



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

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

**"Sec. 213 Funds and accounts.** (a) There are established in the treasury of the State seven revolving funds, to be known respectively as the Hawaiian home loan fund, the additional receipts loan fund, the Hawaiian home general loan fund, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund.

- (1) Hawaiian home loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:

- (A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and
- (B) The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements, on account of advances, but not including interest on such loans or advances,

shall not exceed \$5,000,000. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act.

That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts", shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-two per cent to the Hawaiian home education fund; provided that until June 30, 1979, the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000, which maximum amount shall be increased to ~~\$7,500,000~~ \$5,000,000<sup>†</sup> from and after July 1, 1979.

- (2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans or advances, shall be used for the purposes enumerated in section 214 of this Act.
- (3) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, excluding moneys appropriated for construction of

<sup>†</sup>"\$5,000,000" substituted for "\$7,500,000" by the Governor with the following note: "Disapproved the increase in the standing appropriation of \$5,000,000 to \$7,500,000. GRA 6-5-78."

replacement homes; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances; shall be deposited to this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act.

- (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their residence lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian loan interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.
- (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$10,000 to lessees for repairs to their existing homes and for additions to such homes.
- (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans not in excess of \$35,000 to lessees of agricultural tracts leased under section 207 of this Act.
- (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian loan interest fund, except moneys received by the Hawaiian home administration account shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available:
  - (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
  - (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
  - (C) For operation and maintenance of such improvements constructed from such funds or other funds;
  - (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and
  - (E) For appraisals, studies, consultants (architects, engineers), or any

other staff services including those in section 202(b) required to implement, develop, and operate these projects. The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregated amount of such transfers outstanding at any one time shall not exceed \$500,000.

(b) There are established in the treasury of the State seven special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian loan interest fund, the borrowed money fund, the Hawaiian home trust fund, and the Hawaiian home education fund.

- (1) Hawaiian home development fund. Moneys transferred to this fund shall be available with the prior written approval of the governor for off-site improvements and development necessary to serve present and future occupants of Hawaiian home lands; for improvements, additions, and repairs to all assets owned or leased by the department excluding structures or improvements that the department is obligated to acquire under section 209 of this Act; for engineering, architectural, and planning services to maintain and develop properties; for such consultant services as may be contracted for under this Act; for purchase or lease of necessary equipment; for acquisition or lease of real property and interest therein; and for improvements constructed for the benefit of beneficiaries of this Act and not otherwise permitted in the various loan funds, the administration account, or the operating fund.
- (2) Hawaiian home administration account. The entire receipts derived from any leasing of the available lands defined in section 204 of this Act shall be deposited into this account. The moneys in this account shall be expended by the department for salaries and all other administration expenses of the department in conformity with general law applicable to all departments of the State, and no sums shall be expended for structures and other permanent improvements. This account shall be subject to the following conditions and requirements:
  - (A) The department shall, when required by the governor but not later than November 15 preceding each regular session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law.
  - (B) The department's budget as approved by the governor shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
  - (C) Upon legislative approval of a budget, the amount appropriated shall be made available to the department. If no budget is approved by the legislature prior to its adjournment, sums accruing

to this account shall not be expended for any other purpose but shall remain available for future use. Any amount in this account which is in excess of the amount approved by the legislature or made available for the fiscal period may be transferred to the Hawaiian home development fund.

- (3) The Hawaiian loan guarantee fund. There may be created a fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to those holding leases or licenses issued under section 207 of this Act. The department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made.
- (4) Hawaiian loan interest fund. All interest moneys from loans or investments received by the department from any fund except the borrowed money fund and the Hawaiian home loan fund shall be deposited in this fund. At the end of each quarter, all moneys in this fund shall be transferred to the Hawaiian home development fund, the Hawaiian home operating fund and any loan fund in accordance with rules adopted by the department.
- (5) Borrowed money fund. The department may borrow from government agencies or private lending institutions and deposit borrowed moneys into this fund to be used for the purpose enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees upon loans made to them from this fund shall be deposited into this fund.
- (6) Hawaiian home trust fund. All moneys deposited into this fund shall be available for transfers into any other fund or account authorized by the Act or for any public purpose deemed by the commission to further the purposes of the Act.
- (7) Hawaiian home education fund. Moneys transferred to this fund 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 and 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."

