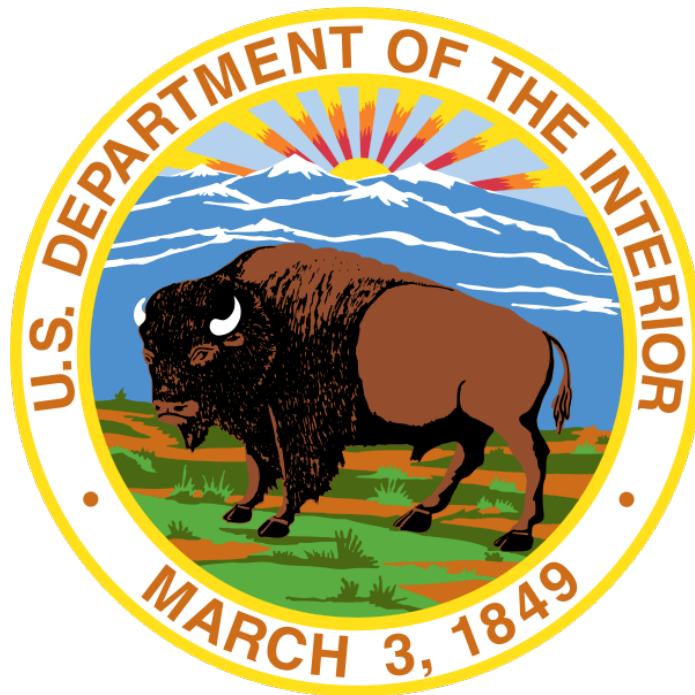


U.S. DEPARTMENT OF THE INTERIOR

Reference Guide



Hawaiian Homes Commission Act, 1920

as amended



U.S. DEPARTMENT OF THE INTERIOR
REFERENCE GUIDE

HAWAIIAN HOMES COMMISSION ACT,
1920 AS AMENDED

MARCH 2026 EDITION

ABOUT THIS REFERENCE GUIDE

Section 206 of the Hawaiian Home Lands Recovery Act (HHLRA), 109 Stat. 363, requires the Secretary of the Interior to administer the Federal laws governing the Hawaiian Home Lands Trust and Hawaiian Home Lands Trust Funds. Among other responsibilities, the Department of the Interior is tasked with determining whether an amendment to the Hawaiian Homes Commission Act, 1920 (HHCA), 42 Stat. 108, proposed by the State of Hawai‘i, requires Congressional approval or fits within an exception allowing certain administrative changes to the law by the State. *See, State of Hawai‘i Admission Act, 73 Stat. 4; 43 C.F.R. Part 48 (rules governing this approval process)*. This Reference Guide is published to assist in the Department’s oversight responsibilities and reflects its past review of proposed amendments by the State.

The HHCA is one of many Federal laws that are not fully published or codified in the United States Code. The U.S. House of Representatives - Office of the Law Revision Counsel, an independent, non-partisan office, determines what is, and is not, codified. The decision not to codify a provision does not affect its status as Federal law. When a statute and its amendments are not published in the Code, the language of the Statutes at Large is the official language of the Federal law. Because the HHCA is not fully published in the United States Code, this Reference Guide is intended to provide a ready reference to the HHCA, as amended. All citations should be made to the statute and its amendments and not to this Reference Guide.

PERIODIC REVISION AND PUBLICATION

First produced in 2010, this Reference Guide is updated as needed, to reflect new developments and any additional information or corrections received by the Department. Please submit any errors, corrections, suggested revisions, and recommendations to the Office of Native Hawaiian Relations –

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or via the contact webform at www.doi/hawaiian.

An electronic version of the latest revision of the Reference Guide is published and available through the webpage of the Office of Native Hawaiian Relations at www.doi.gov/hawaiian.

PREFACE

A Reference Guide to the Hawaiian Homes Commission Act

The Hawaiian Homes Commission Act, passed by Congress and signed into law on July 9, 1921, established the Hawaiian Home Lands Trust composed of over 200,000 acres set aside for the indigenous people of Hawai'i. The Congress intended that this Trust would enable its beneficiaries to return to their land to improve and perpetuate their self-sufficiency and cultural preservation. Since the inception of the Trust over a century ago, Congress has enacted many amendments to the original act and enabled the State of Hawai'i to provide additional amendments dealing with the day-to-day administration of the Trust.

This *Reference Guide to the Hawaiian Homes Commission Act* fulfills the Department's responsibility to maintain the text of the Hawaiian Homes Commission Act and makes the full history of the Federal and State amendments to the Act more readily available in a single, cross-referenced document. While the Reference Guide was initially created to address the administrative needs of the Department of the Interior, it is our hope that it also will be of assistance to others whose programs and responsibilities seek to serve the beneficiaries of the Hawaiian Home Lands Trust.

Sincerely,

A handwritten signature in black ink, reading "Troy Finnegan". The signature is fluid and cursive, with the first name "Troy" and last name "Finnegan" clearly distinguishable.

Troy W. Finnegan
Deputy Assistant Secretary
Exercising the Delegated Authority of the Assistant Secretary –
Policy, Management and Budget

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INTRODUCTION TO THE HAWAIIAN HOMES COMMISSION ACT

In 1921, Congress enacted the HHCA to provide a homesteading program for native Hawaiians¹ by placing approximately 200,000 acres of former crown lands (designated as “available lands” and eventually assuming the status of “Hawaiian home lands”) into the Hawaiian Home Lands Trust. The day-to-day management of the Hawaiian Home Lands Trust (and the Hawaiian Home Lands Trust Funds, *see* below) is vested in the Department of Hawaiian Home Lands (DHHL), an agency of the State of Hawai‘i, headed by an executive board known as the Hawaiian Homes Commission (HHC). The HHCA provides the Chairman of the HHC the authority to propose to the Secretary of the Interior (Secretary) the exchange of Hawaiian home lands (Trust lands) for land privately or publicly owned in furtherance of the purposes of the HHCA.

The HHCA also created a series of funds (the Hawaiian Home Lands Trust Funds, or “trust funds”) *See*, HHCA section 213 as amended. The purpose of one of these trust funds is the “rehabilitation of native Hawaiians, native Hawaiian families, and Hawaiian homestead communities,” which shall include “the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.” *Id.* Another in this series of trust funds seeks, for instance, to enhance construction of replacement homes, repairs or additions, and enhance development of farms, ranches or aquaculture, and to provide farm loans, including for soil and water conservation. Still another trust fund provides money for construction, reconstruction operations and maintenance of revenue-producing improvements intended to benefit occupants of Hawaiian home lands; for investments in water and other utilities, supplies, equipment, and goods; and for professional services needed to plan, implement, develop or operate such projects that will improve the value of Hawaiian home lands for their current and future occupants. Other money is provided to establish and maintain an account to serve as a reserve for loans issued or backed by the Federal Government, to further the purpose of the HHCA.

In 1959, Congress enacted the Hawai‘i Admission Act, 73 Stat. 4 (Admission Act) (*see* Appendix C of this document), to admit the Territory of Hawai‘i (Hawai‘i or State) into the United States as a state. In compliance with the Admission Act, and as a compact between the State and the United States relating to the management and disposition of the Hawaiian home lands, the State adopted the HHCA, as amended, as a law of the State through Article XII of its Constitution.

In section 223 of the HHCA, Congress reserved to itself the right to alter, amend, or repeal the HHCA. Consistent with this provision, section 4 of the Admission Act provides limitations on the State’s administration of the Hawaiian Home Lands Trust and the Hawaiian Home Lands Trust Funds (hereafter referred to together as “the Trust”) and also provides that the HHCA is subject to amendment or repeal by the State only with the consent of the United States. Recognizing, however, that it was vesting the State with day-to-day administrative authority, Congress in section 4 of the Admission Act also provided exceptions within which the State could amend certain administrative provisions of the HHCA without

¹ The term “native Hawaiian” with a lower case “n” means an individual who meets the definition of “Native Hawaiian” in HHCA section 201(a)(7). Congress chose to use a high blood quantum requirement in the HHCA for individuals to be eligible for awards of leases of Hawaiian home lands because such blood quantum alone supports a presumption that the individual is a member of a Native American Community (*Cf.* 25 C.F.R. part 83.11(b)(1)(i); (b)(2)(ii); and (c)(2)(ii)).

the consent of the United States. The HHCA is a cooperative federalism statute, a compound of interdependent Federal and State law that establishes a Federal law framework but also provides for implementation through State law.

Consistent with the provisions of the HHCA and the Admission Act, Congress enacted the Hawaiian Home Lands Recovery Act in 1995 (HHLRA), 109 Stat. 357, located in Appendix D of this document. In part, the HHLRA provides that the Secretary shall determine whether a State-proposed amendment to the HHCA requires the consent of the United States under section 4 of the Admission Act. It is appropriately the function of the United States to ensure conformance with the limitations in the Admission Act and protect the integrity of this statutory framework.

The HHLRA also clarified the Secretary's role in the oversight of the Hawaiian Home Lands Trust. Section 204(a)(3) of the HHCA, in conjunction with Section 205 of the HHLRA, requires the approval or disapproval of the Secretary for the exchange of Hawaiian home lands. The HHLRA details the Secretary's responsibilities to ensure that Hawaiian home lands are administered in a manner that advances the interests of the beneficiaries.

While the Secretary has broad responsibilities under the HHCA and the Admission Act, the HHLRA clarifies the scope of the continuing responsibilities of the Federal Government with regard to the HHCA. Two of these responsibilities are addressed in 43 CFR parts 47 & 48, located in Appendix F of this document. These two rules clarify the role of the Secretary in land exchanges involving Trust lands and the process for the Secretary's review of State-proposed amendments to the HHCA.

HAWAIIAN HOMES COMMISSION ACT ANNOTATION KEY

The text and references on the following pages of the Hawaiian Homes Commission Act and the Endnotes follow the Color Coding and Formatting list below to reflect original, amended, and proposed language. The Citations list on the next page provides further guidance on what brackets ([]) and endnote references indicate and how the citations to proposed amendments, mostly by the State through numerous Hawai‘i Session Laws, are reflected in the Endnotes. Public Law (Pub. L.) references indicate when Congress has amended the HHCA.

Color Coding and Formatting:²

1. Text from the original HHCA of 1920 prior to subsequent amendments is black.
2. ~~Strikethrough~~ denotes a one-word edit.
3. Blue text denotes amendments proposed by the State of Hawai‘i, for which the Secretary of the Department of the Interior determined consent by the United States was unnecessary for the Act to take effect.
4. Green text denotes amendments enacted by Congress.
5. For proposed amendments not reviewed by the Secretary or approved by Congress, there will be an [] (empty color-coded bracket with an endnote) in the body of the document where the text would appear had it been approved, unless the proposed amendment itself was repealed. Where the color-coded brackets contain a section number, the entire section has the corresponding status. The endnote will include the citation of the State act and the amending or deleted text of the State’s proposed amendment. The color codes are as follows:
 1. Red text denotes proposed amendments submitted by the State where the Department has made a determination that the proposed amendment must be enacted by Congress in order for it to take effect and no Congressional approval has occurred.
 2. Brown text denotes State of Hawai‘i legislation the State intends to apply to the HHCA, for which the Department currently has no record of receiving a submission by the State for review, and which does not meet the statutory and regulatory requirements to apply to the HHCA and the Trust.
 3. Plum text denotes proposed amendments by the State of Hawai‘i which include language stating that the Act shall take effect with the consent of the United States or approval of Congress.
 4. Gray text denotes proposed amendments:
 - a. submitted to the Department and under review;
 - b. submitted to the Department and the associated part has been repealed by the State, but other parts remain subject to Department or Congressional action;
 - c. submitted to the Department but additional information is required from the State before the Department can render a decision; and
 - d. the Department currently has no record of receiving a submission by the State for review and no preliminary review has been conducted.

² A complete list of all HHCA amendments and their color coding within the document can be found in Appendix A.

Citations:

1. All citations are color coded according to the above system.
2. When an amendment adds new language to the act, an endnote immediately follows the new text.
3. An asterisk (*) within the endnote denotes the first textual change made by an amendment, and subsequent similar textual changes made by the same amendment are cross-referenced throughout the document.
4. Each time language is withdrawn from the text, a [] followed by an endnote (without an asterisk) denotes where text has been withdrawn.
5. Previous citations within the withdrawn text endnotes are denoted as follows: {citation}.

THE HAWAIIAN HOMES COMMISSION ACT, 1920, PUBLIC LAW 67-34, 42 STAT. 108

CHAP. 42.—An Act To amend an Act entitled “An Act to provide a government for the Territory of Hawaii,” approved April 30, 1900, as amended, to establish an Hawaiian Homes Commission, granting certain powers to the board of harbor commissioners of the Territory of Hawaii, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE 1.—DEFINITIONS.¹

SEC. 1. That this Act may be cited as the “Hawaiian Homes Commission Act, 1920.”

