
A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

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

1 SECTION 1. The legislature recognizes that the State has a
2 fiduciary duty to support the rehabilitation of the Hawaiian
3 people, in part by ensuring long-term tenancies to beneficiaries
4 and successors of beneficiaries of the Hawaiian Homes Commission
5 Act, 1920, as amended.

6 The legislature emphasizes that many descendants of lessees
7 of Hawaiian home lands do not qualify as successors because
8 interracial marriages and blended families produce descendants
9 who are less than twenty-five per cent Hawaiian. These
10 disruptions create undue hardships of displacement and interfere
11 with families' abilities to maintain the equity of their homes
12 and businesses.

13 The legislature further finds that a reduction in blood
14 quantum requirements for certain successors will lead to a
15 reduction in the trend of "highest bid" and "leapfrog" homestead
16 lease sales. Further, this reform will encourage current
17 lessees to maintain and invest in their residences, as the



1 lessees anticipate that their descendants will be able to make
2 use of the properties for many generations to come.

3 The purpose of this Act is to:

4 (1) Clarify that any beneficiary who transfers by sale or
5 gift any lease shall not be placed on the wait list
6 again; and

7 (2) Reduce the minimum Hawaiian blood quantum requirement
8 of certain successors to lessees of Hawaiian home
9 lands from one quarter to one thirty-second.

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

12 "§208. **Conditions of leases.** Each lease made under the
13 authority granted the department by section 207 of this Act, and
14 the tract in respect to which the lease is made, shall be deemed
15 subject to the following conditions, whether or not stipulated
16 in the lease:

17 (1) The original lessee shall be a native Hawaiian, not
18 less than eighteen years of age. In case two lessees
19 either original or in succession marry, they shall
20 choose the lease to be retained, and the remaining
21 lease shall be transferred, quitclaimed, or canceled



1 in accordance with the provisions of succeeding
2 sections.

3 (2) The lessee shall pay a rental of \$1 a year for the
4 tract and the lease shall be for a term of ninety-nine
5 years; except that the department may extend the term
6 of any lease; provided that the approval of any
7 extension shall be subject to the condition that the
8 aggregate of the initial ninety-nine year term and any
9 extension granted shall not be for more than one
10 hundred ninety-nine years.

11 (3) The lessee may be required to occupy and commence to
12 use or cultivate the tract as the lessee's home or
13 farm or occupy and commence to use the tract for
14 aquaculture purposes, as the case may be, within one
15 year after the commencement of the term of the lease.

16 (4) The lessee thereafter, for at least such part of each
17 year as the department shall prescribe by rules, shall
18 occupy and use or cultivate the tract on the lessee's
19 own behalf.

20 (5) The lessee shall not in any manner transfer to, or
21 otherwise hold for the benefit of, any other person or



1 group of persons or organizations of any kind, except
2 a native Hawaiian or Hawaiians, and then only upon the
3 approval of the department, or agree so to transfer,
4 or otherwise hold, the lessee's interest in the tract;
5 except that the lessee, with the approval of the
6 department, also may transfer the lessee's interest in
7 the tract to the following qualified relatives of the
8 lessee who are at least [~~one-quarter~~] one thirty-
9 second Hawaiian: husband, wife, child, or grandchild.
10 A lessee who is at least [~~one-quarter~~] one thirty-
11 second Hawaiian who has received an interest in the
12 tract through succession or transfer may, with the
13 approval of the department, transfer the lessee's
14 leasehold interest to a brother or sister who is at
15 least [~~one-quarter~~] one thirty-second Hawaiian. Such
16 interest shall not, except in pursuance of such a
17 transfer to or holding for or agreement with a native
18 Hawaiian or Hawaiians or qualified relative who is at
19 least [~~one-quarter~~] one thirty-second Hawaiian
20 approved of by the department or for any indebtedness
21 due the department or for taxes or for any other



1 indebtedness the payment of which has been assured by
2 the department, including loans from other agencies
3 where such loans have been approved by the department,
4 be subject to attachment, levy, or sale upon court
5 process. The lessee shall not sublet the lessee's
6 interest in the tract or improvements thereon;
7 provided that a lessee may be permitted, with the
8 approval of the department, to rent to a native
9 Hawaiian or Hawaiians, lodging either within the
10 lessee's existing home or in a separate residential
11 dwelling unit constructed on the premises.

