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# A BILL FOR AN ACT

RELATING TO HAWAIIAN HOME LANDS.

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

1 SECTION 1. The Hawaiian Homes Commission Act, 1920, as  
2 amended, is amended by adding a new section to title 2 to be  
3 appropriately designated and to read as follows:

4 "§ . Beneficiaries on waitlist; qualified application  
5 successors. (a) Notwithstanding any provision of this Act to  
6 the contrary, a living beneficiary's place on the department of  
7 Hawaiian home lands' waitlist for any residential, agricultural,  
8 or pastoral tract available pursuant to this Act may be  
9 designated for transfer to a qualified application successor if  
10 the living beneficiary dies before receiving an offer for a  
11 tract. The department of Hawaiian home lands shall implement  
12 this provision at the sole discretion of the Hawaiian homes  
13 commission.

14 (b) As used in this section, "qualified application  
15 successor" means an individual who is:

16 (1) At least one-fourth Hawaiian; and



- 1        (2) One of the following relatives of the deceased
- 2        beneficiary:
- 3        (A) Spouse;
- 4        (B) Child;
- 5        (C) Grandchild;
- 6        (D) Sibling; or
- 7        (E) If there is no spouse, child, grandchild, or
- 8        sibling, then from the following relatives of the
- 9        deceased beneficiary who are at least one-fourth
- 10       Hawaiian: parent, widows or widowers of the
- 11       children, widows or widowers of the siblings, or
- 12       nieces and nephews."

13       SECTION 2. Section 207, Hawaiian Homes Commission Act,  
 14       1920, as amended, is amended by amending subsection (a) to read  
 15       as follows:

16       "(a) The department is authorized to lease to native  
 17       Hawaiians or a qualified application successor as defined under  
 18       section        of this Act, the right to the use and occupancy of a  
 19       tract or tracts of Hawaiian home lands within the following  
 20       acreage limits per each lessee: (1) not more than forty acres  
 21       of agriculture lands or lands used for aquaculture purposes; or



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

16 SECTION 3. Section 208, Hawaiian Homes Commission Act,  
17 1920, as amended, is amended to read as follows:

18 "**§208. Conditions of leases.** Each lease made under the  
19 authority granted the department by section 207 of this Act, and  
20 the tract in respect to which the lease is made, shall be deemed



1 subject to the following conditions, whether or not stipulated  
2 in the lease:

3 (1) The original lessee shall be a native Hawaiian~~[ ]~~ or a  
4 qualified application successor as defined in  
5 section of this Act, not less than eighteen years  
6 of age. In case two lessees either original or in  
7 succession marry, they shall choose the lease to be  
8 retained, and the remaining lease shall be  
9 transferred, quitclaimed, or canceled in accordance  
10 with the provisions of succeeding sections~~[ ]~~;

11 (2) The lessee shall pay a rental of \$1 a year for the  
12 tract and the lease shall be for a term of ninety-nine  
13 years; except that the department may extend the term  
14 of any lease; provided that the approval of any  
15 extension shall be subject to the condition that the  
16 aggregate of the initial ninety-nine year term and any  
17 extension granted shall not be for more than one  
18 hundred ninety-nine years~~[ ]~~;

19 (3) The lessee may be required to occupy and commence to  
20 use or cultivate the tract as the lessee's home or  
21 farm or occupy and commence to use the tract for



1 aquaculture purposes, as the case may be, within one  
2 year after the commencement of the term of the  
3 lease[-];

4 (4) The lessee thereafter, for at least such part of each  
5 year as the department shall prescribe by rules, shall  
6 occupy and use or cultivate the tract on the lessee's  
7 own behalf[-];

8 (5) The lessee shall not in any manner transfer to, or  
9 otherwise hold for the benefit of, any other person or  
10 group of persons or organizations of any kind, except  
11 a native Hawaiian or Hawaiians, and then only upon the  
12 approval of the department, or agree so to transfer,  
13 or otherwise hold, the lessee's interest in the tract;  
14 except that the lessee, with the approval of the  
15 department, also may transfer the lessee's interest in  
16 the tract to the following qualified relatives of the  
17 lessee who are at least one-quarter Hawaiian: husband,  
18 wife, child, or grandchild. A lessee who is at least  
19 one-quarter Hawaiian who has received an interest in  
20 the tract through succession or transfer may, with the  
21 approval of the department, transfer the lessee's