SEC. 2. That when used in this Act the term “Hawaiian Organic Act” means the Act entitled “An Act to provide a government for the Territory of Hawaii,” approved April 30, 1900, as amended.

[SEC. 101]²

TITLE 2.—HAWAIIAN HOMES COMMISSION.

SEC. 201. DEFINITIONS.³ (a) ~~That~~³ When used in this title—

□⁴ “~~e~~Commission”⁵ means the Hawaiian homes commission.

□⁶ “~~p~~Public land”⁵ has the same meaning as defined in paragraph (3) of subdivision (a) of section 73 of the Hawaiian Organic Act.

□⁷ “~~f~~Fund”⁵ means the Hawaiian home loan fund.

□⁸ “~~Territory~~⁴⁹ ~~State~~⁴⁹” means the ~~Territory~~⁴⁹ ~~State~~⁴⁹ of Hawaii;

□⁹ “Hawaiian home lands” means all lands given the status of Hawaiian home lands under the provisions of section 204 of this title.

□¹⁰ “~~t~~Tract”⁵ means any tract of Hawaiian home lands leased, as authorized by section 207 of this title, or any portion of ~~such~~³ ~~the~~³ tract.

□¹¹ “~~n~~Native Hawaiian”⁵ means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

□¹² “~~i~~Irrigated pastoral land”⁵ means land not in the description of agricultural land but which, through irrigation, is capable of carrying more livestock the year through than first-class pastoral land.¹³

(b) Any term defined or described in section 347 or 351 of the Revised Laws of Hawaii of 1915, except a term defined in ~~subdivision~~³ ~~subsection~~³ (a) of this section, shall, whenever used in this title, have the same meaning as given by such definition or description.

[SEC. 201.5]¹⁴

[SEC. 201.6]¹⁵

SEC. 202. []¹⁶ DEPARTMENT OFFICERS, STAFF, COMMISSION, MEMBERS, COMPENSATION.¹⁷

(a) There shall be a department of Hawaiian home lands [sic] which shall be headed by an executive board to be known as the Hawaiian homes commission. The members of the commission shall be nominated and appointed in accordance with section []¹⁸ 26-34, Hawaii Revised Statutes.¹⁹ The commission shall be composed of []²⁰ ~~eight~~²¹ nine²¹ members, as follows: three shall be residents of the City and County of Honolulu²²; ~~one~~²¹ two²¹ shall be a resident²¹ residents²¹ of the county of Hawaii one of whom shall be a resident of east Hawaii and the other a resident of west Hawaii²¹; two shall be residents of the county of Maui, one of whom shall be a resident from the island of Molokai; one shall be a resident of the county of Kauai; and the ~~eighth~~²¹ ninth²¹ member shall be the chairman of the Hawaiian Homes Commission.¹⁹ All members shall have been residents of the State []²³ at least three years prior to their appointment and at least four of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands previous to 1778. The members of the commission shall serve without pay, but shall receive actual expenses incurred by them in the discharge of their duties as such members. The governor shall appoint the chairman of the commission from among the members thereof.

The commission may delegate to the chairman such duties, powers, and authority or so much thereof, as may be lawful or proper for the performance of the functions vested in the commission. The chairman of the commission shall serve in a full-time capacity []²⁴. He shall, in such capacity perform such duties, and exercise such powers and authority, or so much thereof, as may be delegated to him by the commission as herein provided above.

(b) The provisions of sections []²⁵ 76-16(o), Hawaii Revised Statutes,¹⁹ shall apply to the positions of the first deputy and private secretary to the chairman of the commission. []²⁶ The department may hire a²⁷ temporary²⁷ staff []²⁸ on a contractual basis not subject to chapters 76[, 77]²⁹ and 78, Hawaii Revised Statutes, when the services to be performed will assist in carrying out the purposes of the Act. These positions may be funded through appropriations for capital improvement program projects and by the administration account, []³⁰ ~~or~~²⁷ operating funds³¹, or native Hawaiian rehabilitation fund²⁷. No contract shall be for a period longer than two years, []³² but individuals hired under contract shall³³ may³³ be employed ~~beyond~~³³ for³³ a maximum of six years, provided that the six-year limitation shall not apply if the department with the approval of the governor, determines that such contract individuals are needed to provide critical services for the efficient functioning of the department.³³ All other positions in the department shall be subject to []³⁴ [chapters]³⁵ 76 [and 77]³⁶, Hawaii Revised Statutes³⁷ []³⁸.

All [vacancies]³⁹ and new []⁴⁰ positions [which are]⁴¹ covered by []⁴² [chapters]⁴³ []⁴⁴ 76 [and 77]⁴⁵, Hawaii Revised Statutes¹⁹, shall be filled in accordance with the provisions of []⁴⁶ [sections 76-23 and 76-31]⁴⁷, Hawaii Revised Statutes¹⁹, []⁴⁸ provided that the provisions of these sections shall be applicable first to qualified persons of Hawaiian extraction.⁴⁹

SEC. 203. CERTAIN PUBLIC LANDS DESIGNATED “AVAILABLE LANDS.”⁵⁰ All public lands of the description and acreage, as follows, excluding (a) all lands within any forest reservation, (b) all cultivated sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead

lease, right of purchase lease, or special homestead agreement, are hereby designated, and hereinafter referred to, as “available lands”:

(1) On the island of Hawaii: Kamaoa-Puueo (eleven thousand acres, more or less), in the district of Kau; Puukapu (twelve thousand acres, more or less), Kawaihae I (ten thousand acres, more or less), and Pauahi (seven hundred and fifty acres, more or less), in the district of South Kohala; Kamoku-Kapulena (five thousand acres, more or less), Waimanu (two hundred acres, more or less), and Nienie (seven thousand three hundred and fifty acres, more or less), in the district of Hamakua; fifty-three thousand acres to be selected by the commission from the lands of Humuula Mauka, in the district of North Hilo; Panaewa, Waiakea (two thousand acres, more or less), Waiakea-kai, or Keaukaha (two thousand acres, more or less), and two thousand acres of agricultural lands to be selected by the commission from the lands of Piihonua, in the district of South Hilo; and two thousand acres to be selected by the commission from the lands of Kaohe-Makuu, in the district of Puna; **land at Keaukaha, Hawaii, more particularly described as follows:**

Parcel I

Now set aside as Keaukaha Beach Park by Executive Order Numbered 421, and being a portion of the Government land at Waiakea, South Hilo, Hawaii.

Beginning at the southeast corner of this parcel of land, on the north side of Kalanianaʻole Road, the coordinates of said point of beginning referred to Government survey triangulation station "Halai" being five thousand six hundred and eighty-one and twelve one-hundredths feet north and seventeen thousand nine hundred and thirty-three and fifteen one-hundredths feet east, as shown on Government Survey Registered Map Numbered 2704, and running by true azimuths.

1. Sixty-one degrees fifty-eight minutes one thousand three hundred and fifty-one and seventy-three one-hundredths feet along the north side of Kalanianaʻole Road (fifty feet wide);

2. One hundred and fifty-one degrees fifty-eight minutes eight hundred and forty feet along United States military reservation for river and harbor improvements (Executive Order Numbered 176);

Thence along the seashore at high-water mark, the direct azimuths and distances between points at seashore being:

3. Two hundred and eighty-two degrees no minutes four hundred and sixty-eight and fifty one-hundredths feet;

4. Three hundred and thirteen degrees twenty minutes four hundred and forty-one feet;

5. Two hundred and sixty degrees twenty minutes one hundred and forty feet;

6. Two hundred and forty-two degrees twenty minutes two hundred and fifty feet;

7. One hundred and eighty-eight degrees forty minutes sixty feet;

8. Two hundred and seventy-two degrees twenty minutes one hundred and seventy feet;

9. Two hundred and five degrees no minutes sixty feet;

10. One hundred and ten degrees twenty minutes two hundred and twenty feet;

11. Ninety degrees fifty minutes eighty feet;
12. One hundred and sixty-two degrees no minutes one hundred and seventy feet;
13. Two hundred and fifty degrees thirty minutes four hundred and thirty feet;
14. Three hundred and thirty-one degrees fifty-eight minutes three hundred and eighty feet along parcel II of Government land to the point of beginning and containing an area of eleven and twenty one-hundredths acres, more or less.⁵¹

Parcel II

Being a portion of the Government land of Waiakea, South Hilo, Hawaii, and located on the north side of Kalanianaʻole Road and adjoining parcel I, hereinbefore described.

Beginning at the south corner of this parcel of land, on the north side of Kalanianaʻole Road, the coordinates of said point of beginning referred to Government survey triangulation station 'Halai', being five thousand six hundred and eighty-one and twelve one-hundredths feet north and seventeen thousand nine hundred and thirty-three and fifteen one-hundredths feet east and running by true azimuths:

1. One hundred and fifty-one degrees fifty-six minutes three hundred and eighty feet along the east boundary of parcel I;
2. Two hundred and twenty-nine degrees forty-five minutes thirty seconds one hundred and ninety-one and one one-hundredth feet;
3. One hundred and ninety-eight degrees no minutes two hundred and thirty feet to a one-and-one-half-inch pipe set in concrete;
4. Three hundred and seven degrees thirty-eight minutes five hundred and sixty-two and twenty-one one-hundredths feet to a one-and-one-half-inch pipe set in concrete;
5. Twenty-eight degrees no minutes one hundred and twenty-one and thirty-seven one-hundredths feet to the north side of Kalanianaʻole Road;
6. Sixty-one degrees fifty-eight minutes four hundred and eighty-three and twenty-two one-hundredths feet along the north side of Kalanianaʻole Road to the point of beginning and containing an area of five and twenty-six one-hundredths acres, more or less.⁵¹

(2) On the island of Maui: Kahikinui (twenty-five thousand acres, more or less) in the district of Kahikinui, and the public lands (six thousand acres, more or less) in the district of Kula;

(3) On the Island of Molokai: Palaau (eleven thousand four hundred acres, more or less), Kapaakea (two thousand acres, more or less), Kalamaula (six thousand acres, more or less), Hoolehua (three thousand five hundred acres, more or less), Kamiloloa I and II (three thousand six hundred acres, more or less), and Makakupaia (two thousand two hundred acres, more or less); and Kalaupapa (five thousand acres, more or less);

(4) On the island of Oahu: Nanakuli (three thousand acres, more or less), and Lualualei (two thousand acres, more or less), in the District of Waianae; and Waimanalo (four thousand acres, more or less), in the District of Koolaupoko, excepting therefrom the military reservation and the beach lands; and those

certain portions of the lands of Auwaiolimu and Kewalo described by metes and bounds as follows, to wit:⁵²

(I) Portion of the Government land at Auwaiolimu, Punchbowl Hill, Honolulu, Oahu, described as follows:

Beginning at a pipe at the southeast corner of this tract of land, on the boundary between the lands of Kewalo and Auwaiolimu, the coordinates of said point of beginning referred to Government survey triangulation station ‘Punchbowl’ being one thousand one hundred and thirty-five and nine-tenths feet north and two thousand five hundred and fifty-seven and eight-tenths feet east as shown on Government Survey Registered Map Numbered 2692, and running by true azimuths:

(1) One hundred and sixty-three degrees thirty-one minutes two hundred and []⁵³ thirty-eight⁵⁴ and eight-tenths feet along the east side of the Punchbowl-Makiki Road;

(2) Ninety-four degrees eight minutes one hundred and twenty-four and nine-tenths feet across Tantalus Drive and along the east side of []⁵⁵ Puowaina⁵⁰ Drive;

(3) One hundred and thirty-one degrees thirteen minutes two hundred and thirty-two and five-tenths feet along a twenty-five foot roadway;

(4) One hundred and thirty-nine degrees fifty-five minutes twenty and five-tenths feet along same;

(5) One hundred and sixty-eight degrees seventeen minutes two hundred and fifty-seven and eight-tenths feet along Government land (old quarry lot);

(6) One hundred and fifty-six degrees thirty minutes three hundred and thirty-three feet along same to a pipe;

(7) Thence following the old Auwaiolimu stone wall along L.C. award 3145 to Laenui, grant 5147 (lot 8 to C.W. Booth), L.C. award 1375 to Kapule, and L.C. award 1355 to Kekuanoni, the direct azimuth and distance being two hundred and forty-nine degrees forty-one minutes one thousand three hundred and three and five-tenths feet;

(8) Three hundred and twenty-one degrees, twelve minutes, six hundred and ninety-three feet along the remainder of the land of Auwaiolimu;

(9) Fifty-one degrees, twelve minutes, one thousand and four hundred feet along the land at Kewalo to the point of beginning; containing an area of twenty-seven acres; excepting and reserving there from Tantalus Drive, crossing this land;⁵²