12 (6) Notwithstanding the provisions of paragraph (5), the
13 lessee, with the consent and approval of the
14 commission, may mortgage or pledge the lessee's
15 interest in the tract or improvements thereon to a
16 recognized lending institution authorized to do
17 business as a lending institution in either the State
18 or elsewhere in the United States; provided the loan
19 secured by a mortgage on the lessee's leasehold
20 interest is insured or guaranteed by the Federal
21 Housing Administration, Department of Veterans



1 Affairs, or any other federal agency and their
2 respective successors and assigns, which are
3 authorized to insure or guarantee such loans, or any
4 acceptable private mortgage insurance as approved by
5 the commission. The mortgagee's interest in any such
6 mortgage shall be freely assignable. Such mortgages,
7 to be effective, must be consented to and approved by
8 the commission and recorded with the department.

9 Further, notwithstanding the authorized purposes
10 of loan limitations imposed under section 214 of this
11 Act and the authorized loan amount limitations imposed
12 under section 215 of this Act, loans made by lending
13 institutions as provided in this paragraph, insured or
14 guaranteed by the Federal Housing Administration,
15 Department of Veterans Affairs, or any other federal
16 agency and their respective successors and assigns, or
17 any acceptable private mortgage insurance, may be for
18 such purposes and in such amounts, not to exceed the
19 maximum insurable limits, together with such
20 assistance payments and other fees, as established
21 under section 421 of the Housing and Urban Rural



1 Recovery Act of 1983 which amended Title II of the
2 National Housing Act of 1934 by adding section 247,
3 and its implementing regulations, to permit the
4 Secretary of Housing and Urban Development to insure
5 loans secured by a mortgage executed by the homestead
6 lessee covering a homestead lease issued under section
7 207(a) of this Act and upon which there is located a
8 one to four family single family residence.

9 (7) The lessee shall pay all taxes assessed upon the tract
10 and improvements thereon. The department may pay such
11 taxes and have a lien therefor as provided by section
12 216 of this Act.

13 (8) The lessee shall perform such other conditions, not in
14 conflict with any provision of this Act, as the
15 department may stipulate in the lease; provided that
16 an original lessee shall be exempt from all taxes for
17 the first seven years after commencement of the term
18 of the lease.

19 Any lessee who transfers a lease under this section shall not be
20 placed on the wait list again and shall be prohibited from
21 purchasing another lease."



1 SECTION 3. Section 209 of the Hawaiian Homes Commission
2 Act, 1920, as amended, is amended by amending subsection (a) to
3 read as follows:

4 "(a) Upon the death of the lessee, the lessee's interest
5 in the tract or tracts and the improvements thereon, including
6 growing crops and aquacultural stock (either on the tract or in
7 any collective contract or program to which the lessee is a
8 party by virtue of the lessee's interest in the tract or
9 tracts), shall vest in the relatives of the decedent as provided
10 in this paragraph. From the following relatives of the lessee
11 who are (1) at least [~~one-quarter~~] one thirty-second Hawaiian,
12 [~~husband, wife,~~] spouse, children, grandchildren, brothers, or
13 sisters, or (2) native Hawaiian, father and mother, widows or
14 widowers of the children, widows or widowers of the brothers and
15 sisters, or nieces and nephews,—the lessee shall designate the
16 person or persons to whom the lessee directs the lessee's
17 interest in the tract or tracts to vest upon the lessee's death.
18 The Hawaiian blood requirements shall not apply to the
19 descendants of those who are not native Hawaiians but who were
20 entitled to the leased lands under section 3 of the Act of
21 May 16, 1934 (48 Stat. 777, 779), as amended, or under section 3



1 of the Act of July 9, 1952 (66 Stat. 511, 513). In all cases
2 that person or persons need not be eighteen years of age. The
3 designation shall be in writing, may be specified at the time of
4 execution of the lease with a right in the lessee in similar
5 manner to change the beneficiary at any time and shall be filed
6 with the department and approved by the department in order to
7 be effective to vest the interests in the successor or
8 successors so named.

