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# A BILL FOR AN ACT

RELATING TO 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 Act 279, Session  
2 Laws of Hawaii 2022 (Act 279), appropriated out of the general  
3 revenues of the State of Hawaii the sum of \$600,000,000 or so  
4 much thereof as may be necessary for fiscal year 2021-2022 to  
5 provide a multi-pronged approach to reducing the over twenty-  
6 eight thousand applicants on the department of Hawaiian home  
7 lands waitlist. Since this historic investment, mortgage  
8 interest rates have increased, and continue to rise, and  
9 construction costs are ever-increasing due in large part to  
10 global inflation and the 2023 Maui wildfires. These market  
11 conditions have created a situation in which an increased number  
12 of Hawaiian home lands lessees are unable to qualify for a  
13 mortgage at the amount needed to afford the home prices being  
14 offered through the department's turnkey offerings, nor can  
15 lessees afford contractor costs for vacant lot home builds. In  
16 response to rising costs, subsidy and affordable mortgage  
17 programs have been developed and expanded by government agencies



1 and private institutions to assist homebuyers. These programs  
2 require security to ensure repayment during their recapture  
3 periods or loan terms. On Hawaiian home lands, the department  
4 guarantees the loan because the land is held in trust. The  
5 projected number of new housing units on Hawaiian home lands  
6 expected over the next several years because of Act 279  
7 necessitates an increase in the department's loan guarantee  
8 limit.

9 The purpose of this Act is to increase the limits of the  
10 State's liability from \$100,000,000 to \$500,000,000 for moneys  
11 borrowed by the department of Hawaiian home lands or loans made  
12 to lessees that are guaranteed by the department.

13 SECTION 2. Section 214, Hawaiian Homes Commission Act,  
14 1920, as amended, is amended by amending subsection (b) to read  
15 as follows:

16 "(b) In addition the department may:

17 (1) Use moneys in the Hawaiian home operating fund, with  
18 the prior approval of the governor, to match federal,  
19 state, or county funds available for the same purposes  
20 and to that end, enter into an undertaking, agree to  
21 conditions, transfer funds therein available for



1 expenditure, and do and perform other acts and things,  
2 as may be necessary or required, as a condition to  
3 securing matching funds for the department's projects  
4 or works;

5 (2) Loan or guarantee the repayment of or otherwise  
6 underwrite any authorized loan or portion thereof to  
7 lessees in accordance with section 215;

8 (3) Loan or guarantee the repayment of or otherwise  
9 underwrite any authorized loan or portion thereof to a  
10 cooperative association in accordance with section  
11 215;

12 (4) Permit and approve loans made to lessees by government  
13 agencies or private lending institutions, where the  
14 department assures the payment of these loans;  
15 provided that upon receipt of notice of default in the  
16 payment of the assured loans, the department may, upon  
17 failure of the lessee to cure the default within sixty  
18 days, cancel the lease and pay the outstanding balance  
19 in full or may permit the new lessee to assume the  
20 outstanding debt; provided further that the department  
21 shall reserve the following rights:



- 1 (A) The right of succession to the lessee's interest  
2 and assumption of the contract of loan;
- 3 (B) The right to require that written notice be given  
4 to the department immediately upon default or  
5 delinquency of the lessee; and
- 6 (C) Any other rights enumerated at the time of  
7 assurance necessary to protect the monetary and  
8 other interests of the department;
- 9 (5) Secure, pledge, or otherwise guarantee the repayment  
10 of moneys borrowed by the department from government  
11 agencies or private lending institutions and pay the  
12 interim interest or advances required for loans;  
13 provided that the State's liability, contingent or  
14 otherwise, either on moneys borrowed by the department  
15 or on departmental guarantees of loans made to lessees  
16 under this paragraph and paragraphs (2), (3), and (4)  
17 of this subsection, shall at no time exceed  
18 [~~\$100,000,000~~] \$500,000,000; the department's  
19 guarantee of repayment shall be adequate security for  
20 a loan under any state law prescribing the nature,



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



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



1           (9) Notwithstanding any other provisions of this Act to  
2           the contrary, transfer into the Hawaiian home trust  
3           fund any available and unpledged moneys from any loan  
4           funds, the Hawaiian loan guarantee fund, or any fund  
5           or account succeeding thereto, except the Hawaiian  
6           home loan fund, for use as cash guarantees or reserves  
7           when required by a federal agency authorized to insure  
8           or guarantee loans to lessees."

9           SECTION 3. 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 4. Statutory material to be repealed is bracketed  
19          and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on September 9,  
2 2129; provided that section 2 shall take effect pursuant to  
3 title 43 Code of Federal Regulations part 48 on either:

4 (1) The date of the United States Secretary of the  
5 Interior's notification letter to the Congressional  
6 Committee Chairpersons that this Act meets none of the  
7 criteria in title 43 Code of Federal Regulations  
8 section 48.20; or

9 (2) The date that the United States Congress's approval  
10 becomes law.



**Report Title:**

DHHL; Hawaiian Home Land Lessees; Loans

**Description:**

Increases the limit of the State's liability for moneys borrowed by the Department of Hawaiian Home Lands or loans made to lessees that are guaranteed by the Department from \$100,000,000 to \$500,000,000. Effective 9/9/2129. (SD1)

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