(II) Portion of the land of Kewalo, Punchbowl Hill, Honolulu, Oahu, being part of the lands set aside for the use of the Hawaii Experiment Station of the United States Department of Agriculture by proclamation of the Acting Governor of Hawaii, dated June 10, 1901, and described as follows:

Beginning at the northeast corner of this lot, at a place called ‘Puu Ea’ on the boundary between the lands of Kewalo and Auwaiolimu, the coordinates of said point of beginning referred to Government survey triangulation station ‘Punchbowl’, being three thousand two hundred and fifty-five and six-tenths feet north and five thousand two hundred and forty-four and seven-tenths feet east, as shown on Government survey registered map numbered 2692 of the Territory of Hawaii, and running by true azimuths:

1. Three hundred and fifty-four degrees thirty minutes nine hundred and thirty feet along the remainder of the land of Kewalo, to the middle of the stream which divides the lands of Kewalo and Kalawahine;
2. Thence down the middle of said stream along the land of Kalawahine, the direct azimuth and distance being forty-nine degrees sixteen minutes one thousand five hundred and twelve and five-tenths feet;
3. One hundred and forty-one degrees twelve minutes eight hundred and sixty feet along the remainder of the land of Kewalo;
4. Two hundred and thirty-one degrees twelve minutes five hundred and fifty-two and six-tenths feet along the land of Auwaiolimu to Puu Iole;
5. Thence still along the said land of Auwaiolimu following the top of the ridge to the point of beginning, the direct azimuth and distance being two hundred and thirty-two degrees twenty-six minutes one thousand four hundred and seventy feet and containing an area of thirty acres; excepting and reserving there from Tantalus Drive, crossing this land;⁵²

[⁵⁶ (III) Portion of the land of Kalawahine makai of Tantalus Drive consisting of twelve acres, more or less, said parcel described more specifically in tax map key 2-4-24-8, which includes certain parcels adjoining the Ewa portion of Kalawahine Place currently occupied by short-term land dispositions if the persons residing on those parcels meet the qualifications established by the Legislature of the Territory of Hawaii and elect to have the land under their homes transferred to the department, and certain portions of the Ewa portion of the parcel, but excluding the hillside side portions of the southeast parcel, with metes and bounds designated by the department and approved by the department of land and natural resources; provided that persons now residing on portion of the land described, be given first opportunity to lease the lands on which they now reside, for a term of 99 years, whether or not they be native Hawaiians as defined in the Hawaiian Homes Commission Act of 1920, as amended.⁵⁰

(IV) Portion of the Hawaiian Experiment Station under the control of the United States Department of Agriculture, situate on the northeast side of Auwaiolimu Street.⁵¹

Kewalo-uka, Honolulu, Oahu

Being a portion of the land of Kewalo-uka conveyed by the Territory of Hawaii to the United States of America by proclamations of the Acting Governor of Hawaii, Henry E. Cooper, dated June 10, 1901, and August 16, 1901, and a portion of the United States Navy hospital reservation described in Presidential Executive Order Numbered 1181, dated March 25, 1910.

Beginning at the west corner of this parcel of land, on the Auwaiolimu-Kewalo-uka boundary and on the northeast side of Auwaiolimu Street, the coordinates of said point of beginning referred to Government survey triangulation station 'Punchbowl', being one thousand two hundred and thirty and fifty-eight one-hundredths feet north and two thousand six hundred and seventy-five and six one-hundredths feet east as shown on Government Survey Registered Map Numbered 2985 and running by azimuths measured clockwise from true south:

1. Two hundred and thirty-one degrees twelve minutes one thousand two hundred and forty-eight and twenty-six one-hundredths feet along the land of Auwaiolimu;

2. Three hundred and twenty-one degrees twelve minutes eight hundred and sixty feet along Hawaiian Home Land as described in Presidential Executive Order Numbered 5561;

3. Thence down along the middle of stream in all its turns and windings along the land of Kalawahine to the north corner of Roosevelt High School lot, the direct azimuth and distance being thirty-three degrees forty-eight minutes forty seconds one thousand one hundred and twelve and twenty one-hundredths feet;

Thence still down along the middle of stream for the next seven courses along the Roosevelt High School premises, the direct azimuth and distances between points in middle of said stream being:

4. Twenty-three degrees forty minutes twenty-eight and ninety one-hundredths feet;

5. Eight degrees no minutes one hundred and fifteen feet;

6. Three hundred and thirty-seven degrees fifty minutes forty-eight feet;

7. Two degrees thirty minutes sixty feet;

8. Forty-nine degrees forty minutes fifty-two feet;

9. Forty-six degrees six minutes ninety and seventy one-hundredths feet;

10. Ninety-two degrees forty-three minutes ninety-five and sixty one-hundredths feet; thence

11. Eighty-three degrees thirty-eight minutes seventy-one and sixty-three one-hundredths feet along Territorial land to the northeast side of Auwaiolimu Street;

12. Thence on a curve to the left with a radius of one thousand-one hundred and seventy-six and twenty-eight one-hundredths feet along the northeast side of Auwaiolimu Street along land described in Presidential Executive Order Numbered 1181, dated March 25, 1910, the direct azimuth and distance being one hundred and seventy-two degrees twenty-nine minutes thirty-five seconds one hundred and sixty-four and thirty-nine one-hundredths feet;

13. Thence continuing on a curve to the left with a radius of one thousand one hundred and seventy-six and twenty-eight one-hundredths feet along the northeast side of Auwaiolimu Street, the direct azimuth and distance being one hundred and sixty degrees fifty minutes forty-eight seconds three hundred and twelve and seventy-five one-hundredths feet;

14. Two hundred and twenty-four degrees fifty-three minutes six hundred and seventy and sixty-five one-hundredths feet along the Quarry Reservation (Territory of Hawaii, owner);

15. One hundred and ten degrees six minutes two hundred and thirty-nine and twenty one-hundredths feet along same;

16. Ninety-two degrees five minutes two hundred and two and twenty one-hundredths feet along same;

17. Fifty-three degrees twenty minutes three hundred and forty and thirty-four one-hundredths feet along same;

18. One hundred and forty-two degrees thirty minutes four hundred and twenty-four and sixty-eight one-hundredths feet along the northeast side of Auwaiolimu Street to the point of beginning and containing an

area of twenty-seven and ninety one-hundredths acres; excepting and reserving there from that certain area included in Tantalus Drive, crossing this land.

(V) Portion of Kewalo-uka Quarry Reservation. Situate on the northeast side of Auwaiolimu Street.⁵¹

Kewalo-uka, Honolulu, Oahu

Being land reserved by the Territory of Hawaii within the Hawaii Experiment Station under the control of the United States Department of Agriculture, as described in proclamations of the Acting Governor of Hawaii, Henry E. Cooper, dated June 10, 1901.

Beginning at the northwest corner of this parcel of land and on the northeast side of Auwaiolimu Street, the coordinates of said point of beginning referred to Government survey triangulation station Punchbowl', being eight hundred and ninety-three and sixty-six one-hundredths feet north and two thousand nine hundred and thirty-three and fifty-nine one-hundredths feet east as shown on Government Survey Registered Map Numbered 2985 and running by azimuths measured clockwise from true south:

1. Two hundred and thirty-three degrees twenty minutes three hundred and forty and thirty-four one-hundredths feet along the Hawaii Experiment Station under the control of the United States Department of Agriculture;
2. Two hundred and seventy-two degrees five minutes two hundred and two and twenty one-hundredths feet along same;
3. Two hundred and ninety degrees six minutes two hundred and thirty-nine and twenty one-hundredths feet along same;
4. Forty-four degrees fifty-three minutes six hundred and seventy and sixty-five one-hundredths feet along same to the northeast side of Auwaiolimu Street;
5. Thence on a curve to the left with a radius of one thousand one hundred and seventy-six and twenty-eight one-hundredths feet along the northeast side of Auwaiolimu Street, the direct azimuth and distance being one hundred and forty-seven degrees fifty-one minutes thirteen seconds two hundred and nineteen and fifty one-hundredths feet;
6. One hundred and forty-two degrees thirty minutes one hundred and thirty-four and fifty-five one-hundredths feet along the northeast side of Auwaiolimu Street;
7. Two hundred and thirty-two degrees thirty minutes twenty feet along same;
8. One hundred and forty-two degrees thirty minutes seventy-one and fifty-seven one-hundredths feet along same to the point of beginning and containing an area of four and six hundred and forty-six one-thousandths acres.⁵¹

(VI) Being a portion of Government land of Auwaiolimu, situated on the northeast side of Hawaiian home land of Auwaiolimu and adjacent to the land of Kewalo-Uka at Pauoa Valley, Honolulu, Oahu, Territory of Hawaii. Beginning at a pipe in concrete at the south corner of this parcel of land, being also the east corner of Hawaiian home land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Punchbowl", being two thousand twelve and seventy-five one-hundredths

feet south and three thousand six hundred forty-seven and eighty-seven one-hundredths feet east, and thence running by azimuths measured clockwise from true south:

1. One hundred and forty-one degrees twelve minutes six hundred and ninety-three feet along Hawaiian home land;
2. Thence along middle of stone wall along L. C. Aw. 1356 to Kekuanoni, Grant 5147, Apana 1 to C. W. Booth, L. C. Aw. 1351 to Kamakainau, L. C. Aw. 1602 to Kahawai, Grant 4197 to Keauloa, L. C. Aw. 5235 to Kaapuiki and Grant 2587 to Haalelea;
3. Two hundred and ninety-five degrees thirty minutes three hundred and twenty feet along the remainder of Government land of Auwaiolimu;
4. Twenty-four degrees sixteen minutes thirty seconds one thousand five hundred seventy-nine and thirty-six one-hundredths feet along the remainder of Government land of Auwaiolimu;
5. Thence along middle of ridge along the land of Kewalo-Uka to a point called 'Puu Iole' (pipe in concrete monument), the direct azimuth and distance being fifty-six degrees no minutes eight hundred and thirty feet;
6. Fifty-two degrees twelve minutes five hundred fifty-two and sixty one-hundredths feet along the land of Kewalo-Uka to the point of beginning and containing an area of thirty-three and eighty-eight one-hundredths acres, more or less.⁵⁷

(VII) Being portions of Government lands of Kewalo-Uka and Kalawahine situated on the east side of Tantalus Drive at Pauoa Valley, Honolulu, Oahu, Territory of Hawaii. Beginning at the west corner of this parcel of land, the true azimuth and distance to a point called "Puu Ea" (pipe in concrete monument) being one hundred and seventy-four degrees thirty minutes four hundred one and ninety-nine one-hundredths feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Punchbowl" being two thousand eight hundred fifty-five and ten one-hundredths feet north and five thousand two hundred eighty-two and twenty-five one-hundredths feet east and thence running by azimuths measured clockwise from true south:

1. Two hundred and forty-eight degrees nineteen minutes forty seconds eight hundred fifty and fifty-four one-hundredths feet along the land of Kewalo-Uka;
2. Sixteen degrees thirty minutes five hundred feet along the land of Kewalo-Uka, along the land of Kalawahine;
3. Twenty-five degrees no minutes five hundred feet along the land of Kalawahine;
4. Thirty-five degrees no minutes three hundred and twenty feet along the land of Kalawahine;
5. Fifty degrees forty-six minutes ninety-six and seventy one-hundredths feet along Makiki Forest Ridge lots;
6. Seventy-three degrees twenty minutes two hundred fifty-five and ninety one-hundredths feet along Makiki Forest Ridge lots;

7. Eighty-six degrees thirty-two minutes one hundred sixty-three and forty one-hundredths feet along Makiki Forest Ridge lots;

8. Thence along the south side of Tantalus Drive on a curve to the right with a radius of two hundred and seventy feet, the direct azimuth and distance being two hundred and twenty-one degrees twelve minutes nineteen seconds ninety-eight and thirty-six one-hundredths feet;

9. Two hundred and thirty-one degrees forty-two minutes one hundred ninety-three and thirty-five one-hundredths feet along the south side of Tantalus Drive;

10. Still along Tantalus Drive on a curve to the left with a radius of one hundred eighty and seventy-eight one-hundredths feet, the direct azimuth and distance being one hundred and eighty-one degrees forty-five minutes fifty-five seconds two hundred seventy-six and seventy-two one-hundredths feet;

11. Two hundred and forty-two degrees fifteen minutes sixty-two and thirty-two one-hundredths feet along the land of Kewalo-Uka;

12. One hundred and seventy-four degrees thirty minutes five hundred twenty-eight and one one-hundredths feet along the land of Kewalo-Uka to the point of beginning and containing an area of five hundred and seventy-four thousand seven hundred and thirty square feet or thirteen and one hundred ninety-four one-thousandths acres.⁵⁷

(5) On the island of Kauai: Upper land of Waimea, above the cultivated sugar cane lands, in the district of Waimea (fifteen thousand acres, more or less); and Moloaa (two thousand five hundred acres, more or less), and Anahola and Kamalomalo (five thousand acres, more or less).

