

ACT 60

S.B. NO. 404

A Bill for an Act Relating to Hawaiian Homes Commission Act, 1920.

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

SECTION 1. Section 204, Hawaiian Homes Commission Act, 1920 as amended, is amended to read as follows:

“§204. Control by department of “available lands,” return to board of land and natural resources, when. Upon the passage of this Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this Act, except that:

- (1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of the passage of this Act, such land shall not assume the status of Hawaiian home lands until the lease expires or the board of land and natural resources withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause, as provided in [subdivision (d) of] section 73(d) of the Hawaiian Organic Act, the board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department gives notice to the board that the department is of the opinion that the lands are required by it for the purposes of this Act; and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in [subdivision (d) of] section 73(d) of the Hawaiian Organic Act[.];
- (2) Any available land, including lands selected by the department out of a larger area, as provided by this Act, not leased as authorized by [the provisions of] section 207(a) of this Act, may be returned to the board of land and natural resources as provided under section 212 of this Act, or may be retained for management by the department. Any Hawaiian home lands general lease issued by the department

after June 30, 1985 shall contain a withdrawal clause allowing the department to withdraw the land leased at any time during the term of the lease for the purposes of this Act.

In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of [such] those lands to the public, including native Hawaiians, on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands [as provided] in chapter 171, Hawaii Revised Statutes; provided that the department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act; provided further that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of a lease of Hawaiian home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial, or other business purposes, in accordance with the procedure set forth in section 171-59, Hawaii Revised Statutes, subject to the notice requirement of section 171-16(c), Hawaii Revised Statutes, and the lease rental limitation imposed by section 171-17(b), Hawaii Revised Statutes.

- (3) The department [may], with the approval of the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, may exchange the title to available lands for land, privately or publicly owned, of an equal value. All [land] lands so acquired by the department shall assume the status of available lands as though [such] the land were originally designated as available lands under section 203 [hereof,] of this Act, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by section 73(1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources. For the purposes of this paragraph, lands "publicly owned" means land owned by a county or the State or the United States."

SECTION 2. Section 208, Hawaiian Homes Commission Act, 1920 as amended, is amended to read as follows:

"§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] eighteen 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, [quit claimed,] quitclaimed, or canceled in accordance with the provisions of succeeding sections.
- (2) The lessee shall pay a rental of \$1 a year for the tract and the lease shall be for a term of ninety-nine years.
- (3) The lessee [shall] may be required to occupy and commence to use or cultivate the tract as [his] the person's home or farm or occupy

and commence to use the tract for aquaculture purposes, as the case may be, 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[,] by rules, so occupy and use or cultivate the tract on [his] the person's 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] the person's 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] the person's 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 3. This Act shall not apply to leases entered into prior to its effective date.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1985.

(Approved May 1, 1985.)