
A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920.

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

1 SECTION 1. Section 208, Hawaiian Homes Commission Act,
2 1920, as amended, is amended to read as follows:

3 "**§208. Conditions of leases.** Each lease made under the
4 authority granted to the department by section 207 of this Act,
5 and the tract in respect to which the lease is made, shall be
6 deemed subject to the following conditions, whether or not
7 stipulated in the lease:

8 (1) The original lessee shall be a native Hawaiian, not
9 less than eighteen years of age. In case two lessees
10 either original or in succession marry, they shall
11 choose the lease to be retained, and the remaining
12 lease shall be transferred, quitclaimed, or canceled
13 in accordance with the provisions of succeeding
14 sections[~~+~~];

15 (2) The lessee shall pay a rental of \$1 a year for the
16 tract and the lease shall be for a term of ninety-nine
17 years; [~~except~~] provided that the department may



1 extend the term of any lease; provided further that
2 the approval of any extension shall be subject to the
3 condition that the aggregate of the initial ninety-
4 nine year term and any extension granted shall not be
5 for more than one hundred ninety-nine years[-];

6 (3) The lessee may be required to occupy and commence to
7 use or cultivate the tract as the lessee's home or
8 farm or occupy and commence to use the tract for
9 aquaculture purposes, as the case may be, within one
10 year after the commencement of the term of the
11 lease[-];

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

16 (5) The lessee shall not in any manner transfer to, or
17 otherwise hold for the benefit of, any other person or
18 group of persons or organizations of any kind, except
19 a native Hawaiian or Hawaiians, and then only upon the
20 approval of the department, or agree so to transfer,
21 or otherwise hold, the lessee's interest in the tract;



1 ~~[except]~~ provided that the lessee, with the approval
2 of the department, also may transfer the lessee's
3 interest in the tract to the following qualified
4 relatives of the lessee who are at least one-quarter
5 Hawaiian: ~~[husband, wife,]~~ spouse, child, ~~[or]~~
6 grandchild~~[-]~~, or sibling's child. A lessee who is at
7 least one-quarter Hawaiian who has received an
8 interest in the tract through succession or transfer
9 may, with the approval of the department, transfer the
10 lessee's leasehold interest to a ~~[brother or sister]~~
11 sibling who is at least one-quarter Hawaiian. Such
12 interest shall not, except in pursuance of such a
13 transfer to or holding for or agreement with a native
14 Hawaiian or Hawaiians or qualified relative who is at
15 least one-quarter Hawaiian approved of by the
16 department or for any indebtedness due the department
17 or for taxes or for any other indebtedness the payment
18 of which has been assured by the department, including
19 loans from other agencies where such loans have been
20 approved by the department, be subject to attachment,
21 levy, or sale upon court process. The lessee shall



1 not sublet the lessee's interest in the tract or
2 improvements thereon; provided that a lessee may be
3 permitted, with the approval of the department, to
4 rent to a native Hawaiian or Hawaiians, lodging either
5 within the lessee's existing home or in a separate
6 residential dwelling unit constructed on the
7 premises[-];

8 (6) Notwithstanding the provisions of paragraph (5), the
9 lessee, with the consent and approval of the
10 commission, may mortgage or pledge the lessee's
11 interest in the tract or improvements thereon to a
12 recognized lending institution authorized to do
13 business as a lending institution in either the State
14 or elsewhere in the United States; provided that the
15 loan secured by a mortgage on the lessee's leasehold
16 interest is insured or guaranteed by the Federal
17 Housing Administration, Department of Veterans
18 Affairs, or any other federal agency and their
19 respective successors and assigns, which are
20 authorized to insure or guarantee such loans, or any
21 acceptable private mortgage insurance as approved by



1 the commission. The mortgagee's interest in any such
2 mortgage shall be freely assignable. Such mortgages,
3 to be effective, must be consented to and approved by
4 the commission and recorded with the department.