(6) Wailuku, Maui: That parcel of government land, situate in the District of Wailuku, island and county of Maui, comprising twelve and four hundred and fifty-five one-thousandths acres of the Ili of Kou and being a portion of the land covered by General Lease Numbered 2286 to Wailuku Sugar Company, Limited, notwithstanding the fact that said parcel is cultivated sugarcane land, subject, however, to the terms of said lease.⁵⁸

(7) Cultivated sugarcane lands: That parcel of Anahola, Island of Kauai, comprising four hundred and one and four hundred and twenty-three one-thousandths acres, hereinafter described and being portion of the land covered by general lease numbered 2724 to the Lihue Plantation Company, Limited, notwithstanding the fact that said parcel is cultivated sugarcane land, subject however, to the terms of said lease, said parcel being more particularly described as follows:

Being a portion of land described in general lease numbered 2724 to the Lihue Plantation Company situate in the district of Anahola, Kauai, Territory of Hawaii, beginning at the northwest corner of this parcel of land, the coordinates of which referred to government triangulation station south base are three thousand and forty-nine and sixty-two one-hundredths feet south, one thousand nine hundred and thirty-two and twenty-five one-hundredths feet west, and running thence by azimuths measured clockwise from true south two hundred and eighty-four degrees thirty minutes two hundred and fifty feet, thence on the arc of circular curve to the left, with a radius of eight hundred and ninety feet and a central angle of thirty-five degrees fifteen minutes, the direct azimuth and distance being two hundred and sixty-six degrees fifty-two minutes thirty seconds five hundred and thirty-eight and ninety-six one-hundredths feet, thence two hundred and forty-nine degrees fifteen minutes one thousand eight hundred and nine and twenty-five

one-hundredths feet, thence two hundred and twenty-four degrees fifteen minutes three thousand and fifty-six feet, thence one hundred and thirty-four degrees fifteen minutes two hundred and seven feet, to the seashore at Anahola Bay, thence along the seashore around Kahala Point, the direct azimuth and distance being two hundred and thirty-seven degrees six minutes seven seconds one thousand and sixty and fourteen one-hundredths feet, thence along the seashore, the direct azimuth and distance being three hundred and thirty-two degrees no minutes one thousand eight hundred and twenty-seven feet, thence along the seashore, the direct azimuth and distance being three hundred and fifty-five degrees no minutes one thousand eight hundred and twenty-seven feet, thence eighty-seven degrees twenty minutes seven hundred and forty feet, thence fifty-nine degrees no minutes two thousand seven hundred and fifteen feet, thence sixty-nine degrees fifteen minutes one thousand eight hundred and eighty-seven and thirty-six one-hundredths feet, thence on the arc of a circular curve to the right with a radius of three thousand and twelve feet, and a central angle of thirty-five degrees fifteen minutes the direct azimuth and distance being eighty-six degrees fifty-two minutes thirty seconds one thousand eight hundred and twenty-three and ninety-eight one-hundredths feet, thence one hundred and four degrees thirty minutes two hundred and fifty feet, thence one hundred and ninety-four degrees thirty minutes one thousand and thirty-one feet, thence on the area of a circular curve to the left with a radius of six hundred and seven and ninety-five one-hundredths feet and a central angle of fifty-three degrees three minutes thirty seconds the direct azimuth and distance being seventy-seven degrees fifty-eight minutes fifteen seconds five hundred and forty-three and nine one-hundredths feet to the government road, thence two hundred and thirty-one degrees twenty-six minutes thirty seconds one hundred and thirteen and sixty-one one-hundredths feet along the government road, thence along the government road on the arc of a circular curve to the left with a radius of four hundred and seventy-seven feet and a central angle of forty-four degrees twenty-six minutes thirty seconds, the direct azimuth and distance being two hundred and nine degrees thirteen minutes fifteen seconds three hundred and sixty and seventy-eight one-hundredths feet, thence one hundred and eighty-seven degrees no minutes one hundred and sixty-nine and fifty-four one-hundredths feet along the government road, thence on the arc of a circular curve to the left with a radius of three hundred and fifty-one and eight one-hundredths feet and a central angle of eighty-two degrees thirty minutes the direct azimuth and distance being three hundred and twenty-five degrees forty-five minutes four hundred and sixty-two and ninety-seven one-hundredths feet, thence one hundred and ninety-four degrees thirty minutes five hundred and seventy-nine feet, thence one hundred and four degrees thirty minutes three hundred feet, thence one hundred and ninety-four degrees thirty minutes two hundred feet, thence two hundred and eighty-four degrees thirty minutes three hundred feet, thence one hundred and ninety-four degrees thirty minutes two hundred and fifty-two feet to the point of beginning containing an area of four hundred and one and four hundred and twenty-three one-thousandths acres more or less.⁵⁹

WITHDRAWAL OF 'AVAILABLE LANDS'

Section 203 of title 2 of the Act entitled "Hawaiian Homes Commission Act, 1920", approved July 9, 1921 (42 Sta. 108), designates land hereinafter described as "available lands" within the meaning of that Act, is hereby repealed and the land restored to its previous status under the control of the Territory of Hawaii.

(1) On the Island of Molokai: Those portions of Hoolehua, apana 2, and Palaau, apana 2, comprising the Molokai airplane landing field as set aside for public purposes by Executive Order Numbered 307 of the

Governor of the Territory of Hawaii, dated December 15, 1927, consisting of two hundred four and nine-tenths acres, more or less, and particularly described as follows:

Beginning at a point on the southeast corner of the said land, from which the azimuth (measured clockwise from true south) and distance to United States Coast and Geodetic Survey Triangulation Station "Middle Hill" (Kualapuu) is two hundred and seventy-two degrees twenty-three minutes thirty-nine seconds, twelve thousand seven hundred twenty and nine-tenths feet, thence from said point of beginning by metes and bounds, eighty-five degrees ten minutes thirty seconds, three thousand four hundred and twenty-seven feet; one hundred and eighty degrees fifty-six minutes thirty seconds, two thousand six hundred thirty and two-tenths feet; two hundred and seventy-nine degrees fifty-five minutes thirty seconds, four thousand nine hundred seven and three-tenths feet; three hundred and forty-six degrees twenty minutes, three hundred forty-two and three-tenths feet near west edge of Kakainapahao Gulch; three degrees twenty-six minutes, four hundred twenty-seven and one-tenth feet; eighty-three degrees twenty-four minutes, one thousand four hundred sixty-eight and two tenths feet; five degrees fifty-eight minutes, five hundred seventy-one and three-tenths feet to the point of beginning.⁶⁰

(2) On the island of Molokai: That portion of Palaau, Apana 2, being an addition to the Molokai airplane landing field as follows:

Parcel 1. As returned to the commissioner of public lands of the Territory of Hawaii by resolution numbered 68 of the Hawaiian Homes Commission, dated March 3, 1941, and consisting of thirteen and five hundred and twenty-seven one-thousandths acres, more or less, more particularly described as follows:

Beginning at a point on the southeast corner of this piece of land, on the west boundary of the present Molokai airport, the true azimuth and distance from the northwest corner of the Molokai airport (Executive Order Numbered 809) being no degrees fifty-six minutes thirty seconds two hundred and forty-two feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station Middle Hill being one and fifteen one-hundredths feet north and sixteen thousand one hundred and twenty-eight and one one-hundredths feet west, thence running by true azimuths measured clockwise from south;

(1) Sixty degrees twenty-five minutes eight hundred and forty-one and seventy-four one-hundredths feet along the remainders of fifty-foot road and lot 170 of the Hawaiian Homes land;

(2) One hundred and eighty degrees fifty-six minutes thirty seconds eight hundred and twelve and sixty-two one-hundredths feet along the remainder of lot 170 of the Hawaiian Homes land;

(3) Two hundred and forty degrees twenty-five minutes eight hundred and forty-one and seventy-four one-hundredths feet along the remainders of lot 170, Pine Avenue, lot 158 and fifty-foot road of the Hawaiian Homes land, to the west side of the present Molokai airport; and

(4) No degrees fifty-six minutes thirty seconds eight hundred and twelve and sixty-two one-hundredths feet along the west side of the present Molokai airport to the point of beginning.

On the island of Hawaii: Those portions of Keaukaha, tract 1, being additions to the Hilo airplane landing field, comprising several parcels of land as follows:

Parcel 1. Land situated at Keaukaha, tract 1, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, being portions of lots 96, 97, 182, 183, 184, 185, Desha Avenue, and twenty-five foot alley, of the Keaukaha residence lots, as shown on Government Survey Registered Maps 2723 and 3017, on file in the office of the Territorial surveyor at Honolulu.

Beginning at the south corner of this piece of land, and on the west boundary of the Hawaiian Homes land, the true azimuth and distance from the northwest corner of the Hilo airport addition, as shown on Government Survey Registered Maps 2723 and 3017 on file in the office of the Territorial surveyor at Honolulu, and on the south side of Kamehameha Avenue, being one hundred and eighty degrees no minutes four hundred and three and thirty-one one-hundredths feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station Halai being two thousand five hundred and twenty and thirty-one one-hundredths feet north and fifteen thousand five hundred and fifty-three one-hundredths feet east, thence running by azimuths measured clockwise from true south:

1. One hundred and eighty degrees no minutes six hundred and fifteen and ninety-five one-hundredths feet along Government land and tract A of grant deeded by Territory of Hawaii to Hilo Railroad Company;
2. Three hundred and ten degrees forty-two minutes four hundred and one and sixty-six one-hundredths feet along the remainders of Desha Avenue, lots 96, 97, twenty-five-foot alley, and lot 182 of the Keaukaha residence lots; and
3. Forty degrees forty-two minutes four hundred and sixty-six and ninety-seven one-hundredths feet along the remainders of lots 182, 183, 184, 185, and Desha Avenue of the Keaukaha residence lots to the point of beginning, and containing an area of two and one hundred and fifty-five one-thousandths acres, more or less.

Parcel 2. Land situated on the south side of Kamehameha Avenue, at Keaukaha, tract 1, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, being all of lots 449 to 486, inclusive, all of lots 546 to 564, inclusive, and portions of Kauhane, Spencer, Pua, and Kamaka Avenues of the Keaukaha residence lots, as shown on Government Survey Registered Maps 2723 and 3017, on file in the office of the Territorial surveyor at Honolulu.

Beginning at the northwest corner of this piece of land, being also the southwest corner of Kamehameha and Kauhane Avenues, the coordinates of said point of beginning referred to Government Survey Triangulation Station Halai being two thousand one hundred and seventeen feet north and sixteen thousand eight hundred and eighty feet east, thence running by azimuths measured clockwise from true south:

1. Two hundred and seventy degrees no minutes two thousand and seventeen and eighty-five one-hundredths feet along the south side of Kamehameha Avenue;
2. Three hundred and sixty degrees no minutes four hundred and fifty feet along lots 448 and 487 of the Keaukaha residence lots;
3. Three hundred and sixty degrees no minutes fifty feet across Kamaka Avenue;

4. Three hundred and sixty degrees no minutes two hundred and twenty-five feet along lot 545 of the Keaukaha residence lots;
5. Ninety degrees no minutes three hundred and ninety-two and forty-eight one-hundredths feet along lots 583, 582, 581, and 580 of the Keaukaha residence lots;
6. Ninety degrees no minutes fifty feet across Pua Avenue;
7. Ninety degrees no minutes eight hundred and one and fifteen one-hundredths feet along lots 579, 578, 577, 576, 575, 574, 573, and 572 of the Keaukaha residence lots;
8. Ninety degrees no minutes fifty feet across Spencer Avenue;
9. Ninety degrees no minutes six hundred and seventy-four and twenty-two one-hundredths feet along lots 571, 570, 569, 568, 567, 566, and 565, of the Keaukaha residence lots;
10. Ninety degrees no minutes fifty feet across Kauhane Avenue; and
11. One hundred and eighty degrees no minutes seven hundred and twenty-five feet along Puuhala Reserve and the present Hilo airport addition, as shown on Government Survey Registered Maps 2723 and 3017 on file in the office of the Territorial surveyor at Honolulu, to the point of beginning, and containing an area of thirty-three and five hundred and eighty-five one-thousand acres, more or less.

