

A Bill for an Act Amending the Hawaiian Homes Commission Act, 1920, as Amended.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 213 of the Hawaiian Homes Commission Act, 1920, as amended, is further amended to read:

**“Sec. 213 Hawaiian home-loan fund; Hawaiian home-development fund; Hawaiian home-operating fund; administration account; Hawaiian home-farm loan fund; Hawaiian home-commercial loan fund; Hawaiian home-repair loan fund; Anahola-Kekaha loan fund.** (a) There are hereby established in the treasury of the State six revolving funds to be known as the Hawaiian home-loan fund, the Hawaiian home-operating fund, the Hawaiian home-farm loan fund, the Hawaiian home-commercial loan fund, the Hawaiian home-repair loan fund and the Anahola-Kekaha loan fund and two special funds to be known as the Hawaiian home-development fund and the Hawaiian home-administration account.

(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or needs not be reimbursed) shall equal \$5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of

principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209 (1), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in paragraphs (c) and (d) of this section.

Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called 'Additional Receipts', shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eight-five per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Development Fund Portion', is to be transferred to the Hawaiian home development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Loan Fund Portion,' shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased, with loans by the department or by financial institutions, governmental or private. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

(1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;

(2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$20,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of \$20,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions of section 215(3);

(3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or other governmental agencies may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home loan fund, Hawaiian home operating fund or Hawaiian home development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department.

(4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or financial institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;

(5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by financial institutions to native Hawaiians is higher, pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;

(6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from financial institutions, governmental or private, and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;

(7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, cov-

ering loans under this program made by financial institutions, and guarantee the repayment of or otherwise underwrite, the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;

(8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans by financial institutions made to Hawaiians under this program. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment or otherwise underwriting, of any loan, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.

(c) Hawaiian home-development fund. Twenty-five per cent of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund. The moneys in said development fund shall be available, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands, and for other nonrevenue producing improvements.

With respect to the Additional Receipts—Development Fund Portion, fifteen per cent thereof shall be used, with the prior written approval of the governor, for the construction of sanitary sewage facilities, for the construction of roads through and over Hawaiian home lands and for other non-revenue-producing improvements, and the remaining eighty-five per cent shall be segregated into a special account which may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education after consultation with the University of Hawaii and the department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.

Only so much of the Additional Receipts—Development Fund Portion not encumbered at the time of appropriate legislative action directing repayment, shall be repaid to the general fund of the State.

(d) Hawaiian home-operating fund. All moneys received by the department from any other source, except moneys received from the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in said fund shall

be available (1) for construction and reconstruction of revenue-producing improvements, including acquisition therefor of real property and interests therein, such as water rights or other interests; (2) for payment into the treasury of the State of such amounts as are necessary to meet the following charges for state bonds issued for such revenue-producing improvements, to wit, the interest on such bonds, and the principal of such serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from said funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies, or equipment and for services, to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in said fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, said fund, with the approval of the governor, may be supplemented by transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund in not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000. No projects or activities shall be undertaken hereunder except as authorized by sections 220 and 221 or the other provisions of this Act.

(e) Match moneys. The department is authorized and empowered to use moneys in the development operating funds, with the prior written approval of the governor, to match federal, state or county funds available for the same purposes and to that end is authorized to enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure and do and perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works.

(f) Hawaiian home-administration account. The entire receipts derived from any leasing of the available lands defined in section 204 shall be deposited into the Hawaiian home-administration account. The moneys in said account shall be expended by the department for salaries and all other administrative expenses of the department, not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

(1) The department shall, at such time as the governor may prescribe, but not later than November 15, preceding each (annual) session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next ensuing (fiscal period) in the manner and form and as required by state law of state departments and establishments.

(2) The department's budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.