5 Further, notwithstanding the authorized purposes
6 of loan limitations imposed under section 214 of this
7 Act and the authorized loan amount limitations imposed
8 under section 215 of this Act, loans made by lending
9 institutions as provided in this paragraph, insured or
10 guaranteed by the Federal Housing Administration,
11 Department of Veterans Affairs, or any other federal
12 agency and their respective successors and assigns, or
13 any acceptable private mortgage insurance, may be for
14 such purposes and in such amounts, not to exceed the
15 maximum insurable limits, together with such
16 assistance payments and other fees, as established
17 under section 421 of the Housing and Urban Rural
18 Recovery Act of 1983 which amended Title II of the
19 National Housing Act of 1934 by adding section 247,
20 and its implementing regulations, to permit the
21 Secretary of Housing and Urban Development to insure



1 loans secured by a mortgage executed by the homestead
2 lessee covering a homestead lease issued under section
3 207(a) of this Act and upon which there is located a
4 one to four family single family residence[-];

5 (7) The lessee shall pay all taxes assessed upon the tract
6 and improvements thereon. The department may pay such
7 taxes and have a lien therefor as provided by section
8 216 of this Act[-]; and

9 (8) The lessee shall perform such other conditions, not in
10 conflict with any provision of this Act, as the
11 department may stipulate in the lease; provided that
12 an original lessee shall be exempt from all taxes for
13 the first seven years after commencement of the term
14 of the lease."

15 SECTION 2. Section 209, Hawaiian Homes Commission Act,
16 1920, as amended, is amended by amending subsection (a) to read
17 as follows:

18 "(a) Upon the death of the lessee, the lessee's interest
19 in the tract or tracts and the improvements thereon, including
20 growing crops and aquacultural stock (either on the tract or in
21 any collective contract or program to which the lessee is a



1 party by virtue of the lessee's interest in the tract or
2 tracts), shall vest in the relatives of the decedent as provided
3 in this paragraph. From the following relatives of the lessee
4 who are (1) at least one-quarter Hawaiian[~~, husband, wife,~~]:
5 spouse, children, grandchildren, [brothers, or sisters,
6 siblings, or sibling's children, or (2) native Hawaiian[~~, father~~
7 ~~and mother, widows or widowers]~~: parents, surviving spouses of
8 the children, [~~widows or widowers of the brothers and sisters,~~
9 ~~or nieces and nephews,~~] or surviving spouses of the siblings,--
10 the lessee shall designate the person or persons to whom the
11 lessee directs the lessee's interest in the tract or tracts to
12 vest upon the lessee's death. The Hawaiian blood requirements
13 shall not apply to the descendants of those who are not native
14 Hawaiians but who were entitled to the leased lands under
15 section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as
16 amended, or under section 3 of the Act of July 9, 1952 (66 Stat.
17 511, 513). In all cases that person or persons need not be
18 eighteen years of age. The designation shall be in writing, may
19 be specified at the time of execution of the lease with a right
20 in the lessee in similar manner to change the beneficiary at any
21 time and shall be filed with the department and approved by the



1 department in order to be effective to vest the interests in the
2 successor or successors so named.

3 In case of the death of any lessee, except as hereinabove
4 provided, who has failed to specify a successor or successors as
5 approved by the department, the department may select from only
6 the following qualified relatives of the decedent:

7 (1) [~~Husband or wife,~~] Spouse; or

8 (2) If there is no [~~husband or wife,~~] spouse, then the
9 children; or

10 (3) If there is no [~~husband, wife,~~] spouse or child, then
11 the grandchildren; or

12 (4) If there is no [~~husband, wife,~~] spouse, child, or
13 grandchild, then [~~brothers or sisters,~~] siblings; or

14 (5) If there is no spouse, child, grandchild, or sibling,
15 then sibling's children; or

16 [+5] (6) If there is no [~~husband, wife,~~] spouse, child,
17 grandchild, [~~brother, or sister,~~] sibling, or
18 sibling's child, then from the following relatives of
19 the lessee who are native Hawaiian: [~~father and~~
20 ~~mother, widows or widowers~~] parents, surviving spouses
21 of the children, [~~widows or widowers of the brothers~~



1 ~~and sisters, or nieces and nephews.]~~ or surviving
2 spouses of the siblings.

