
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:

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PART I

2

SECTION 1. Section 213 of the Hawaiian Homes Commission

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Act, 1920, as amended, is amended as follows:

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1. By amending subsection (g) to read:

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"(g) Hawaiian home receipts fund. All interest moneys

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from loans or investments received by the department from any

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fund except as provided for in each respective fund, shall be

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deposited into this fund. At the end of each quarter, all

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moneys in this fund may be transferred to the Hawaiian home

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operating fund, the Hawaiian home administration account, the

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Hawaiian home trust fund, the native Hawaiian rehabilitation

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fund, and any loan fund in accordance with rules adopted by the

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department."

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2. By amending subsection (i) to read:

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"(i) Native Hawaiian rehabilitation fund. Pursuant to

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Article XII, Section 1, of the State Constitution, thirty

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percent of the state receipts, derived from lands previously

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cultivated as sugarcane lands under any other provision of law



1 and from water licenses, shall be deposited into this fund. The
2 department shall use this money for the rehabilitation of native
3 Hawaiians, native Hawaiian families, and Hawaiian homestead
4 communities, which shall include the educational, economic,
5 political, social, and cultural processes by which the general
6 welfare and conditions of native Hawaiians are thereby improved
7 and perpetuated.

8 The native Hawaiian rehabilitation fund shall be subject to
9 the following conditions:

- 10 (1) All moneys received by the fund shall be deposited
11 into the state treasury and kept separate and apart
12 from all other moneys in the state treasury;
- 13 (2) The director of finance shall serve as a custodian of
14 the fund. All payments from the fund shall be made by
15 the director of finance only upon vouchers approved by
16 the commission;
- 17 (3) The commission shall develop guidelines for the
18 investment of moneys in the fund;
- 19 (4) The commission may invest and reinvest in investments
20 authorized by chapter 88, Hawaii Revised Statutes.
21 The commission may hold, purchase, sell, assign,
22 transfer, or dispose of any securities and investments



1 in which any of the moneys shall have been invested,
2 as well as the proceeds of such investments; and
3 (5) The commission may pay out of any of the moneys held
4 for investment, a reasonable amount to any person for
5 supplying investment advisory or consultive services;
6 and to meet such other costs incident to the prudent
7 investment of moneys as the commission may approve.

8 Any payment of principal, interest, or other earnings
9 arising out of the loan or investment of money from this fund or
10 moneys transferred into this fund from other funds shall be
11 credited to and deposited into this fund.

12 Sections 214, 215, 216, and 217 shall not apply to
13 administration of this fund. The department is authorized to
14 adopt rules under chapter 91, Hawaii Revised Statutes, necessary
15 to administer and carry out the purposes of this fund."

16 **PART II**

17 SECTION 2. Section 204.5 of the Hawaiian Homes Commission
18 Act of 1920, as amended, is amended to read as follows:

19 "**§204.5. Additional powers.** In addition and supplemental
20 to the powers granted to the department by law, and
21 notwithstanding any law to the contrary, the department may:



- 1 (1) With the approval of the governor, undertake and carry
2 out the development of any Hawaiian home lands
3 available for lease under and pursuant to section 207
4 of this Act by assembling these lands in residential
5 developments and providing for the construction,
6 reconstruction, improvement, alteration, or repair of
7 public facilities therein, including, without
8 limitation, streets, storm drainage systems,
9 pedestrian ways, water facilities and systems,
10 sidewalks, street lighting, sanitary sewerage
11 facilities and systems, utility and service corridors,
12 and utility lines, where applicable, sufficient to
13 adequately service developable improvements therein,
14 sites for schools, parks, off-street parking
15 facilities, and other community facilities;
- 16 (2) With the approval of the governor, undertake and carry
17 out the development of available lands for homestead,
18 commercial, and multipurpose projects as provided in
19 section 220.5 of this Act, and in consultation with
20 the beneficiaries of the trust, as defined in section
21 220.5, if a project includes any commercial
22 development, as a developer under this section or in