Parcel 3. As returned to the Commissioner of Public Lands of the Territory of Hawaii by resolution numbered 78 of the Hawaiian Homes Commission, dated May 13, 1942. Land situated at Keaukaha, tract 1, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, being the whole of lots 446, 447, 448, 487, 488, 489, 543, 544, 545, 584, 585, and 586 and portions of lots 581, 582, and 583 and a portion of Kamaka Avenue, of the Keaukaha residence lots, as shown on Government Survey Registered Maps 2723 and 3017, more particularly described as follows:

Beginning at the northeast corner of this piece of land, being also the northeast corner of lot 446 and the southwest corner of Kamehameha and Baker Avenues, the true azimuth and distance from the northwest corner of Hilo airport addition (of twenty and fifty-four one-hundredths acres and on the south side of Kamehameha Highway), as shown on Government Survey Registered Maps 2723 and 3017, being two hundred and seventy degrees no minutes and three thousand six hundred and eighty-eight and seventy one-hundredths feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station Halai being two thousand one hundred and seventeen feet north and nineteen thousand one hundred and ninety-two and twenty-three one-hundredths feet east, thence running by azimuths measured clockwise from true south:

1. Three hundred and sixty degrees no minutes four hundred and fifty feet along the west side of Baker Avenue;
2. Three hundred and sixty degrees no minutes fifty feet across Kamaka Avenue;
3. Three hundred and sixty degrees no minutes four hundred and fifty feet along the west side of Baker Avenue;

4. Ninety degrees no minutes two hundred and ninety-four and thirty-eight one-hundredths feet along the north side of Kawika Avenue;
5. One hundred and eighty degrees no minutes one hundred and twelve and fifty one-hundredths feet along lot 583 of the Keaukaha residence lots;
6. One hundred and ten degrees fifty-five minutes three hundred and fifteen and thirteen one-hundredths feet along the remainders of lots 583, 582, and 581 of the Keaukaha residence lots;
7. Two hundred and seventy degrees no minutes two hundred and ninety-four and thirty-six one-hundredths feet along lots 548, 547, and 546 of the Keaukaha residence lots;
8. One hundred and eighty degrees no minutes two hundred and twenty-five feet along lot 546 of the Keaukaha residence lots;
9. One hundred and eighty degrees no minutes fifty feet across Kamaka Avenue;
10. One hundred and eighty degrees no minutes four hundred and fifty feet along lots 486 and 449 of the Keaukaha lots to the south side of Kamehameha Avenue; and
11. Two hundred and seventy degrees no minutes two hundred and ninety-four and thirty-eight one-hundredths feet along the south side of Kamehameha Avenue to the point of beginning and containing an area of six and eighty one-hundredths acres.

Parcel 4. As returned to the Commissioner of Public Lands of the Territory of Hawaii by resolution numbered 78 of the Hawaiian Homes Commission, dated May 13, 1942. Land situated at Keaukaha, tract 1, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, being the whole of lots 93, 94, 95, 98, 99, 100, 101, and 102 and portions of lots 92, 96, 97, and 103 and a portion of Desha Avenue of the Keaukaha residence lots, as shown on Government Survey 'Registered Maps 2723 and 3017, more particularly described as follows:

Beginning at the northwest corner of this piece of land, being also the northwest corner of lot 94 and on the southeast side of twenty-five foot road, the true azimuth and distance from the northwest corner of Hilo airport addition (of twenty and fifty-four one-hundredths acres and on the south side of Kamehameha Highway), as shown on Government Survey Registered Maps 2723 and 3017, being one hundred and eighty degrees no minutes one thousand seven hundred and fifty-one and eighty-seven one-hundredths feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station Halai being three thousand eight hundred and sixty-eight and eighty-seven one-hundredths feet north and fifteen thousand five hundred and three and fifty-three one-hundredths feet east, thence running by azimuths measured clockwise from true south:

1. Two hundred and forty-three degrees fifty minutes one hundred and seventy-seven and ninety-three one-hundredths feet along the southeast side of twenty-five-foot road;
2. Three hundred and thirty-three degrees fifty minutes two hundred and thirty-five and sixty one-hundredths feet along lot 92 of the Keaukaha residence lots;

3. Two hundred and forty-three degrees fifty minutes one hundred feet along the remainder of lot 92 of the Keaukaha residence lots;
4. Three hundred and thirty-three degrees fifty minutes two hundred feet along lot 91 of the Keaukaha residence lots;
5. Three hundred and thirty-three degrees fifty minutes fifty feet across Desha Avenue;
6. Two hundred and forty-three degrees fifty minutes one hundred feet along the southeast side of Desha Avenue;
7. Three hundred and thirty-three degrees fifty minutes two hundred and thirty-five and sixty one-hundredths feet along lot 103 of the Keaukaha residence lots;
8. Two hundred and forty-three degrees fifty minutes one hundred feet along the remainder of lot 103 of the Keaukaha residence lots;
9. Three hundred and thirty-three degrees fifty minutes two hundred feet along the southwest side of Kauhane Avenue;
10. Sixty-three degrees fifty minutes six hundred and eighty-eight and thirty-six one-hundredths feet along the northwest side of twenty-five foot road;
11. One hundred and thirty degrees forty-two minutes two hundred and eighty-six and seventy-three one-hundredths feet along the remainders of lots 97 and 96 and Desha Avenue of the Keaukaha residence lots; and
12. One hundred and eighty degrees no minutes seven hundred and thirty-two and sixty-one one-hundredths feet along Government land and tract A of grant deed by the Territory of Hawaii to Hilo Railroad Company to the point of beginning and containing an area of ten and eight hundred and forty-nine one-thousandths acres.⁶¹

(3) Portion of Hawaiian home land of Keaukaha, tract 2, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, as returned to the Commissioner of Public Lands of the Territory of Hawaii by resolution numbered 85 of the Hawaiian Homes Commission, dated July 18, 1944, and more particularly described as follows:

Beginning at a spike at the northwest corner of this tract of land and on the southeast corner of the intersection of Nene and Akepa Streets, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Halai" being five thousand two hundred and eight and twenty-one one-hundredths feet north and twenty-four thousand eight hundred and eighteen and six one-hundredths feet east, and running by azimuths measured clockwise from true south:

1. Two hundred and ninety degrees eleven minutes five hundred and sixty-one and eighty-two one-hundredths feet along the south side of Nene Street;

2. Thence along same on a curve to the left with a radius of one thousand four hundred and sixty-five and four-tenths feet, the chord azimuth and distance being two hundred and sixty-eight degrees thirty-seven minutes one thousand and seventy-seven and thirty one-hundredths feet;

3. Two hundred and forty-seven degrees three minutes five hundred and ninety-six and sixty-two one-hundredths feet along same;

4. Three hundred and sixty degrees no minutes one thousand two hundred and thirty-seven and eighty-five one-hundredths feet;

5. Ninety degrees no minutes two thousand one hundred and fifty-three and sixty-nine one-hundredths feet;

6. One hundred and eighty degrees no minutes one thousand one hundred and seventy-three and four one-hundredths feet along the east side of the proposed extension of Akepa Street to the point of beginning, and containing an area of fifty acres, more or less.⁶²

(4) (III) Portion of the land of Kalawahine situated mauka or northeast of Roosevelt High School, Honolulu, Oahu.

Being portion of L.C. award 11215, Apana 2, to Keliiahonui conveyed by W.M. Giffard to the Territory of Hawaii by deed dated February 1, 1907, and recorded in liber 291, page 1.

(Being portion of the lands set aside for the Hawaiian Homes Commission by the Seventy-third Congress by Act Numbered 227, approved May 16, 1934.)

Beginning at the south corner of this parcel of land and near the east corner of Roosevelt High School lot, the coordinates of said point of beginning referred to Government survey triangulation station “Punchbowl”, being twenty-five and two one-hundredths feet south and four thousand one hundred and seventeen and thirty-nine one-hundredths feet east as shown on Government survey registered map numbered 2985 and running by azimuths measured clockwise from true south:

1. One hundred and twenty-eight degrees fifty-four minutes seven hundred and six and thirteen one-hundredths feet along Roosevelt High School lot, and passing over a pipe at six hundred eighty-four and thirteen one-hundredths feet;

2. Thence up along the middle of stream in all its turns and windings along the land of Kewalo-uka to the south corner of Hawaiian Home Land (Presidential Executive Order Numbered 5561), the direct azimuth and distance being two hundred and thirteen degrees forty-eight minutes forty seconds one thousand one hundred twelve and twenty one-hundredths feet;

3. Thence continuing up along the middle of stream in all its turns and windings along the land of Kewalo-uka (Presidential Executive Order Numbered 5561) to the south side of Tantalus Drive realignment, the direct azimuth and distance being two hundred and twenty-eight degrees twenty-nine minutes ten seconds one thousand three hundred and ninety-one feet;

4. Thence on a curve to the right with a radius of one hundred twenty and seventy-eight one-hundredths feet along the southerly side of Tantalus Drive realignment (sixty feet wide), the direct azimuth and

distance being three hundred and fifty-eight degrees twenty-one minutes one hundred ninety-three and eighty one-hundredths feet;

5. Fifty-one degrees forty-two minutes one hundred ninety-three and thirty-five one-hundredths feet along the southerly side of Tantalus Drive realignment;

6. Thence on a curve to the left with a radius of three hundred and thirty feet, along same, the direct azimuth and distance being twenty-five degrees twenty-three minutes ten seconds two hundred ninety-two and fifty-eight one-hundredths feet;

7. Twenty-two degrees fifty-three minutes two hundred ninety-one and ninety-three one-hundredths feet along the southerly side of Tantalus Drive realignment and along the west side of Kalawahine Slope lots;

8. Thence on a curve to the left with a radius of three hundred, five and sixty one-hundredths feet along the west side of the Kalawahine Slope lots, the direct azimuth and distance being six degrees twenty-one minutes thirty seconds one hundred seventy-three and eighty-five one-hundredths feet;

9. Three hundred and forty-nine degrees fifty minutes forty-seven feet along the west side of the Kalawahine Slope lots;

10. Thence on a curve to the right with a radius of five hundred and twenty feet along same and along Territorial land, the direct azimuth and distance being seventeen degrees thirty-one minutes four hundred eighty-three and eighteen one hundredths feet;

11. Three hundred and fifteen degrees twelve minutes seventy-five feet along Territorial land;

12. Forty-five degrees twelve minutes six hundred eleven and two one-hundredths feet along the northwest side of a twenty-foot road reserve;

13. Thirty-four degrees four minutes thirty seconds three hundred thirty-six and ninety-six one-hundredths feet along same to the point of beginning and containing an area of thirty-one and sixty one-hundredths acres.⁵⁷

SEC. 2. Notwithstanding the foregoing provisions of this Act, if, at any time, in the opinion of the []⁶³ board of land and natural resources⁴⁹, use of the above-described lands has been discontinued by the Department of Commerce, upon the making of such a determination by the []⁶⁴ board of land and natural resources⁴⁹ such lands shall become available lands within the meaning of section 203 of title II of the Hawaiian Homes Commission Act, 1920, as amended.⁶²

SEC. 3. Notwithstanding the provisions of the Hawaiian Homes Commission Act, as amended, limiting the leasing of lands to native Hawaiians, persons, whether or not native Hawaiians as defined by ~~such~~ said⁵⁷ Act, as amended, who []⁶⁵, on May 16, 1934, were residing on the lands of Auwaiolimu, Kewalo-Uka, and Kalawahine, on the island of Oahu, described by this Act shall be given first opportunity to lease, in the case of said Auwaiolimu and Kewalo-Uka lands, the lands on which they reside, and, in the case of said Kalawahine lands, other similar lands under the control of the Hawaiian Homes Commission.⁵⁷

SEC. 204. CONTROL BY DEPARTMENT OF “AVAILABLE LANDS,” RETURN TO BOARD OF LAND AND NATURAL RESOURCES, WHEN⁶⁶; OTHER LANDS, USE OF. (a) ⁶⁷ 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 ~~commission~~⁴⁹ department⁴⁹ to be used and disposed of in accordance with the provisions of this ~~title~~⁶⁸ Act⁶⁸, except that:

(1) ⁶⁹ 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 ⁷⁰ board of land and natural resources⁴⁹ withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause, as provided in ⁷¹ section 73(d)⁷² of the Hawaiian Organic Act, the ⁷³ board of land and natural resources⁴⁹ shall withdraw such lands from the operation of the lease whenever the ~~commission~~⁴⁹ department⁴⁹ ⁷⁴ gives notice to ⁷⁵ the board⁶⁸ that the ~~commission~~⁴⁹ department⁴⁹ is of the opinion that the lands are required by it for the purposes of this ~~title~~⁶⁸ Act⁶⁸ and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in ⁷⁶ section 73(d)⁷² of the Hawaiian Organic Act;⁷⁷

