
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



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

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

"§208. Conditions of leases. Each lease made under the authority granted the department by section 207 of this Act, and 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[7] 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)

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