1 association with a developer agreement entered into
2 pursuant to this section by providing for the
3 construction, reconstruction, improvement, alteration,
4 or repair of public facilities for development,
5 including, without limitation, streets, storm drainage
6 systems, pedestrian ways, water facilities and
7 systems, sidewalks, street lighting, sanitary sewerage
8 facilities and systems, utility and service corridors,
9 and utility lines, where applicable, sufficient to
10 adequately service developable improvements therein,
11 sites for schools, parks, off-street parking
12 facilities, and other community facilities;

13 (3) With the approval of the governor, designate by
14 resolution of the commission all or any portion of a
15 development or multiple developments undertaken
16 pursuant to this section an "undertaking" under part
17 III of chapter 39, Hawaii Revised Statutes; and

18 (4) Exercise the powers granted under section 39-53,
19 Hawaii Revised Statutes, including the power to issue
20 revenue bonds from time to time as authorized by the
21 legislature.



1 All provisions of part III of chapter 39, Hawaii Revised
2 Statutes, shall apply to the department and all revenue bonds
3 issued by the department shall be issued pursuant to the
4 provisions of that part, except these revenue bonds shall be
5 issued in the name of the department, and not in the name of the
6 State.

7 As applied to the department, the term "undertaking" as
8 used in part III of chapter 39 shall include a residential
9 development or a development of homestead, commercial, or
10 multipurpose projects under this Act. The term "revenue" as
11 used in part III of chapter 39, shall include all or any portion
12 of the rentals derived from the leasing of Hawaiian home lands
13 or available lands, whether or not the property is a part of the
14 development being financed."

15 SECTION 3. Section 220.5 of the Hawaiian Homes Commission
16 Act of 1920, as amended, is amended as follows:

17 1. By amending subsections (a) and (b) to read:

18 "(a) Notwithstanding any law to the contrary, the
19 department is authorized to enter into and carry out contracts
20 to develop available lands for homestead[~~7~~] projects, and
21 commercial[~~7~~] and multipurpose projects[+] in consultation with
22 the beneficiaries of the trust; provided that the department



1 shall not be subject to the requirements of competitive bidding
2 if no state funds are to be used in the development of the
3 project.

4 (b) Notwithstanding any law to the contrary, the
5 department is authorized to enter into project developer
6 agreements with qualified developers for, or in connection with,
7 any homestead[?] project, commercial, or multipurpose project[?]
8 in consultation with the beneficiaries of the trust, or portion
9 of any project; provided that prior to entering into a project
10 developer agreement with a developer, the department shall:

11 (1) Set by appraisal the minimum rental of the lands to be
12 disposed of on the basis of the fair market value of
13 the lands;

14 (2) Give notice of the proposed disposition in accordance
15 with applicable procedures and requirements of section
16 171-60(a)(3), Hawaii Revised Statutes;

17 (3) Establish reasonable criteria for the selection of the
18 private developer[?], in consultation with the
19 beneficiaries of the trust if the project includes any
20 commercial development; and

21 (4) Determine within forty-five days of the last day for
22 filing applications the applicant or applicants who



1 meet the criteria for selection, and notify all
2 applicants of its determination within seven days of
3 such determination. If only one applicant meets the
4 criteria for selection as the developer, the
5 department then may negotiate the details of the
6 project developer agreement with the developer;
7 provided that the terms of the project developer
8 agreement shall not be less than those proposed by the
9 developer in the application. If two or more
10 applicants meet the criteria for selection, the
11 department shall consider all of the relevant facts of
12 the disposition or contract, the proposals submitted
13 by each applicant, and the experience and financial
14 capability of each applicant and, within forty-five
15 days from the date of selection of the applicants that
16 met the criteria, shall select the applicant who
17 submitted the best proposal. The department then may
18 negotiate the details of the disposition with the
19 developer, including providing benefits to promote
20 native Hawaiian socio-economic advancement; provided
21 that the terms of the project developer agreement



1 shall not be less than those proposed by the developer
2 in the application."