(2) ⁷⁸ Any available land, including land selected by the ~~commission~~⁴⁹ department⁴⁹ out of a larger area, as provided by this Act, ⁷⁹ not leased as authorized by ⁸⁰ section 207(a) of this Act⁶⁸, may be returned to the ⁸¹ board of land and natural resources⁴⁹ ⁸² as provided under section 212 of this Act,⁶⁸ or may be retained for management by the department.⁸³ 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.⁷²

⁸⁴ In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of ~~such~~⁷² those⁷² lands⁸³ ⁸⁵ or any improvement thereon⁸⁶ to the public,⁶⁶ including native Hawaiians on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands as provided in chapter 171⁶⁶ ⁸⁷, Hawaii Revised Statutes;⁶⁸ provided, that the department may not sell such lands in fee simple except as authorized in section 205 of this Act;⁸³ provided further that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition ⁸⁸ of Hawaiian home lands or any improvement thereon⁸⁶ to a native Hawaiian, or organization or associations owned or controlled by native Hawaiians, for commercial, industrial or other business purposes, in accordance with the ~~procedure~~ procedures⁸⁹ set forth in ⁹⁰ chapter 171⁸⁶, Hawaii Revised Statutes.⁶⁸ ⁹¹⁹²

⁹³(4)⁶⁸ (3)⁶⁸ The ~~commission~~⁴⁹ department⁴⁹ ~~may~~⁷², with the approval of ⁹⁴ the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, may⁷² exchange the title to available lands ⁹⁵ for land, privately or⁶⁸ publicly owned,⁹⁶ of an equal value. All lands⁷² so acquired by the ~~commission~~⁴⁹ department⁴⁹ shall assume the status of available lands as though ⁹⁷ ~~such~~⁷² the⁷² land⁶⁸ were originally designated as ~~such~~⁶⁸ available lands⁶⁸ under section 203⁹⁸ of this Act,⁷² and all land so conveyed by the ~~commission~~⁴⁹ department⁴⁹ 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.⁹⁹ No such exchange of land publicly owned by the State⁶⁸ shall be made without the approval ¹⁰⁰ of two-thirds of the members of the ¹⁰¹ board of land and natural resources.⁴⁹

For the purposes of this paragraph, lands “publicly owned” means land owned by a county or the State or the United States.⁶⁸

(b) Unless expressly provided elsewhere in this Act, lands or an interest therein acquired by the department pursuant to section 213(b)(1), 221(c), or 225(b), or any other section of this Act authorizing the department to acquire lands or an interest therein, may be managed and disposed of in the same manner and for the same purposes as Hawaiian home lands.⁶⁷

[SEC. 204.5]¹⁰²

SEC. 205. **SALE OF LEASE, LIMITATIONS ON.**³ Available lands shall be sold or leased only:

- (1) In the manner and for the purposes set out in this title; or
- (2) As may be necessary to complete any valid agreement of sale or lease in effect at the time of the passage of this Act; except that such limitations shall not apply to the unselected portions of lands from which the ~~commission~~⁴⁹ department⁴⁹ has made a selection and given notice thereof, or failed so to select and give notice within the time limit, as provided in paragraph (3) of section 204 of this title.

SEC. 206. **OTHER OFFICERS NOT TO CONTROL HAWAIIAN HOME LANDS; EXCEPTIONS.**³ The powers and duties of the governor ☐¹⁰³ and the ☐¹⁰⁴ board of land and natural resources⁴⁹, in respect to lands of the ~~Territory~~⁴⁹ State⁴⁹, shall not extend to lands having the status of Hawaiian home lands, except as specifically provided in this title.

SEC. 207. **LEASES TO HAWAIIANS, LICENSES.**¹⁰⁵—¹⁰⁶ (a) The ~~commission~~⁴⁹ department⁴⁹ is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts⁶¹ of Hawaiian home lands within the following acreage limits per each lessee⁵¹:

- (1) ☐¹⁰⁷ Not¹⁰⁸ more than forty⁵¹ acres of agriculture lands or lands used for aquaculture purposes¹⁰⁹; or
- (2) ☐¹¹⁰ Not¹⁰⁸ more than ~~five~~¹⁰⁸ one¹⁰⁸ hundred acres of ☐¹¹¹ irrigated pastoral lands and not more than one thousand acres of other¹⁰⁸ pastoral lands; or

☐¹¹² (3)¹⁰⁸ not more than one acre of any class of land to be used as a residence lot: Provided ☐¹¹³ that in the case of any existing lease of a farm lot in the Kalanianaʻole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the ☐¹¹⁴ department; Provided further, that a lease granted to any lessee may include ☐¹¹⁵ two detached farm lots or aquaculture lots, as the case may be,¹⁰⁹ located on the same island and within a reasonable distance of each other, one of which, to be designated by the ~~commission~~⁴⁹ department⁴⁹, shall be occupied by the lessee as ~~his~~¹⁰⁹ the lessee's¹⁰⁹ home, the gross acreage of both lots not to exceed the maximum acreage of an agricultural, ~~or~~¹⁰⁹ pastoral lot, or ~~aquaculture~~¹³⁴ aquacultural¹³⁴ lot,¹⁰⁹ as the case may be, as provided in this section¹¹⁶ ☐¹¹⁷. ☐¹¹⁸

(b) The title to lands so leased shall remain in the ☐¹¹⁹ State¹³⁴. Applications for tracts shall be made to and granted by the ~~commission~~⁴⁹ department⁴⁹, under such regulations, not in conflict with any provision of this title, as the ~~commission~~⁴⁹ department⁴⁹ may prescribe. The ~~commission~~⁴⁹ department⁴⁹ shall,

whenever tracts are available, enter into such a lease with any applicant who, in the opinion of the ~~commission~~⁴⁹ department⁴⁹, is qualified to perform the conditions of such lease.

(c)(1) The ~~commission~~⁴⁹ department⁴⁹ is authorized to grant licenses ☐¹²⁰ ☐¹²¹ as easements for railroads, telephone lines, electric power and light lines, gas mains, and the like. The ~~commission~~⁴⁹ department⁴⁹ is also authorized to grant licenses for lots within a district in which lands are leased under the provisions of this section, ~~to~~¹²² for^{122, 106} ☐¹²³

(A) Churches¹²⁴, hospitals, ~~and~~¹²⁵ public schools, post offices, and other improvements for public purposes;^{106 125} and¹²⁶

(B) Theaters¹²⁷, garages, service stations, markets, stores, and other mercantile establishments (all of which shall be owned by ☐¹²⁸ native Hawaiians¹²² or by organizations formed and controlled by ☐¹²⁹ native Hawaiians¹²²).¹⁰⁶

(2) The ~~commission~~⁴⁹ department⁴⁹ is also authorized ☐¹³⁰ to grant licenses to the United States ☐¹³¹ for reservations, roads, and other rights-of-way, water storage and distribution facilities, and practice target ranges ☐¹³².

(3) Any license issued under this subsection shall be subject to such terms, conditions, and restrictions as the department shall determine and shall not restrict the areas required by the department in carrying on its duties, nor interfere in any way with the department's operation or maintenance activities.¹³³

SEC. 207.5. HOUSING DEVELOPMENT. The department is authorized to develop and construct single-family and multifamily units for housing native Hawaiians. The method of disposition, including rentals, as well as the terms, conditions, covenants, and restrictions as to the use and occupancy of such single-family and multifamily units shall be prescribed by rules adopted by the department pursuant to chapter 91.¹³⁴

SEC. 208. CONDITIONS ☐¹³⁵ OF LEASES.¹³⁶ Each lease made under the authority granted the ~~commission~~⁴⁹ department⁴⁹ by ☐¹³⁷ section 207 of this ~~title~~²²⁰ Act²²⁰, 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 original⁵¹ lessee shall be a native Hawaiian, not less than ☐¹³⁸ eighteen⁷² 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,²²⁰ or canceled in accordance with the provisions of succeeding sections.⁵¹

(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; except that the department may extend the term of any lease; provided that the approval of any extension shall be subject to the condition that the aggregate of the initial ninety-nine year term and any extension granted shall not be for more than one hundred ninety-nine years.¹³⁹

(3) The lessee ~~shall~~⁷² may be required to⁷² occupy and commence to use or cultivate the tract as ☐¹⁴⁰ the lessee's¹⁴¹ home or farm or occupy and commence to use the tract for aquaculture purposes, as the case may be,¹⁰⁹ within one year after the ☐¹⁴² commencement of the term of the lease¹³⁹ ☐¹⁴³.

(4) The lessee ~~shall~~¹⁴¹ thereafter, for at least such part of each year as the ~~commission~~⁴⁹ department⁴⁹ shall ~~[]~~¹⁴⁴ prescribe by rules⁷² ~~so~~¹⁴¹ shall¹⁴¹ occupy and use or cultivate the tract on ~~[]~~¹⁴⁵ the lessee's¹⁴⁶ own behalf.

(5) ~~[]~~¹⁴⁷ The lessee shall not in any manner transfer to, ~~[]~~¹⁴⁸ 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, ~~[]~~¹⁴⁹ or otherwise hold, ~~[]~~¹⁵⁰ the lessee's interest in the tract¹³⁶; except that the lessee, with the approval of the department, also may transfer the lessee's interest in the tract to the following qualified relatives of the lessee who are at least one-quarter Hawaiian: husband, wife, child, or grandchild.¹⁴¹ ~~[]~~¹⁵¹ ~~[]~~¹⁵² Such interest shall not, except in pursuance of such a transfer, ~~[]~~¹⁵³ to or holding for or agreement with a native Hawaiian or Hawaiians or qualified relative who is at least one-quarter Hawaiian¹⁴¹ approved of by the ~~commission~~⁴⁹ department⁴⁹, or for any indebtedness due the ~~commission~~⁴⁹ department⁴⁹ or for taxes, or for any other indebtedness the payment of which has been assured by the ~~commission~~⁴⁹ department⁴⁹ including loans from governmental²²⁰ other²²⁰ agencies where such loans have been approved by the department,¹⁵⁴ be subject to attachment, levy, or sale upon court process. ~~[]~~¹⁵⁵ ~~[]~~¹⁵⁶ The lessee shall not sublet ~~[]~~¹⁵⁷ the lessee's¹⁵⁸ interest in the tract or improvements thereon¹³⁶; provided that a lessee may be permitted, with the approval of the department, to rent a native Hawaiian or Hawaiians lodging either within the lessee's existing home or in a separate residential dwelling unit constructed on the premises.¹³⁴

(6) Notwithstanding the provisions of paragraph (5), the lessee, with the consent and approval of the commission, may mortgage or pledge the lessee's interest in the tract or improvements thereon to a recognized lending institution authorized to do business as a lending institution in either the State or elsewhere in the United States; provided the loan secured by a mortgage on the lessee's leasehold interest is insured or guaranteed by the Federal Housing Administration, ~~[]~~¹⁵⁹ Department of Veterans Affairs¹³⁴, or any other federal agency and their respective successors and assigns, which are authorized to insure or guarantee such loans, or any acceptable private mortgage insurance as approved by the commission.¹³⁴ The mortgagee's interest in any such mortgage shall be freely assignable. Such mortgages, to be effective, must be consented to and approved by the commission and recorded with the department.¹⁶⁰

Further, notwithstanding the authorized purposes of loan limitations imposed under section 214 of this Act and the authorized loan amounts limitations imposed under section 215 of this Act, loans made by lending institutions as provided in this paragraph, insured or guaranteed by the Federal Housing Administration, ~~[]~~¹⁶¹ Department of Veterans Affairs¹³⁴, or any other federal agency and their respective successors and assigns, or any acceptable private mortgage insurance¹⁶² may be for such purposes and in such amounts, not to exceed the maximum insurable limits, together with such assistance payments and other fees, as established under section 421 of the Housing and Urban Rural Recovery Act of 1983 which amended Title II of the National Housing Act of 1934 by adding section 247, and its implementing regulations, to permit the Secretary of Housing and Urban Development to insure loans secured by a mortgage executed by the homestead lessee covering a homestead lease issued under section 207(a) of this Act and upon which there is located a one to four family single family residence.¹⁶⁰

~~(6)~~¹⁶⁰ (7)¹⁶⁰ The lessee shall pay all taxes assessed upon the tract and improvements thereon ~~[]~~¹⁶³. The ~~commission~~⁴⁹ department⁴⁹ may ~~[]~~¹⁶⁴ pay such taxes and have a lien therefore as provided by section 216 of this Act.⁵¹

~~(7)~~ (8)¹⁶⁰ The lessee shall perform such other conditions, not in conflict with any provision of this title²²⁰ Act²²⁰, as the ~~commission~~⁴⁹ department⁴⁹ may stipulate in the lease; provided ☐¹⁶⁵ that ~~the~~ an original⁵¹ lessee shall be exempt from all taxes for the first ~~five~~ seven¹⁶⁶ years ☐¹⁶⁷ after commencement of the term of the lease.¹³⁹