1 leasehold interest to a brother or sister who is at  
2 least one-quarter Hawaiian. Such interest shall not,  
3 except in pursuance of such a transfer to or holding  
4 for or agreement with a native Hawaiian or Hawaiians  
5 or qualified relative who is at least one-quarter  
6 Hawaiian approved of by the department or for any  
7 indebtedness due the department or for taxes or for  
8 any other indebtedness the payment of which has been  
9 assured by the department, including loans from other  
10 agencies where such loans have been approved by the  
11 department, be subject to attachment, levy, or sale  
12 upon court process. The lessee shall not sublet the  
13 lessee's interest in the tract or improvements  
14 thereon; provided that a lessee may be permitted, with  
15 the approval of the department, to rent to a native  
16 Hawaiian or Hawaiians, lodging either within the  
17 lessee's existing home or in a separate residential  
18 dwelling unit constructed on the premises[-];

19 (6) Notwithstanding the provisions of paragraph (5), the  
20 lessee, with the consent and approval of the  
21 commission, may mortgage or pledge the lessee's



1 interest in the tract or improvements thereon to a  
2 recognized lending institution authorized to do  
3 business as a lending institution in either the State  
4 or elsewhere in the United States; provided the loan  
5 secured by a mortgage on the lessee's leasehold  
6 interest is insured or guaranteed by the Federal  
7 Housing Administration, Department of Veterans  
8 Affairs, or any other federal agency and their  
9 respective successors and assigns, which are  
10 authorized to insure or guarantee such loans, or any  
11 acceptable private mortgage insurance as approved by  
12 the commission. The mortgagee's interest in any such  
13 mortgage shall be freely assignable. Such mortgages,  
14 to be effective, must be consented to and approved by  
15 the commission and recorded with the department.

16 Further, notwithstanding the authorized purposes  
17 of loan limitations imposed under section 214 of this  
18 Act and the authorized loan amount limitations imposed  
19 under section 215 of this Act, loans made by lending  
20 institutions as provided in this paragraph, insured or  
21 guaranteed by the Federal Housing Administration,



1 Department of Veterans Affairs, or any other federal  
2 agency and their respective successors and assigns, or  
3 any acceptable private mortgage insurance, may be for  
4 such purposes and in such amounts, not to exceed the  
5 maximum insurable limits, together with such  
6 assistance payments and other fees, as established  
7 under section 421 of the Housing and Urban Rural  
8 Recovery Act of 1983 which amended Title II of the  
9 National Housing Act of 1934 by adding section 247,  
10 and its implementing regulations, to permit the  
11 Secretary of Housing and Urban Development to insure  
12 loans secured by a mortgage executed by the homestead  
13 lessee covering a homestead lease issued under section  
14 207(a) of this Act and upon which there is located a  
15 one to four family single family residence[-];

16 (7) The lessee shall pay all taxes assessed upon the tract  
17 and improvements thereon. The department may pay such  
18 taxes and have a lien therefor as provided by section  
19 216 of this Act[-]; and

20 (8) The lessee shall perform such other conditions, not in  
21 conflict with any provision of this Act, as the



1 department may stipulate in the lease; provided that  
2 an original lessee shall be exempt from all taxes for  
3 the first seven years after commencement of the term  
4 of the lease."

5 SECTION 4. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

8 SECTION 5. The provisions of the amendments made by this  
9 Act to the Hawaiian Homes Commission Act, 1920, as amended, are  
10 declared to be severable, and if any section, sentence, clause,  
11 or phrase, or the application thereof to any person or  
12 circumstances is held ineffective because there is a requirement  
13 of having the consent of the United States to take effect, then  
14 that portion only shall take effect upon the granting of consent  
15 by the United States and effectiveness of the remainder of these  
16 amendments or the application thereof shall not be affected.

17 SECTION 6. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect on July 1, 3000;  
20 provided that it shall take effect on either the date of the  
21 Secretary of the Interior's notification letter to the



1 Congressional Committee Chairmen that this Act meets none of the  
2 criteria in 43 Code of Federal Regulations section 48.20, or on  
3 the date that the United States Congress approval becomes law.



**Report Title:**

DHHL; Hawaiian Home Lands; Waitlist; Qualified Application  
Successors; Minority Caucus Package

**Description:**

Amends the Hawaiian Homes Commission Act of 1920, as amended, to authorize the transfer of a living beneficiary's place on the Department of Hawaiian Home Lands' waitlist for any residential, agricultural, or pastoral tract to a qualified application successor who is at least one-fourth Hawaiian, if the beneficiary dies. Effective 7/1/3000. (HD1)

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