3 2. By amending subsection (g) to read:

4 "(g) As used in this section, the following words and
5 terms shall have the following meanings unless the context
6 indicates another or different meaning or intent:

7 "Commercial project" means a project or that portion of a
8 multipurpose project, including single-family or multiple-family
9 residential, agricultural, pastoral, aquacultural, industrial,
10 business, hotel and resort, or other commercial uses designed
11 and intended to generate revenues as authorized by this Act[+].

12 "Consultation with the beneficiaries of the trust" means a
13 process of engaging individual beneficiaries, and beneficiary
14 and beneficiary-serving organizations, that provides for the
15 timely and meaningful dissemination of information and the
16 gathering of input, and allows for a reasonable time and
17 reasonable access to relevant information for evaluation and
18 consideration.

19 "Developer" means any person, partnership, cooperative,
20 firm, nonprofit or for-profit corporation, or public agency
21 possessing the competence, expertise, experience, and resources,



1 including financial, personal, and tangible resources, required
2 to carry out a project[+].

3 "Homestead project" means a project or that portion of a
4 multipurpose project, including residential, agricultural,
5 pastoral, or aquacultural uses designed and intended for
6 disposition to native Hawaiians under this Act; provided that
7 this term shall also include community facilities for homestead
8 areas[+].

9 "Multipurpose project" means a combination of a commercial
10 project and a homestead project[+].

11 "Project" means a specific undertaking to develop,
12 construct, reconstruct, rehabilitate, renovate, or to otherwise
13 improve or enhance land or real property[+].

14 "Project developer agreement" means any lease, sublease,
15 conditional leasing agreement, disposition agreement, financing
16 agreement, or other agreement or combination of agreement,
17 entered into under this section by the department, for the
18 purpose of developing one or more projects."

19 **PART III**

20 SECTION 4. The Hawaiian Homes Commission Act, 1920, as
21 amended, is amended by adding a new section to be appropriately
22 designated and to read as follows:



1 "§ . Hawaiian home lands community development fund.

2 There is established a fund to be known as the Hawaiian home
3 lands community development fund, into which shall be deposited
4 a percentage of revenues from each commercial development of
5 Hawaiian home lands as determined by the department of Hawaiian
6 home lands in consultation with the beneficiaries of the trust.
7 Moneys of the Hawaiian home lands community fund shall be
8 expended by the department in consultation with the
9 beneficiaries of the trust, as provided by law, upon approval by
10 the commission and shall be used for community and cultural
11 programming in Hawaiian homestead communities in furtherance of
12 the Act. The department shall have a fiduciary responsibility
13 toward the community development fund and shall provide annual
14 reports therefor to the legislature and to the beneficiaries of
15 the trust.

16 The commission may deposit moneys from the community
17 development fund into depositories other than the state treasury
18 and may manage, invest, and reinvest moneys in the fund. The
19 commission may hold, purchase, sell, assign, transfer, or
20 dispose of any securities and investments in which any of the
21 moneys have been invested, as well as the proceeds of the
22 investments. Moneys from the fund that are deposited into



1 depositories other than the state treasury shall be exempt from
2 the requirements of chapters 36 and 38, Hawaii Revised Statutes.
3 Any interest or other earnings arising out of investments from
4 the fund shall be credited to and deposited into the fund."

5 **PART IV**

6 SECTION 5. Section 215 of the Hawaiian Homes Commission
7 Act of 1920, as amended, is amended to read as follows:

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

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



1 development and operation of a farm, ranch, or
2 aquaculture operation shall not exceed \$50,000, except
3 that when loans are made to an agricultural or
4 aquacultural cooperative association for the purposes
5 stated in section 214(a)(4), the loan limit shall be
6 determined by the department on the basis of the
7 proposed operations and the available security of the
8 association, and for the development and operation of
9 a mercantile establishment shall not exceed the loan
10 limit determined by the department on the basis of the
11 proposed operations and the available security of the
12 lessee or of the organization formed and controlled by
13 lessees; provided that the department shall only seek
14 or agree to lower allowable loan amounts in
15 consultation with the beneficiaries of the trust;
16 provided further that upon the death of a lessee
17 leaving no relative qualified to be a lessee of
18 Hawaiian home lands, or the cancellation of a lease by
19 the department, or the surrender of a lease by the
20 lessee, the department shall make the payment provided
21 for by section 209(a), the amount of any such payment
22 shall be considered as part or all, as the case may