☐¹⁶⁸

SEC. 209. SUCCESSORS TO LEASES ¹⁶⁹ ☐¹⁷⁰ (1) (a)¹⁷¹ Upon the death of the lessee ~~his~~¹⁷² the lessee's¹⁷² interest in the tract or tracts⁵⁴ and the improvements thereon, including growing crops and ~~agricultural~~ aquacultural stock¹⁰⁹ (either on the tract or in any collective contract or program to which the lessee is a party by virtue of ~~his~~¹⁷² the lessee's¹⁷² interest in the tract or tracts⁵⁴) shall vest ☐¹⁷³ in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee,¹⁷⁴ who are (1) at least one-quarter ☐¹⁷⁵ Hawaiian¹⁷¹, husband, ~~and~~¹⁷¹ wife ☐¹⁷⁶, ☐¹⁷⁷ children, or ☐¹⁷⁸ grandchildren,¹⁷⁹ ☐¹⁸⁰ or (2) native Hawaiian¹⁷¹, father and mother,¹⁸¹ widows or widowers of the children, ☐¹⁸² brothers or sisters ☐¹⁸³ widows or widowers of the brothers and sisters, or nieces and nephews, -- the lessee shall designate the person or persons to whom ~~he~~¹⁷² the lessee¹⁷² directs ~~his~~¹⁷² the lessee's¹⁷² interest in the tract or tracts to vest upon ~~his~~¹⁷² the lessee's¹⁷² death. ☐¹⁸⁴ ☐¹⁸⁵ The¹⁷¹ Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased land under ☐¹⁸⁶ section 3 ☐¹⁸⁷ of the Act of May 16, 1934 (48 Stat. 777, 779), as amended⁵⁷ or under⁵⁰ ☐¹⁸⁸ section 3 of the Act of July 9, 1952 (66 Stat. 511, 513)¹⁸⁹. ☐¹⁹⁰ In all cases¹⁷¹ ~~such~~¹⁸¹ that¹⁸¹ person or persons need not be ~~twenty-one~~¹⁷² eighteen¹⁷² years of age. ~~Such~~¹⁸¹ The¹⁸¹ designation ~~must~~¹⁰⁹ shall¹⁰⁹ be in writing, ☐¹⁹¹ may¹⁷¹ be specified at the time of execution of ~~such~~¹⁸¹ the¹⁸¹ lease with a right in ~~such~~¹⁸¹ the¹⁸¹ lessee in similar manner to change ~~such~~¹⁸¹ the¹⁸¹ beneficiary at any time, and shall be filed with the ~~commission~~⁴⁹ department⁴⁹ and approved by the ~~commission~~⁴⁹ department⁴⁹, in order to be effective to vest ~~such~~¹⁸¹ the¹⁸¹ interests in the successor or successors so named.⁵⁴

☐¹⁹² In case of the death of any lessee, except as hereinabove provided, who has failed to specify a successor or successors as approved by the department, the department may select from only the following qualified relatives of the decedent:

- (1) Husband or wife ☐¹⁷⁶; or¹⁸¹
- (2) If there is no husband or wife ☐¹⁷⁶, then the children; or¹⁸¹
- (3) If there is no husband, wife ☐¹⁷⁶, or child, then the grandchildren; or¹⁷⁹
- (4) If there is no husband, wife ☐¹⁷⁶, ~~or~~¹⁷⁹ child, or grandchild¹⁷⁹ then ☐¹⁹³ from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, ☐¹⁸² brothers and sisters, ☐¹⁹⁴ widows or widowers of the brothers and sisters, or nieces and nephews.¹⁸¹

The rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of ~~such~~¹⁸¹ the¹⁸¹ lessee.¹⁷¹

☐¹⁹⁵ In the case of the death of a lessee leaving no ☐¹⁹⁶ designated successor or successors, husband, wife ☐¹⁷⁶, ~~or~~¹⁸¹ children¹⁷¹, or relative¹⁸¹ qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the ~~commission~~⁴⁹ department⁴⁹ is authorized to lease ~~such~~¹⁸¹ the¹⁸¹ land to a native Hawaiian ☐¹⁹⁷ as provided in this Act.⁵⁴

Upon the death of a lessee who has not designated a successor and who leaves a spouse not qualified to succeed to the lease or children not qualified to succeed to the lease, or upon the death of a lessee leaving no ¹⁹⁸ ¹⁹⁹ relative²⁰⁰ qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the ~~commission~~⁴⁹ department⁴⁹, or the surrender of a lease by the lessee, the ~~commission~~⁴⁹ department⁴⁹ shall appraise the value of all ~~such~~¹⁸¹ the¹⁸¹ improvements and growing crops or improvements and aquaculture stock, as the case may be,¹⁰⁹ and shall pay to the nonqualified spouse or the nonqualified children as the lessee shall have designated prior to the lessee's death, or to the¹⁰⁹ legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the ~~commission~~⁴⁹ department⁴⁹, or for the¹⁰⁹ taxes, or for any other indebtedness the payment of which has been assured by the ~~commission~~⁴⁹ department⁴⁹, ~~from~~¹⁷² owed by¹⁷² the deceased lessee or the previous lessee. ~~Such~~¹⁸¹ These¹⁸¹ payment shall be made out of the Hawaiian home¹⁷² loan fund and shall be considered an advance there from ²⁰¹ and shall be repaid¹⁷² by the successor or successors to the tract involved.⁵⁴ If available cash in the Hawaiian home loan fund is insufficient to make ~~such~~¹⁸¹ these¹⁸¹ payments, payments may be advanced from the Hawaiian home general loan fund and shall be repaid by the successor or successors to the tract involved; provided that any repayment for advances made from the Hawaiian home general loan fund shall be at the interest rate established by the department for loans made from the Hawaiian home general loan fund.¹⁷² The successor or successors may be required by the commission to obtain private financing in accordance with section 208(6) to pay off the amount advanced from the Hawaiian home loan fund or Hawaiian home general loan fund.²⁰²

²⁰³

(b) The appraisal of improvements and growing crop, or stock, if any, shall be made by any one of the following methods:²⁰⁴

- (1) By a disinterested appraiser hired by the department; provided that the previous lessee or deceased lessee's legal representative shall not be charged for the cost of the appraisal; or²⁰⁴
- (2) By one disinterested appraiser mutually agreeable to both the department and the previous lessee or the deceased lessee's legal representative, with the cost of appraisal borne equally by the two parties; or²⁰⁴
- (3) By not more than three disinterested appraisers of which the first shall be contracted for and paid by the department. If the previous lessee or the deceased lessee's legal representative does not agree with the appraised value, the previous lessee or the deceased lessee's legal representative shall contract with and pay for the services of a second appraiser whose appraisal report shall be submitted to the department not later than ninety days from the date of the first appraisal report; provided that the first appraisal shall be used if the second appraiser is not hired within thirty days from the date the department transmits the first appraisal report to the previous lessee or the deceased lessee's representative. If the appraisal values are different and a compromise value between the two appraisals is not reached, a third appraisal shall be made by an appraiser appointed by the first two appraisers not later than ninety days from the date of the second appraisal report and the third appraiser shall determine the final value. The cost of the third appraisal shall be borne equally by the department and the previous lessee or the deceased lessee's legal representative.²⁰⁴

The department may adopt rules not in conflict with this section to establish appraisal procedures, including the time period by which the department and the previous lessee or the deceased lessee's legal representative shall act on appraisal matters.²⁰⁴

(c) If a previous lessee has abandoned the tract or tracts cannot be located after at least two attempts to contact the previous lessee by certified mail, the department by public notice published at least once in each of four successive weeks in a newspaper of general circulation in the State shall give notice to the previous lessee that the lease will be canceled in accordance with section 210 and 216 of this title and the department will appraise the value of the improvements and growing crops and stock, if any, if the previous lessee does not present himself or herself within one hundred and twenty days from the first day of publication of the notice. Following cancellation of the lease and appraisal of the improvements and growing crops and stock, if any, the department shall make the payout as provided in subsection (a).²⁰⁴

~~[(b)¹⁷¹ (d)²⁰⁴ After the cancellation of a lease by the ~~commission~~⁴⁹ department⁴⁹ in accordance with [(²⁰⁶ sections 210 and 216 of this title, or the surrender of a lease by a lessee, the ~~commission~~⁴⁹ department⁴⁹ may²⁰⁴ transfer the lease or to²⁰⁴ issue a new lease to any qualified native²⁰⁴ Hawaiian regardless of whether or not [(²⁰⁸ that person²⁰⁴ is related in any way by blood or marriage to the previous lessee.⁵¹~~

~~[(²⁰⁹ (e)¹⁷¹ (e)²⁰⁴ Should¹²⁰⁴ If²⁰⁴ any successor or successors to a tract ~~be~~²⁰⁴ is²⁰⁴ a minor or minors, the ~~commission~~⁴⁹ department⁴⁹ may appoint a guardian therefore, subject to the approval of the court of proper jurisdiction. Such¹⁷² The¹⁷² guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold; provided, that ~~said~~¹⁷² the¹⁷² guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold; provided, that ~~said~~¹⁷² the¹⁷² guardian shall¹⁷² in so representing such²⁰⁴ the²⁰⁴ successor or successors, shall¹⁷² comply with [(²¹⁰ this title and the stipulations and provisions contained in the lease, except that ~~said~~¹⁷² the¹⁷² guardian may¹⁷¹ need¹⁷¹ not be a native Hawaiian as defined in section 201 of this title.⁵¹~~

SEC. 210. CANCELLATION OF LEASES.³ Whenever the ~~commission~~⁴⁹ department⁴⁹ has reason to believe that any condition enumerated in section 208, or any provision of section 209, of this title has been violated, the ~~commission~~⁴⁹ department⁴⁹ shall give due notice and afford opportunity for a hearing to the lessee of the tract in respect to which the alleged violation relates or to the successor of the lessee's interest therein, as the case demands. If upon such³ hearing the ~~commission~~⁴⁹ department⁴⁹ finds that the lessee or his³ the lessee's³ successor has violated any condition in respect to the leasing of such tract, the ~~commission~~⁴⁹ department⁴⁹ may declare his³ the lessee's³ interest in the tract and all improvements thereon to be forfeited and the lease in respect thereto canceled, and shall thereupon order the tract to be vacated within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such tract shall thereupon revert in the ~~commission~~⁴⁹ department⁴⁹ and the ~~commission~~⁴⁹ department⁴⁹ may take possession of the tract and the improvements thereon.

[REPEALED]²¹¹

SEC. 211. COMMUNITY PASTURES.³ The ~~commission~~⁴⁹ department⁴⁹ shall, when practicable, provide from the Hawaiian home lands a community pasture adjacent to each district in which agricultural lands are leased, as authorized by the provisions of section 207 of this title.

SEC. 212. LAND RETURNED TO CONTROL OF BOARD OF LAND AND NATURAL

RESOURCES.⁶⁸ ²¹² The ~~commission~~⁴⁹ department⁴⁹ may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this ~~title~~⁶⁸ Act⁶⁸ to the control of the ²¹³ board of land and natural resources⁴⁹. Any Hawaiian home lands so returned shall, until the ~~commission~~⁴⁹ department⁴⁹ gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the ²¹⁴ Hawaii Revised Statutes; ~~except~~⁶⁸ provided⁶⁸ that such lands may not⁶⁸ be sold, leased, set aside, used, transferred, or otherwise⁶⁸ disposed of ~~except~~⁶⁸ under a general lease only. Any lease by the board of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided, that the minimum withdrawal notice period shall be specifically stated in such lease.⁶⁸ Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the ~~commission~~⁴⁹ department⁴⁹ of public lands to terminate the lease and return the lands to the ~~commission~~⁴⁹ department⁴⁹ whenever the ~~commission~~⁴⁹ department⁴⁹ ²¹⁵ gives notice to him that the ~~commission~~⁴⁹ department⁴⁹ is of the opinion that the lands are required ²¹⁶.

Notwithstanding the provisions of section 171-95, Hawaii Revised Statutes, in the leasing of Hawaiian home lands by the board to a public utility or other governmental agency, where such use directly benefits the department of Hawaiian home lands or the homestead lessees, the rental may be nominal; in all other instances, the lease rental shall be no less than the value determined in accordance with section 171-17(b), Hawaii Revised Statutes.⁶⁸

Any general lease of Hawaiian home lands hereafter entered into by the board shall be ~~null and~~ void unless prior to the disposition of ~~said~~ such lease by public auction, direct negotiation, or otherwise, approval shall be obtained from the department of Hawaiian home lands.⁶⁸

SEC. 213. ²¹⁷ FUNDS AND ACCOUNTS.²¹⁸—(a) There are established in the treasury of the State ~~seven~~³¹ two³¹ revolving funds, to be known respectively as the Hawaiian home loan fund ²¹⁹ and³¹ the Hawaiian home general loan fund²²⁰ ²²¹.

