

ACT 14

An Act Amending the Hawaiian Homes Commission Act to Permit Loans for Farming, Ranching and Marketing Agricultural Produce.

WHEREAS, section 11 of Article III of the Constitution of the State of Hawaii provides for the consideration and enactment in a budget session of all urgency measures deemed necessary in the public interest; and

WHEREAS, said section further provides that no urgency measure shall be considered unless a statement of facts constituting such urgency shall be set forth in a section thereof and until such section shall have been first approved by each house; and

WHEREAS, it is the intention of the legislature to enact this as an urgency measure pursuant to said section 11 of Article III; now, therefore,

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is hereby declared to be an urgency measure

deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

Under the present provisions of the Hawaiian Homes Commission Act, the commission cannot make loans to lessees to cover the cost of seeds, insecticides and other farm or ranch supplies and of cultivating, harvesting and marketing any agricultural produce and livestock; and the commission is not authorized to use any of its funds for such purposes or to assist lessees in marketing operations. Lessees of farm and pasture lands urgently require such assistance in order to realize the full potential of their lands. Many lessees have growing crops for the harvesting of which financing is required within the next twelve months.

SECTION 2. The purpose of this Act is to amend the Hawaiian Homes Commission Act, 1920, as amended, to permit the commission to make loans for general farming and ranching purposes, including raising, cultivating, harvesting and marketing and to authorize the commission to assist the lessees in marketing their agricultural produce and livestock.

SECTION 3. Section 214, Hawaiian Homes Commission Act, 1920, is hereby amended to read as follows:

"Sec. 214. Loans, purposes of. The commission is hereby authorized to make loans from the fund to the lessee of any tract, the successor to his interest therein or any agricultural cooperative association, all of whose members are lessees. Such loans may be made for the following purposes:

- (1) The erection of dwellings on any tract and the undertaking of other permanent improvements thereon;
- (2) The purchase of livestock and farm equipment;
- (3) Otherwise assisting in the development of tracts and of farm and ranch operations; and
- (4) The cost of breaking up, planting and cultivating land and harvesting crops, the purchase of seeds, fertilizers, feeds, insecticides, medicines and chemicals for disease and pest control for animals and crops, and related supplies required for farm and ranch operations, the erection of fences and other permanent improvements for farm or ranch purposes and the expenses of marketing."

SECTION 4. Section 215, Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended to read as follows:

"Sec. 215. Conditions of loans. (1) Each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract of loan: The amount of loans at any one time to any lessee, or successor or successors in interest, of a tract of agricultural or pastoral land shall not, with respect to the provisions of subsections (1), (2) and (3) of section 214, exceed \$15,000, to any lessee, or successor or successors in interest, of a residence lot shall not exceed \$6,000, but with respect to the provisions of subsection (4) of section 214 shall be without limit, and to any agricultural cooperative association shall be determined by the Commission on the basis of the proposed operations of the association and the security available; provided, that where, upon the death of a lessee leaving no relative qualified to be a lessee of the Hawaiian home lands, or the cancellation of a lease by the Commission, or the surrender of a lease by the lessee, the Commission shall

make the payment provided for by section 209 (1), the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, as the case may be, of any such loan to the successor or successors, without limitation as to the above maximum amounts; provided, further, that in case of the death of a lessee, or cancellation of a lease by the Commission, or the surrender of a lease by the lessee, the successor or successors to the tract shall assume any outstanding loan or loans thereon, if any, without limitation as to the above maximum amounts but subject to provisions of paragraph (3) of this section.

(2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semi-annual, or annual as may be determined by the Commission in each case. The term of any loan shall not exceed thirty years. Payments of any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at the rate of two and one-half per cent per annum, payable periodically or upon demand by the Commission, as the Commission may determine. The payment of any installment due shall, with the concurrence therein of the majority of all the members of the Commission, be postponed in whole or in part by the Commission for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest at the rate of two and one-half per cent per annum on the unpaid principal.

