

ACT 145

H.B. NO. 2017

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 as follows:

“§213. Funds and accounts. (a) There are established in the treasury of the State two revolving funds, to be known respectively as the Hawaiian home loan fund and the Hawaiian home general loan fund.

[(1)] (b) Hawaiian home loan fund. The moneys in this fund shall be available for the purposes enumerated in section 214 [of this Act] and for payments provided in section 209 and shall not be expended for any other purpose except as provided in subsection [(b)(1).] (c).

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)] (c) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, for construction of replacement homes, for home repairs or additions, or for the development and operation of a farm, ranch, or aquaculture operation; moneys transferred from other funds; 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 into this fund. The moneys in the fund shall be used for purposes enumerated in section 214 [of this Act] and for payments provided in section 209; [provided that loans to lessees for repairs to their existing homes and for additions to such homes shall not be in excess of \$15,000;] provided [further] that, in

addition to the conditions enumerated in section 215, farm loans shall be subject to the following conditions: [to]

- (1) To be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive, a major portion of the applicant's income from farming; [farm]
- (2) 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[.];
- (3) 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]
- (4) The lessee shall carry out recommended farm management practices approved by a qualified agricultural agency.

[(A)] The department may create an account within this fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to a holder of a lease under section 207(a) [of this Act] or license issued under section 207(c)(1)(B) [of this Act].

[(B)] The department may create an account within this fund for moneys borrowed from government agencies or private lending institutions to be used for any of the purposes 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 on the loans made to them from this account shall be deposited into the same account; any]. Any additional interest or other earnings arising out of investments from this account shall be credited to and deposited into the Hawaiian home receipts fund.

[(b)] (d) There are established in the treasury of the State five special funds; to be known respectively as the Hawaiian home operating fund, the Hawaiian home administration account, the Hawaiian home receipts fund, the Hawaiian home trust fund, and the native Hawaiian rehabilitation fund.

[(1)] (e) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all moneys received by the department from any other source, and moneys transferred from the Hawaiian home receipts fund, shall be deposited into the Hawaiian home operating fund. The moneys in this fund, without the prior written approval of the governor, shall be available:

[(A)] (1) For construction and reconstruction of revenue-producing improvements intended to serve principally occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;

[(B)] (2) 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)] (3) For operation and maintenance of such improvements constructed from such funds or other funds;

[(D)] (4) 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)] (5) For appraisals, studies, consultants (including architects[,] and engineers), or any other staff services including those in section 202(b) required to plan, implement, develop, or 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

ACT 145

exceeding ten years; provided that the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000.

In addition, moneys of this fund shall be made 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 or the administration account.

[(2)] (f) Hawaiian home administration account. The entire receipts derived from any leasing or other disposition of the available lands [defined in] pursuant to section [204 of this Act] 204(2) and transfers from the Hawaiian home receipts fund 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)] (1) The department [shall], when required by the governor but not later than November 15 preceding each regular session of the legislature, shall 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)] (2) 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)] (3) 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 operating fund.

[(3)] (g) Hawaiian home receipts fund. All interest moneys from loans or investments received by the department from any fund except as provided for in each respective fund, shall be deposited into this fund. At the end of each quarter, all moneys in this fund may be transferred to the Hawaiian home operating fund, the Hawaiian home administration account, the Hawaiian home trust fund, and any loan fund in accordance with rules adopted by the department.

[(4)] (h) Hawaiian home trust fund. [All] Except for gifts, bequests, and other moneys given for designated purposes, 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. Public purpose, as used herein, includes the formation of an account within the Hawaiian home trust fund as a reserve for loans insured or guaranteed by the Federal Housing Administration, Department of Veterans [Administration,] Affairs, or any other federal agency and their respective successors and assigns, which are authorized to insure or guarantee loans. Notwithstanding any other law to

the contrary, the department is expressly authorized to deposit the reserve for loans in any duly organized bank in the State or elsewhere in the United States with automatic fund transfer capabilities and at such reserve amounts as shall be reasonably required by the federal agencies as a condition for participation in their respective insurance or guarantee programs.

[(5)] (i) 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 of money from this 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 under chapter 91 necessary to administer and carry out the purposes of this fund.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1993.)