1 be, of any such loan to the successor or successors,
2 without limitation as to the above maximum amounts;
3 provided further that in case of the death of a
4 lessee, or cancellation of a lease by the department,
5 or the surrender of a lease by the lessee, the
6 successor or successors to the tract shall assume any
7 outstanding loan or loans thereon, if any, without
8 limitation as to the above maximum amounts but subject
9 to paragraph (3).

10 (2) The loans shall be repaid in periodic installments,
11 such installments to be monthly, quarterly,
12 semiannual, or annual as may be determined by the
13 department in each case. The term of any loan shall
14 not exceed thirty years. Payments of any sum in
15 addition to the required installments, or payment of
16 the entire amount of the loan, may be made at any time
17 within the term of the loan. All unpaid balances of
18 principal shall bear interest at the rate of two and
19 one-half per cent or higher as established by rule
20 adopted by the department, payable periodically or
21 upon demand by the department, as the department may
22 determine. The payment of any installment due shall



1 be postponed in whole or in part by the department for
2 such reasons as it deems good and sufficient and until
3 such later date as it deems advisable. Such postponed
4 payments shall continue to bear interest on the unpaid
5 principal at the rate established for the loan.

6 (3) In the case of the death of a lessee the department
7 shall, in any case, permit the successor or successors
8 to the tract to assume the contract of loan subject to
9 paragraph (1). In case of the cancellation of a lease
10 by the department or the surrender of a lease by the
11 lessee, the department may, at its option declare all
12 installments upon the loan immediately due and
13 payable, or permit the successor or successors to the
14 tract to assume the contract of loan subject to
15 paragraph (1). The department may, in such cases
16 where the successor or successors to the tract assume
17 the contract of loan, waive the payment, wholly or in
18 part, of interest already due and delinquent upon the
19 loan, or postpone the payment of any installment
20 thereon, wholly or in part, until such later dates as
21 it deems advisable. Such postponed payments shall,
22 however, continue to bear interest on the unpaid



1 principal at the rate established for the loan.

2 Further, the department may, if it deems it advisable
3 and for the best interests of the lessees, write off
4 and cancel, wholly or in part, the contract of loan of
5 the deceased lessee, or previous lessee, as the case
6 may be, where such loans are delinquent and deemed
7 uncollectible. Such write off and cancellation shall
8 be made only after an appraisal of all improvements
9 and growing crops or improvements and aquaculture
10 stock, as the case may be, on the tract involved, such
11 appraisal to be made in the manner and as provided for
12 by section 209(a). In every case, the amount of such
13 appraisal, or any part thereof, shall be considered as
14 part or all, as the case may be, of any loan to such
15 successor or successors, subject to paragraph (1).

16 (4) No part of the moneys loaned shall be devoted to any
17 purpose other than those for which the loan is made.

18 (5) The borrower or the successor to the borrower's
19 interest shall comply with such other conditions, not
20 in conflict with any provision of this Act, as the
21 department may stipulate in the contract of loan.



1 or phrase, or the application thereof to any person or
2 circumstances is held ineffective because there is a requirement
3 of having the consent of the United States to take effect, then
4 that portion only shall take effect upon the granting of consent
5 by the United States and effectiveness of the remainder of these
6 amendments or the application thereof shall not be affected.

7 SECTION 7. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Hawaiian Homes Commission Act

Description:

Authorizes the transfer of moneys from the Hawaiian home receipts fund to the native Hawaiian rehabilitation fund. Provides for consultation with beneficiaries when a project includes commercial development. Establishes the Hawaiian home lands community development fund with revenue-sharing from commercial development projects in order to fund community and cultural programming for beneficiaries of the trust in the Hawaiian homestead communities. Requires the department of Hawaiian home lands to consult with the beneficiaries of the trust before agreeing to lower allowable loan amounts. (SD1)

