

ACT 143

H.B. NO. 236

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:*

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

**“§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 \$5,000,000 from and after July 1, 1979.

Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home operating fund.

- (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 replacement homes; moneys transferred from the Hawaiian [loan] home 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 lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian [loan] home 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] home 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 \$15,000 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] home 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 the amount provided in section 215 for the development and operation of a farm, ranch, or aquaculture operation or ninety per cent of the cost of the project, whichever is less, to lessees of agricultural tracts, pastoral tracts, and tracts used for aquaculture leased under section 207 of this Act. In addition to the purposes enumerated in section 214(a) such loans may be made for the following purposes:

- (A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;
- (B) The liquidation of indebtedness incurred for any of the foregoing purposes relating to farm loans aged less than five years;
- (C) The payment of normal and reasonable living expenses of a full-time farmer;
- (D) The planning, layout, and installation of soil and water conservation practices; or
- (E) For emergency purposes to provide relief and rehabilitation to homestead farmers and ranchers due to damage by rain and wind storms, droughts, tidal wave, earthquake, volcanic eruption, and other natural catastrophes, and for livestock disease, epidemics, crop blights, and serious effects of prolonged shipping and dock strikes.

In addition to the conditions enumerated in section 215 farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive a major portion of his income from farming; farm loans made for the purpose of soil and water conservation shall not exceed \$20,000 and shall be for a term not to exceed ten years. Subsidies and grants or cost sharing funds entitled and received by the lessee for soil and water conservation purposes shall be assigned to the department for the repayment of the outstanding farm indebtedness; and the lessee is required to carry out recommended farm management practices approved by a qualified agricultural agency.

- (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] home 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 eight 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] home interest fund, the borrowed money fund, the Hawaiian home trust fund, the Hawaiian home education fund, and the native Hawaiian rehabilitation fund.

- (1) Hawaiian home development fund. Moneys transferred to this fund shall be available with the prior written approval of the governor for offsite 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. Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into this fund. 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] home interest fund. All interest moneys from loans or investments received by the department from any fund except [the borrowed money fund, the Hawaiian home loan fund, and the native Hawaiian rehabilitation fund] as provided for in each respective 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[.]; any additional interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home interest 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.

(8) Native Hawaiian rehabilitation fund.

- (A) Pursuant to Article XII, Section 1, of the State Constitution, thirty per cent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include, but not be limited to, the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.
- (B) Any payment of principal, interest, or other earnings arising out of the loan or investment money from the fund shall be credited to and deposited into this fund.
- (C) Sections 214, 215, 216, and 217 of this Act shall not apply to administration of this fund. The department is authorized to adopt rules necessary to administer and carry out the purposes of this fund."

SECTION 2. Section 225, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

"(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 and the native Hawaiian rehabilitation fund account which shall revert to the same accounts.]"

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1983.)