(3) In the case of the death of a lessee the Commission shall, in any case, permit the successor or successors to the tract to assume the contract of loan subject to the provisions of paragraph (1) of this section. In case of the cancellation of a lease by the Commission or the surrender of a lease by the lessee, the Commission may, at its option declare all installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to the provisions of paragraph (1) of this section. The Commission may, with the concurrence therein of the majority of all its members, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon said loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments shall, however, continue to bear interest at the rate of two-and one-half per cent per annum on the unpaid principal. Further, the Commission may, with the concurrence therein of the majority of all its members, if it deems it advisable and for the best interests of the lessees, write-off and cancel, wholly or in part, the contract of loan of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write-off and cancellation shall be made only after an appraisal of all improvements and growing crops on the tract involved, such appraisal to be made in the manner and as provided for by section 209(1). In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors, subject to the provisions of paragraph (1) of this section.

(4) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.

(5) The borrower or the successor to his interest shall comply with such other conditions, not in conflict with any provision of this title, as the Commission may stipulate in the contract of loan.

(6) The borrower or the successor to his interest shall comply with the conditions enumerated in section 208, and with the provisions of section 209 of this title in respect to the lease of any tract.

(7) Whenever the Commission shall determine that a borrower is delinquent in the payment of any indebtedness to the Commission, it may require such borrower to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such borrower, including the indebtedness to others the payment of which has been assured by the Commission, of all moneys due or to become due to such borrower by reason of any agreement or contract, collective or otherwise, to which the borrower is a party. Failure to execute such an assignment when requested by the Commission shall be sufficient ground for cancellation of the borrower's lease or interest therein."

SECTION 5. Section 216, Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended to read as follows:

"Sec. 216. Insurance by borrowers; acceleration of loans; lien and enforcement thereof. The Commission may require the borrower to insure, in such amount as the Commission may prescribe, any livestock, machinery, equipment, dwellings and permanent improvements purchased or constructed out of any moneys loaned by the Commission; or, in lieu thereof, the Commission may directly take out such insurance and add the cost thereof to the amount of principal payable under the loan. Whenever the Commission has reason to believe that the borrower has violated any condition enumerated in paragraphs (2), (4), (5) or (6) of section 215 of this title, the Commission shall give due notice and afford opportunity for a hearing to the borrower or the successor or successors to his interest, as the case demands. If upon such hearing the Commission finds that the borrower has violated the condition, the Commission may declare all principal and interest of the loan immediately due and payable notwithstanding any provision in the contract of loan to the contrary. The Commission shall have a first lien upon the borrower's or lessee's interest in any lease, growing crops, either on his tract or in any collective contract or program, livestock, machinery and equipment purchased with moneys loaned by the Commission, and in any dwellings or other permanent improvements on any leasehold tract, to the amount of all principal and interest due and unpaid and of all taxes and insurance and improvements paid by the Commission, and of all indebtedness of the borrower, the payment of which has been assured by the Commission. Such lien shall have priority over any other obligation for which the property subject to the lien may be security.

The Commission may, at such times as it deems advisable, enforce any such lien by declaring the borrower's interest in the property subject to the lien to be forfeited, any lease held by the borrower cancelled, and shall thereupon order such leasehold premises vacated and the property subject to the lien surrendered within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such lease shall thereupon revert in the Commission, and the Commission may take possession of the premises covered therein and the improvements and growing crops thereon: Provided that the Commission shall pay to the borrower any dif-

ference which may be due him after the appraisal provided for in paragraph (1) of section 209 of this title has been made.”

SECTION 6. The Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended by the addition of a new section to be numbered and to read as follows:

“Sec. 219.1. General assistance. The Commission is authorized to carry on any activities it deems necessary to assist the lessees in obtaining maximum utilization of the leased lands, including taking any steps necessary to develop these lands for their highest and best use commensurate with the purposes for which the land is being leased as provided for in section 207, and assisting the lessees in all phases of farming and ranching operations and the marketing of their agricultural produce and livestock.”

SECTION 7. This Act shall take effect upon its approval. The provisions of this Act are declared to be severable, and if any section, sentence, clause or phrase of this Act or the application thereof to any person or circumstance is held ineffective because it requires approval of Congress to take effect, then, that portion only shall take effect upon approval of Congress and the effectiveness of the remainder of this Act or the application thereof shall not be affected.

(Approved May 16, 1962.) S.B. 96.
