proceedings
16 provided in respect to land by sections 101-10 to
17 101-34, Hawaii Revised Statutes, the right to use any
18 privately owned surplus water or any government-owned
19 surplus water covered by a water license issued
20 previous to the passage of this Act, but not
21 containing a reservation of such water for the benefit



1 of the public. Any such requirement shall be held to
2 be for a public use and purpose. The department may
3 institute the eminent domain proceedings in its own
4 name.

5 (d) ~~[The]~~ For the additional purpose of adequately
6 irrigating any tract, the department ~~[is authorized, for the~~
7 ~~additional purpose of adequately irrigating any tract, to]~~ may
8 use, free of all charge, government-owned surplus water
9 tributary to the Waimea river ~~[upon]~~ on the island of Kauai, not
10 covered by a water license or covered by a water license issued
11 after July 9, 1921. Any water license issued after that date
12 and covering any such government-owned water shall be deemed
13 subject to the condition, whether or not stipulated therein,
14 that the licensee shall, upon the demand of the department,
15 grant to it the right to use, free of all charge, any of the
16 surplus water tributary to the Waimea river ~~[upon]~~ on the island
17 of Kauai, ~~[which]~~ that is covered by the license and which the
18 department deems necessary for the additional purpose of
19 adequately irrigating any tract.

20 Any funds which may be appropriated by Congress as a
21 grant-in-aid for the construction of an irrigation and water



1 utilization system on the island of Molokai designed to serve
2 Hawaiian home lands, and which are not required to be reimbursed
3 to the federal government, shall be deemed to be payment in
4 advance by the department and lessees of the department of
5 charges to be made to them for the construction of such system
6 and shall be credited against such charges when made.

7 (e) All rights conferred on the department by this section
8 to use, contract for, or acquire the use of water shall be
9 deemed to include the right to use, contract for, or acquire the
10 use of any ditch or pipeline constructed for the distribution
11 and control of such water and necessary to such use by the
12 department.

13 (f) Water systems in the exclusive control of the
14 department shall remain under its exclusive control; provided
15 that the department may negotiate an agreement to provide for
16 the maintenance of the water system and the billing and
17 collection of user fees. If any provision or the application of
18 that provision is inconsistent with provisions contained in this
19 section, this section shall control.

20 [~~Water~~] For the purposes of this subsection, water systems
21 include all real and personal property together with all



1 improvements to such systems acquired or constructed by the
2 department for the distribution and control of water for
3 domestic or agricultural use.

4 (g) Unless otherwise determined through the promulgation
5 of federal regulations, the department shall be authorized to
6 negotiate with homestead association governed water agencies to
7 maintain water systems, including water billing, prior to other
8 service providers."

9 SECTION 8. The provisions of the amendments made by this
10 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
11 declared to be severable, and if any section, sentence, clause,
12 or phrase, or the application thereof to any person or
13 circumstances is held ineffective because there is a requirement
14 of having the consent of the United States to take effect, then
15 that portion only shall take effect upon the granting of consent
16 by the United States and effectiveness of the remainder of these
17 amendments or the application thereof shall not be affected.

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

20 SECTION 10. This Act shall take effect January 1, 2050.



Report Title:

Hawaiian Homes Commission Act; Beneficiary Consultation; Leases;
Department of Hawaiian Home Lands

Description:

Defines "beneficiary consultation". Prohibits the department of Hawaiian home lands from disposing or extending a general lease to non-beneficiaries unless there are no applicants seeking to enter into a general lease to the use and occupancy of a tract of Hawaiian home lands. Requires the department to notify beneficiaries through beneficiary consultation prior to the disposition of Hawaiian home lands. Adds language to require Section 204 lessees mandate Homestead Beneficiary Agreements. Prohibits the department from establishing additional criteria to enter into a general lease with an applicant, under certain conditions. Specifies that the department may grant a license or enter into a general lease, under certain conditions. Allocates the interest or other earnings from the Hawaiian home loan fund and Hawaiian home general loan fund into their respective funds, under certain conditions. Requires the department to submit a quarterly report to the legislature and beneficiaries. Authorizes the department to negotiate with homestead association governed water agencies to maintain water systems prior to other service providers, under certain conditions. Effective 1/1/2050. (SD1)

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