9 In case of the death of any lessee, except as hereinabove
10 provided, who has failed to specify a successor or successors as
11 approved by the department, the department may select from only
12 the following qualified relatives of the decedent:

- 13 (1) [~~Husband or wife,~~] Spouse; or
14 (2) If there is no [~~husband or wife,~~] spouse, then the
15 children; or
16 (3) If there is no [~~husband, wife,~~] spouse or child, then
17 the grandchildren; or
18 (4) If there is no [~~husband, wife,~~] spouse, child, or
19 grandchild, then brothers or sisters; or
20 (5) If there is no [~~husband, wife,~~] spouse, child,
21 grandchild, brother, or sister, then from the



1 following relatives of the lessee who are native
2 Hawaiian: father and mother, widows or widowers of
3 the children, widows or widowers of the brothers and
4 sisters, or nieces and nephews.

5 The rights to the use and occupancy of the tract or tracts may
6 be made effective as of the date of the death of the lessee.

7 In the case of the death of a lessee leaving no designated
8 successor or successors, [~~husband, wife,~~] spouse, children,
9 grandchildren, or relative qualified to be a lessee of Hawaiian
10 home lands, the land subject to the lease shall resume its
11 status as unleased Hawaiian home lands and the department is
12 authorized to lease the land to a native Hawaiian as provided in
13 this Act.

14 Upon the death of a lessee who has not designated a
15 successor and who leaves a spouse not qualified to succeed to
16 the lease or children not qualified to succeed to the lease, or
17 upon the death of a lessee leaving no relative qualified to be a
18 lessee of Hawaiian home lands, or the cancellation of a lease by
19 the department, or the surrender of a lease by the lessee, the
20 department shall appraise the value of all the improvements and
21 growing crops or improvements and aquacultural stock, as the



1 case may be, and shall pay to the nonqualified spouse or the
2 nonqualified children as the lessee shall have designated prior
3 to the lessee's death, or to the legal representative of the
4 deceased lessee, or to the previous lessee, as the case may be,
5 the value thereof, less any indebtedness to the department, or
6 for taxes, or for any other indebtedness the payment of which
7 has been assured by the department, owed by the deceased lessee
8 or the previous lessee. These payments shall be made out of the
9 Hawaiian home loan fund and shall be considered an advance
10 therefrom and shall be repaid by the successor or successors to
11 the tract involved. If available cash in the Hawaiian home loan
12 fund is insufficient to make these payments, payments may be
13 advanced from the Hawaiian home general loan fund and shall be
14 repaid by the successor or successors to the tract involved;
15 provided that any repayment for advances made from the Hawaiian
16 home general loan fund shall be at the interest rate established
17 by the department for loans made from the Hawaiian home general
18 loan fund. The successor or successors may be required by the
19 commission to obtain private financing in accordance with
20 section 208(6) to pay off the amount advanced from the Hawaiian
21 home loan fund or Hawaiian home general loan fund."



1 SECTION 4. The provisions of the amendments made by this
2 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
3 declared to be severable, and if any section, sentence, clause,
4 or phrase, or the application thereof to any person or
5 circumstances is held ineffective because there is a requirement
6 of having the consent of the United States to take effect, then
7 that portion only shall take effect upon the granting of consent
8 by the United States and effectiveness of the remainder of these
9 amendments or the application thereof shall not be affected.

10 SECTION 5. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 6. This Act, upon its approval by the governor of
13 the State of Hawaii with the consent of the United States
14 Congress, shall take effect on January 7, 2059.

15



Report Title:

Hawaiian Home Lands; Successors; Blood Quantum; Wait List

Description:

Prohibits any lessee who transfers a lease from being placed on the wait list again and from purchasing another lease. Reduces the minimum Hawaiian blood quantum requirement of certain conditions and successors to lessees of Hawaiian home lands from one-quarter to one thirty-second. Takes effect on 1/7/2059.

(SD2)

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