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

**"Sec. 214 Purposes of loans; authorized actions.** (a) The department may make loans from revolving funds to any lessee to whom, or any cooperative association to which, a lease or license has been issued under section 207 of this Act. 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, swine, poultry, fowl, 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 the lessees.
- (b) In addition the department may:
- (1) Use moneys in the development and operating funds, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, 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 matching funds for such projects or works;
  - (2) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof, up to a maximum of \$35,000 to lessees in accordance with section 215;
  - (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;
  - (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of such loans; provided that upon receipt of notice of default in the payment of such assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provided further that the department shall reserve the following rights: the right of succession to the lessee's interest and assumption of the contract of loan; the right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;
  - (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and para-

graph (3) of this section, shall at no time exceed \$18,000,000;

- (6) Use available loan fund moneys or other funds specifically available for such purposes as cash guarantees when required by lending agencies;
- (7) Exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by government agencies or by private lending institutions to lessees the repayment of which is assured by the department. 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 foreclosures, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage."

SECTION 3. Section 216, Hawaiian Homes Commission Act, 1920, is amended to read:

**"Sec. 216 Insurance by borrowers; acceleration of loans; lien and enforcement thereof.** (a) The department may require the borrower to insure, in such amount as the department may prescribe, any livestock, swine, poultry, fowl, machinery, equipment, dwellings, and permanent improvements purchased or constructed out of any moneys loaned or assured by the department; or, in lieu thereof, the department may directly take out such insurance and add the cost thereof to the amount of principal payable under the loan.

(b) Whenever the department has reason to believe that the borrower has violated any condition enumerated in paragraph (2), (4), (5), or (6) of section 215 of this Act, the department 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 department finds that the borrower has violated the condition, the department may declare all principal and interest of the loan immediately due and payable notwithstanding any provision in the contract of loan to the contrary.

(c) The department shall have a first lien upon the borrower's or lessee's interest in any lease, growing crops, either on his tract or share in any collective contract or program, livestock, swine, poultry, fowl, machinery, and equipment purchased with moneys loaned by the department, 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 department, and any other indebtedness of the borrower, the payment of which has been assured by the department. Such lien shall have priority over any other obligation for which the property subject to the lien may be security.

(d) The department may, subject to this Act and procedures established by rule, enforce any 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 department, and the department may take possession of the premises covered

therein and the improvements and growing crops thereon; provided that the department shall pay to the borrower any difference which may be due him after the appraisal provided for in section 209 has been made.”

SECTION 4. Section 225, Hawaiian Homes Commission Act, 1920, is amended to read:

**“Sec. 225 Investment of funds; disposition.** (a) The department shall have the power and authority to invest and reinvest any of the moneys in any of its funds, not otherwise immediately needed for the purposes of the funds, in such bonds and securities as authorized by state law for the investment of state sinking fund moneys. Any interest or other earnings arising out of such investment shall be credited to and deposited in the Hawaiian home interest fund, except earnings derived from investments in the Hawaiian home administration account which shall revert to the same account.

- (b) (1) The department may receive, manage, and invest moneys or other property, real, personal or mixed, or any interest therein, which may be given, bequeathed, or devised, or in any manner received from sources other than the legislature or any federal appropriation, for the purposes of the Act.
- (2) All moneys received by or on behalf of the department shall be deposited into the state treasury to be expended according to law and for purposes in accordance with the terms and conditions of the gift. All moneys shall be appropriated for purposes enumerated in such gifts and if no specific purpose is enumerated, shall be appropriated to the Hawaiian home trust fund.
- (3) The department is authorized to sell, lease, or in any way manage such real, personal, or mixed property or any interest therein, in the manner and for the purposes enumerated in the gift. If no conditions are enumerated, the gift may be sold, leased, managed, or disposed of and the income or proceeds therefrom shall be deposited into the Hawaiian home trust fund.
- (4) The real property or any interest therein received by the department through contributions or grants shall not attain the status of Hawaiian home lands as defined in section 201(a) (5).
- (5) The department shall cause to be kept suitable books of account wherein shall be recorded each gift, the essential facts of the management thereof, and the expenditure of income.
- (6) Any action to be taken with respect to gifts shall be made in a public meeting where any pertinent information and reasons for any decisions shall be fully disclosed.”