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

5 In the case of the death of a lessee leaving no designated
6 successor or successors, [~~husband, wife,~~] spouse, children,
7 grandchildren, or relative qualified to be a lessee of Hawaiian
8 home lands, the land subject to the lease shall resume its
9 status as unleased Hawaiian home lands and the department is
10 authorized to lease the land to a native Hawaiian as provided in
11 this Act.

12 Upon the death of a lessee who has not designated a
13 successor and who leaves a spouse not qualified to succeed to
14 the lease or children not qualified to succeed to the lease, or
15 upon the death of a lessee leaving no relative qualified to be a
16 lessee of Hawaiian home lands, or the cancellation of a lease by
17 the department, or the surrender of a lease by the lessee, the
18 department shall appraise the value of all the improvements and
19 growing crops or improvements and aquacultural stock, as the
20 case may be, and shall pay to the nonqualified spouse or the
21 nonqualified children as the lessee shall have designated prior



1 to the lessee's death, or to the legal representative of the
2 deceased lessee, or to the previous lessee, as the case may be,
3 the value thereof, less any indebtedness to the department, or
4 for taxes, or for any other indebtedness the payment of which
5 has been assured by the department, owed by the deceased lessee
6 or the previous lessee. These payments shall be made out of the
7 Hawaiian home loan fund and shall be considered an advance
8 therefrom and shall be repaid by the successor or successors to
9 the tract involved. If available cash in the Hawaiian home loan
10 fund is insufficient to make these payments, payments may be
11 advanced from the Hawaiian home general loan fund and shall be
12 repaid by the successor or successors to the tract involved;
13 provided that any repayment for advances made from the Hawaiian
14 home general loan fund shall be at the interest rate established
15 by the department for loans made from the Hawaiian home general
16 loan fund. The successor or successors may be required by the
17 commission to obtain private financing in accordance with
18 section 208(6) to pay off the amount advanced from the Hawaiian
19 home loan fund or Hawaiian home general loan fund."

20 SECTION 3. Section 209, Hawaiian Homes Commission Act,
21 1920, as amended, as amended by section 2 of Act 80, Session



1 Laws of Hawaii 2017, and pending consent of the United States
2 Congress, is amended by amending subsection (a) to read as
3 follows:

4 "(a) Upon the death of the lessee, the lessee's interest
5 in the tract or tracts and the improvements thereon, including
6 growing crops and aquacultural stock (either on the tract or in
7 any collective contract or program to which the lessee is a
8 party by virtue of the lessee's interest in the tract or
9 tracts), shall vest in the relatives of the decedent as provided
10 in this paragraph. From the following relatives of the lessee
11 who are (1) at least one thirty-second Hawaiian[~~7~~]: spouse,
12 children, grandchildren, [~~brothers, or sisters,~~] siblings, or
13 sibling's children, or (2) native Hawaiian[~~7, father and mother,~~
14 ~~widows or widowers~~]: parents, surviving spouses of the
15 children, [~~widows or widowers of the brothers and sisters, or~~
16 ~~nieces and nephews,~~] or surviving spouses of the siblings,--the
17 lessee shall designate the person or persons to whom the lessee
18 directs the lessee's interest in the tract or tracts to vest
19 upon the lessee's death. The Hawaiian blood requirements shall
20 not apply to the descendants of those who are not native
21 Hawaiians but who were entitled to the leased lands under



1 section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as
2 amended, or under section 3 of the Act of July 9, 1952 (66 Stat.
3 511, 513). In all cases that person or persons need not be
4 eighteen years of age. The designation shall be in writing, may
5 be specified at the time of execution of the lease with a right
6 in the lessee in similar manner to change the beneficiary at any
7 time and shall be filed with the department and approved by the
8 department in order to be effective to vest the interests in the
9 successor or successors so named.