(3) Upon approval by the legislature of the department's budget estimate of expenditures for the ensuing (fiscal period) the amount thereof shall be available to the department for the (fiscal period) and shall be expendable by the department for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of \$200,000, shall be available for

such expenditures; any amount of money in said account in excess of the amount approved by the legislature for the (fiscal period) or so made available shall be transferred to the Hawaiian home-development fund, such transfer to be made immediately after the amount of moneys deposited in said administration account shall equal the amount approved by the legislature or so made available.

(4) The money in said administration account shall be expended by the department in accordance with state laws, rules and regulations and practices.

“(g) Hawaiian home-farm loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the ‘farm loan fund.’ The moneys in this fund shall be used to make loans to lessees of agricultural tracts leased under the provisions of section 207 of this Act. Such loans shall be subject to restrictions imposed by sections 214 and 215 of this Act.

“(h) Hawaiian home-commercial loan fund. The department is authorized to create a fund out of which loans may be made to those holding leases issued under Section 207 of this Act. The loans shall be for theaters, garages, service stations, markets, stores and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by said lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

“(i) Hawaiian home-repair loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the Hawaiian home-repair loan fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$5,000 to lessees for repairs to their existing homes and for necessary additions to such homes due to increase in family size. Such loans may be made for periods not to exceed five years and shall bear interest at two and one-half per cent a year.

“(j) Anahola-Kekaha fund. The department shall create a fund of \$121,500 out of moneys heretofore appropriated to it by the legislature to be known as the Anahola-Kekaha fund. The moneys in this fund shall be used to make loans to lessees who are to be residents of Anahola and Kekaha on the island of Kauai to construct homes upon homestead lots. Such loans shall be for a period not to exceed 20 years, shall bear interest at two and one-half per cent a year and shall be for sums not to exceed \$20,000.”

SECTION 2. Section 214 of the Hawaiian Homes Commission Act, 1920, as amended, is further amended to read:

“**Sec. 214 Loans, purposes of.** The department is hereby authorized to make loans from revolving funds 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 repair or maintenance or purchase or 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;

(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 expense of marketing; and

(5) To assist lessees in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by lessees of the department or by organizations formed and controlled by said lessees."

SECTION 3. Section 215 of the Hawaiian Homes Commission Act, 1920, as amended, is further amended to read:

**"Sec. 215 Conditions of loans.** (1) Except as otherwise provided in section 213 (i), each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural or mercantile cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract 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 the subsections (1), (2) and (3) of section 214, exceed \$25,000; to any lessee, or successor or successors in interest, of a residence lot shall not exceed \$20,000 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 department on the basis of the proposed operations of the association and the security available; and with respect to subsection (5) of section 214 shall be determined by the department on the basis of the proposed operations of lessee(s) or the association and the security available, provided that where, upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department 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 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 department 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 a year, payable periodically or upon demand by the de-

partment, as the department may determine. The payment of any installment due shall be postponed in whole or in part by the department for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponement payments shall continue to bear interest at the rate of two and one-half per cent a year on the unpaid principal.

(3) In the case of the death of a lessee the department 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 department or the surrender of a lease by the lessee, the department 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 department may, 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 a year on the unpaid principal. Further, the department may, if it deems 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 department 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 department shall determine that a borrower is delinquent in the payment of any indebtedness to the department, 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 department 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 department shall be sufficient ground for cancellation of the borrower's lease or interest therein."

SECTION 4. These authorizations shall not be construed as irrevocable amendments to the Hawaiian Homes Commission Act of 1920, and any repeal



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or amendment of these authorizations or any of them, and recall of moneys loaned herein shall not be construed as a present or then reduction or impairment of the funds of the Act.

SECTION 5. The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause or phrase of these legislative amendments or any of them, or the application thereof to any person or circumstances is held ineffective because there is a requirement for the consent of Congress to take effect, then, that portion only shall take effect upon the granting of consent of Congress and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 6. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 7. This Act shall take effect upon its approval.

(Approved May 19, 1972.)

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\*Edited accordingly.