SECTION 5. Section 208, Hawaiian Homes Commission Act, 1920, is amended to read:

**“Sec. 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 subject to the following conditions, whether or not stipulated in the lease:



- (1) The original lessee shall be a native Hawaiian, not less than twenty-one years of age. In case two lessees either original or in succession marry, they shall choose the lease to be retained, and the remaining lease shall be transferred, quitclaimed, or cancelled in accordance with the provisions of succeeding sections.
- (2) The lessee shall pay a rental of one dollar a year for the tract and the lease shall be for a term of ninety-nine years.
- (3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made.
- (4) The lessee shall thereafter, for at least such part of each year as the department shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf.
- (5) The lessee shall not in any manner transfer to, or mortgage, pledge, or otherwise hold for the benefit of any other person or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the department, or agree so to transfer, mortgage, pledge, or otherwise hold, his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Hawaiian or Hawaiians approved of by the department, or for any indebtedness due the department or for taxes, or for any other indebtedness the payment of which has been assured by the department, including loans from other agencies where such loans have been approved by the department, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon.
- (6) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The department may in its discretion pay such taxes and have a lien therefor as provided by section 216 of this Act.
- (7) The lessee shall perform such other conditions, not in conflict with any provision of this Act, as the department may stipulate in the lease; provided that an original lessee shall be exempt from all taxes for the first seven years from date of lease.

SECTION 6. The remaining balances of the Hawaiian home-commercial loan fund, the Anahola-Kekaha loan fund, the Keaukaha-Waiakea home-construction fund, and all moneys previously appropriated for construction of homes for specific locations and not allocated to a particular fund, excluding funds for home-replacement loans, shall be transferred to the Hawaiian home general loan fund created by section 1 of this Act.

SECTION 7. The remaining balances of the Papakolea home-replacement loan fund, the Keaukaha-Waiakea home-replacement loan fund, and the statewide replacement loan fund and all moneys previously appropriated for loans to lessees for construction of replacement homes in a specific location, shall be transferred to the Hawaiian home replacement loan fund created by section 1 of this Act.

SECTION 8. The remaining balance of the special account of the Additional Receipts—Development Fund Portion earmarked for education projects shall be transferred to the Hawaiian home education fund created by section 1 of this Act.

SECTION 9. Any balance remaining in currently operated revolving funds, the purposes of which are continued under differently named revolving funds created by this Act, shall be transferred to the successor funds as of the effective date of this Act. Balances of the Hawaiian home-loan fund shall continue in the same fund. Balances of the Hawaiian home-operating fund shall continue in the same fund. Balances of the Hawaiian home-repair loan fund shall continue in the same fund. Balances of the Hawaiian home general home loan fund shall continue in the same fund. Balances in the Additional Receipts loan fund shall continue in the same fund.

SECTION 10. Any balance remaining in currently operated, special funds, the purposes of which are continued under special funds created by this Act, shall be transferred or remain in the successor funds as of the effective date of this Act. Balances of the Hawaiian home-development fund, and the Additional Receipts—Development Fund less any amounts available for educational purposes, shall be transferred to the Hawaiian home development fund. Balances of the Hawaiian loan guarantee fund shall be continued in the fund of the name created by this Act.

SECTION 11. The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause, or phrase of the legislative amendments or any of them, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 12. 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 13. This Act shall take effect upon its approval.

Approved June 5, 1978, subject to the disapproval of the \$2,500,000 increase (from a maximum of \$5,000,000 to a maximum of \$7,500,000) in the "additional receipts" to be effective from and after July 1, 1979. See page 471.

\*Edited accordingly.