10 In case of the death of any lessee, except as hereinabove
11 provided, who has failed to specify a successor or successors as
12 approved by the department, the department may select from only
13 the following qualified relatives of the decedent:

- 14 (1) Spouse; or
15 (2) If there is no spouse, then the children; or
16 (3) If there is no spouse or child, then the
17 grandchildren; or
18 (4) If there is no spouse, child, or grandchild, then
19 ~~[brothers or sisters;]~~ siblings; or
20 (5) If there is no spouse, child, grandchild, or sibling,
21 then sibling's children; or



1 [~~(5)~~] (6) If there is no spouse, child, grandchild,
2 [~~brother, or sister,~~] sibling, or sibling's child,
3 then from the following relatives of the lessee who
4 are native Hawaiian: [~~father and mother, widows or~~
5 ~~widowers~~] parents, surviving spouses of the children,
6 [~~widows or widowers of the brothers and sisters, or~~
7 ~~nieces and nephews.~~] or surviving spouses of the
8 siblings.

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

11 In the case of the death of a lessee leaving no designated
12 successor or successors, spouse, children, grandchildren, or
13 relative qualified to be a lessee of Hawaiian home lands, the
14 land subject to the lease shall resume its status as unleased
15 Hawaiian home lands and the department is authorized to lease
16 the land to a native Hawaiian as provided in this Act.

17 Upon the death of a lessee who has not designated a
18 successor and who leaves a spouse not qualified to succeed to
19 the lease or children not qualified to succeed to the lease, or
20 upon the death of a lessee leaving no relative qualified to be a
21 lessee of Hawaiian home lands, or the cancellation of a lease by



1 the department, or the surrender of a lease by the lessee, the
2 department shall appraise the value of all the improvements and
3 growing crops or improvements and aquacultural stock, as the
4 case may be, and shall pay to the nonqualified spouse or the
5 nonqualified children as the lessee shall have designated prior
6 to the lessee's death, or to the legal representative of the
7 deceased lessee, or to the previous lessee, as the case may be,
8 the value thereof, less any indebtedness to the department, or
9 for taxes, or for any other indebtedness the payment of which
10 has been assured by the department, owed by the deceased lessee
11 or the previous lessee. These payments shall be made out of the
12 Hawaiian home loan fund and shall be considered an advance
13 therefrom and shall be repaid by the successor or successors to
14 the tract involved. If available cash in the Hawaiian home loan
15 fund is insufficient to make these payments, payments may be
16 advanced from the Hawaiian home general loan fund and shall be
17 repaid by the successor or successors to the tract involved;
18 provided that any repayment for advances made from the Hawaiian
19 home general loan fund shall be at the interest rate established
20 by the department for loans made from the Hawaiian home general
21 loan fund. The successor or successors may be required by the



1 commission to obtain private financing in accordance with
2 section 208(6) to pay off the amount advanced from the Hawaiian
3 home loan fund or Hawaiian home general loan fund."

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval
7 pursuant to section 16 of article III of the Constitution of the
8 State of Hawaii; provided that sections 1, 2, and 3 shall take
9 effect pursuant to title 43 Code of Federal Regulations part 48
10 on either:

11 (1) The date of the United States Secretary of the
12 Interior's notification letter to the Congressional
13 Committee Chairpersons that this Act meets none of the
14 criteria in title 43 Code of Federal Regulations
15 section 48.20; or

16 (2) The date on which approval by the United States
17 Congress becomes law.



H.B. NO. 2309
H.D. 1
S.D. 1
C.D. 1

Report Title:

HHCA; Department of Hawaiian Home Lands; Eligible Transferees and Successors to Homestead Leases

Description:

Amends the Hawaiian Homes Commission Act, 1920, as amended, to include children of a sibling as qualifying relatives of lessees for the purposes of lease transfer and lease successorship, in the same manner currently allowed for spouses, children, grandchildren, and siblings. (CD1)

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