H.B. NO. 3126

A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 215 of the Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

"**§215. Conditions of loans.** Except as otherwise provided in section 213(c), each contract of loan with the lessee or any successor or successors to the lessee's interest in the tract or with any agricultural, mercantile, or aquacultural cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract loan:

(1) At any one time, the outstanding amount of loans made to any lessee, or successor or successors in interest, for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed fifty per cent of the maximum single residence loan amount allowed in Hawaii by the United States Department of Housing and Urban Development's Federal Housing Administration (FHA), for the development and operation of a farm, ranch, or

aquaculture operation shall not exceed [~~$50,000,~~] $200,000, except that when loans are made to an agricultural or aquacultural cooperative association for the purposes stated in section 214(a)(4), the loan limit shall be determined by the department on the basis of the proposed operations and the available security of the association, and for the development and operation of a mercantile establishment shall not exceed the loan limit determined by the department on the basis of the proposed operations and the available security of the lessee or of the organization formed and controlled by lessees; provided that 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(a), the amount of any such payment 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

department, or the surrender 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 paragraph (3).

(2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semiannual, 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 for loans made directly from the Hawaiian home loan fund, or at the rate of two and one-half per cent or higher as established by law for other loans, payable periodically or upon demand by the department, 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 postponed payments shall continue to bear interest on the unpaid principal at the rate established for the loan.

(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 paragraph (1). 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 paragraph (1). 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 the loan, or postpone the payment of any installment thereon, wholly or in part, until such later dates as it deems advisable. Such postponed payments shall, however, continue to bear interest on the unpaid principal at the rate established for the loan. Further, the department may, if it deems it 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 or improvements and aquaculture stock, as the case may be, on the tract involved, such appraisal to be made in the manner and as provided for by section 209(a). 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 paragraph (1).

(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 the borrower's interest shall comply with such other conditions, not in conflict with any provision of this Act, as the department may stipulate in the contract of loan.

(6) The borrower or the successor to the borrower's interest shall comply with the conditions enumerated

in section 208, and with section 209 of this Act 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 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that the amendments made to section 215, Hawaiian Homes Commission Act, 1920, as amended, by this Act shall not be

1 repealed when Act 107, Session Laws of Hawaii 2000, takes effect
2 with the consent of the United States.
3
4 INTRODUCED BY: Calvin K.Y. Say
5 BY REQUEST
JAN 22 2008

H.B. NO. 3126

Report Title:
Increase agriculture loan ceiling; Hawaiian Homes Commission Act

Description:
Increases the loan ceiling for farm and ranch operations on Hawaiian home lands from $50,000 to $200,000.

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JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

PURPOSE: To increase the loan ceiling for farm and ranch operations on Hawaiian home lands.

MEANS: Amend section 215 of the Hawaiian Homes Commission Act, 1920, as amended (HHCA).

JUSTIFICATION: The loan ceiling on ranch and agricultural loans is currently $50,000 and has not been adjusted since 1982, while the costs of operating such businesses have continued to increase. Meetings with agricultural homestead lessees on Molokai and Hawaii have identified the current loan ceiling as a barrier to implementing successful farming activities. Raising the loan ceiling will help support viable farming and ranching operations among beneficiaries on Hawaiian home lands.

Impact on the public: This proposal will not have a direct impact on the general public. It will, however, encourage and promote agricultural activity in our State.

Impact on the department and other agencies: This proposal will impact the Department of Hawaiian Home Land's (DHHL) Hawaiian home general loan fund and increase the loan origination and servicing activities of the department. By providing an additional source of agricultural lending, it may relieve the demand for agricultural loan funds offered by the Department of Agriculture.

GENERAL FUND: None.

OTHER FUNDS: Funding for farm and ranch loans will be provided from the Hawaiian home general loan

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fund, a Department of Hawaiian Home Lands (DHHL) revolving fund.

PPBS PROGRAM DESIGNATION: HHL 602, Planning, Development, Management and General Support for Hawaiian Homestead Lands.

OTHER AFFECTED AGENCIES: Department of Agriculture.

EFFECTIVE DATE: Upon approval.