²²² [(b)]²²³ Hawaiian home loan fund. ²²⁴ The moneys in this fund shall be available for the purposes enumerated in section 214 ¹⁰⁹ ²²⁰ ~~223~~ and for payments provided in section 209 and shall not be expended for any other purpose except as provided in subsection³¹ ²²⁵ [(e)].²²³

²²⁶

Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home operating fund.²²⁷

²²⁸

²²⁹ [(c)]²²³ Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, ²³⁰ for construction of replacement homes for home repairs or additions, or for the development and operation of a farm, ranch, or aquaculture operation;³¹ moneys transferred from ²³¹ other funds;³¹ 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 ²³² into²³²

this fund. The moneys in the fund shall be used for purposes enumerated in section 214²²⁰ []²³³ and for payments provided in section 209¹⁷²; [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]²³⁴ provided []²²³ that, in addition to the conditions enumerated in section 215, farm loans shall be subject to the following conditions: []²²³

- (1) To []²²³ 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;
- (2) Farm []²²³ 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) []²²³ 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
- (4) The []²²³ lessee shall carry out recommended farm management practices approved by a qualified agricultural agency.³¹

[]²³⁵ 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]²³³ or license issued under section 207(c)(1)(B)³¹ [of this Act]²³³.

[]²³⁶ 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]²³³. 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 additional interest or other earnings arising out of investments from this account shall be credited to and deposited into the Hawaiian home receipts fund.³¹

[]²³⁷

[]²²³ [(d)]²²³ There are established in the treasury of the State []²³⁸ four trust²³⁹ funds, to be known respectively as the Hawaiian home development³¹ operating³¹ fund, []²⁴⁰ []²⁴¹ the Hawaiian loan²²⁷ home²²⁷ interest³¹ receipts³¹ fund, []²⁴² the Hawaiian home trust fund, []²⁴³ and the native Hawaiian rehabilitation fund⁶⁸ and one special fund to be known as the Hawaiian homes administration account.²³⁹ []²⁴⁴

[]²²³ [(e)]²²³ Hawaiian home development³¹ operating³¹ 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:³¹

- []²²³ [(1)]²²³ 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 interest therein, such as water rights or other interests;³¹
- []²²³ [(2)]²²³ 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;³¹

[]²²³ [(3)]²²³ For operation and maintenance of such improvements constructed from such funds or other funds;³¹

[]²²³ [(4)]²²³ 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; and³¹

[]²²³ [(5)]²²³ For appraisals, studies, consultants (including architects []²²³ [and]²²³ engineers), or any other staff services including those in section 202(b) required to plan, implement, develop, or operate these projects.³¹

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 exceeding ten years; provided that the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000.³¹ []²⁴⁵

In addition, moneys of³¹ this fund shall be made³¹ available with the prior written approval of the governor for offsite improvements and the 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]²³³; 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 or³¹ the administration account []²⁴⁶.

[]²²³ [(f)]²²³ Hawaiian home administration account. The entire receipts derived from any leasing []²⁴⁷ of the available lands [defined in]²⁴⁸ []²⁴⁹ section [204 of this Act]²⁵⁰ and transfers from the Hawaiian home interest³¹ receipts³¹ fund²²⁰ shall be deposited into this account. Any interest or other earnings arising out of investments from this fund and any amounts recovered from any party involved with the construction or development of the homes in Panaewa residential lots, units 3 and 4²⁵¹ shall be credited to and deposited into this fund.²²⁷ The moneys in this account shall be expended by the department for salaries and [all]²⁵² 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:²²⁰

[]²²³ [(1)]²²³ The department []²²³, when required by the governor but not later than November 15 preceding each regular session of the legislature, [shall]²²³ submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law;²²⁰

[]²²³ [(2)]²²³ 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;²²⁰

[]²²³ [(3)]²²³ 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 development³¹ operating³¹ fund.²²⁰

□²⁵³

Notwithstanding any provisions to the contrary, for the period of July 1, 1994, to July 1, 1995, moneys in the account may be used for homes in Panaewa residential lots, units 3 and 4:²⁵¹

- (1) To repair, remove, replace, or restore the homes; or²⁵¹
- (2) In direct settlement with the homeowners.²⁵¹

~~[(3)]³⁴~~²²³ [(g)]²²³ Hawaiian loan²²⁷ home²²⁷ receipts fund. All interest moneys from loans or investments received by the department from any fund except □²⁵⁴ as provided for in each respective fund,²²⁷ shall be deposited in²³² into²³² this fund. At the end of each quarter, all moneys in this fund shall³¹ may³¹ be transferred to □²⁵⁵ the Hawaiian home operating fund, the Hawaiian home administration account²³², the Hawaiian home trust fund,¹⁶⁰ and any loan fund in accordance with rules adopted by the department.²²⁰
□²⁵⁶

~~[(4)]³⁴~~²²³ [(h)]²²³ Hawaiian home trust fund. [All]²⁵⁷ 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.²²⁰ 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]²⁵⁸ Veterans [Affairs]²⁵⁹, 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 programs¹⁶⁰ □²⁶⁰.

~~[(5)]³⁴~~²²³ [(i)]²²³ Native Hawaiian rehabilitation fund. □²²³ Pursuant to Article XII, Section 1, of the [State]²⁶¹ 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, □²⁶² shall be deposited into this fund. The department shall use this money solely²⁶³ for the rehabilitation of native Hawaiians, native Hawaiian families, and Hawaiian homestead communities,²⁶³ which shall include □²⁶⁴ the educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.⁶⁸ □²²³

The native Hawaiian rehabilitation fund shall be subject to the following conditions:²³⁹

- (1) All moneys received by the fund shall be deposited in the state treasury and kept separate and apart from all other moneys in the state treasury;²³⁹
- (2) The director of finance shall serve as a custodian of the fund. All payments from the fund shall be made by the director of finance only upon vouchers approved by the commission;²³⁹
- (3) The commission shall develop guidelines for the investments in which any of the moneys shall have been invested, as well as the proceeds of such investments;²³⁹

- (4) The commission may invest and reinvest in investments authorized in chapter 88, Hawaii Revised Statutes²⁶³. The commission may hold, purchase, sell, assign, transfer, or dispose of any securities and investments in which any of the moneys shall have been invested, as well as the proceeds of such investments; and²³⁹
- (5) The commission may pay out of any of the moneys held for investment, a reasonable amount to any person for supplying investment advisory prudent investment of moneys as the commission may approve.²³⁹

Any payment of principal, interest, or other earnings arising out of the loan or investment money from this fund shall be credited to and deposited into this fund.²⁶⁵ []²²³

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]²⁶⁶, Hawaii Revised Statutes,²⁶³ necessary to administer and carry out the purposes of this fund.²⁶⁵

[]²⁶⁷

[SEC. 213.5]²⁶⁸

SEC. 213.6.²⁶⁹ HAWAIIAN HOME LANDS TRUST FUND. There is established []²⁷⁰ a trust fund to be known as the Hawaiian home lands trust fund, into which shall be deposited all appropriations by the state legislature specified to be deposited therein. Moneys of the Hawaiian home lands trust fund shall be expended by the department as provided by law upon approval by the commission and shall be used for capital improvements and other purposes undertaken in furtherance of the Act. The department shall have a²⁶⁹ fiduciary responsibility toward the trust fund and shall provide annual reports therefore to the legislature and to the beneficiaries of the trust.²⁷¹

The commission may deposit moneys from the trust fund into depositories other than the state treasury and may manage, invest, and reinvest moneys in the trust fund. The commission may hold, purchase, sell, assign, transfer, or dispose of any securities and investments in which any of the moneys have been invested as well as the proceeds of the investments. Moneys from the trust fund that are deposited into depositories other than the state treasury shall be exempt from the requirements of chapter 36 and 38.²⁶⁹ Any interest or other earnings arising out of investments from the trust fund shall be credited to and deposited into the trust fund.²⁷¹

SEC. 214. []²⁷² PURPOSES OF LOANS; AUTHORIZED ACTIONS.²⁷³ —(a)²²⁰ The ~~commission~~⁴⁹ department⁴⁹ []²⁷⁴ may make loans from the²⁷⁵ revolving²⁷⁵ funds²⁷⁵ to []²⁷⁶ any lessee or native Hawaiian³¹ to whom,²²⁰ or any agricultural²²⁰ cooperative association []²⁷⁷ to which, a lease has been issued under section 207(a) of this Act³¹ or a³¹ license has been issued under section 207(c)(1)(B)³¹ of this Act.²²⁰ Such loans may be made for the following purposes:

- (1) The ~~repair or maintenance or purchase or~~²⁷⁸ erection of dwellings on any tract and the undertaking of other permanent improvements thereon;
- (2) The purchase of livestock, swine, poultry, fowl,³¹⁰ aquaculture stock,¹⁰⁹ and farm and aquaculture¹⁰⁹ equipment; ~~and~~²⁷⁸

(3) Otherwise assisting in the development of tracts and of farm, ~~and~~¹⁰⁹ ranch²⁷⁸, and aquaculture¹⁰⁹ operation ☐²⁷⁹, including:³¹

- (A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;³¹
- (B) The liquidation of indebtedness incurred for any of the forgoing purposes relating to farm loans aged less than five years;³¹
- (C) The payment of normal and reasonable living expenses of a full-time farmer;³¹
- (D) The planning, layout, and installation of soil and water conservation practices; and³¹
- (E) Providing relief and rehabilitation to homestead farmers and ranchers due to damage by rain and wind storms, droughts, tidal wave, earthquake, volcanic eruption, and other natural catastrophes, and for livestock disease, epidemics, crop blights, and serious effects of prolonged shipping and dock strikes;³¹

(4) The cost of breaking up, planting, and cultivating land and harvesting crops, the cost of excavating or constructing aquaculture ponds and tanks,¹⁰⁹ the purchase of seeds, fertilizers, feeds, insecticides, medicines, and chemicals for disease and pest control for animals, fish, shellfish,¹⁰⁹ and crops, and the¹⁰⁹ related supplies required for ~~and~~¹⁰⁹ ranch, and aquaculture¹⁰⁹ operation, the erection of fences and other permanent improvements for farm, ~~or~~¹⁰⁹ ranch and aquaculture¹⁰⁹ purposes and the expenses of marketing²⁷⁸; and²⁷⁵

(5) To assist ~~lessees~~³¹ licensees³¹ in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by ☐²⁸⁰ native Hawaiians³¹ or by organizations formed and controlled by ☐²⁸¹ native Hawaiians.³¹

(b) In addition the department may:²²⁰

- (1) Use moneys in the ☐²⁸² Hawaiian home operating fund³¹, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, enter into an²⁸³ undertaking, agree to ☐²⁸⁴ conditions, transfer funds therein available for ☐²⁸⁵ expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for ☐ the department's²⁸⁶ projects or works;²²⁰
- (2) Loan or guarantee repayment of or otherwise underwrite any authorized loan or portion thereof ☐²⁸⁷ to lessees in accordance with section 215;²²⁰
- (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;²²⁰
- (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of ☐ these²⁸⁸ loans; provided that upon receipt of notice of default in the payment of ☐ the²⁸⁹ assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provide further that the department shall reserve the following rights:
 - (A) ☐²⁹⁰The right of succession to the lessee's interest and assumption of the contract of loan;
 - (B) ☐²⁹¹The right to require that written notice be given to the department immediately upon default or delinquency of the lessee²⁹²; and

(C) ²⁹³Any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;²²⁰

- (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and ²⁹⁴ paragraphs (2), (3), and (4)²⁹⁵ of this ~~section~~²⁹⁶ ~~subsection~~²⁹⁶, shall at no time exceed ²⁹⁷ ²⁹⁸ ²⁹⁹ \$100,000,000³⁰⁰ ³⁰¹; the department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made;³¹
- (6) Use available loan fund moneys or other funds specifically available for ~~guarantee~~³⁰²-purposes as cash guarantees when required by lending agencies;²²⁰
- (7) Exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by government agencies or by private lending institutions to lessees the repayment of which is assured by the department. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment, or otherwise underwriting of any loan, protecting of security interest, and after foreclosure, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage.²²⁰
- (8) Pledge receivables of loan accounts outstanding as collateral to secure loans made by government agencies or private lending institutions to the department, the proceeds of which shall be used by the department make new loans to lessees or to finance the development of available lands for purposes permitted by this Act; provided that any loan agreement entered into under this paragraph by the department shall include a provision that the money borrowed by the department is not secured directly or indirectly be the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the receivables specifically pledged to repay the loan; provided further that in making loans or developing available lands out of money borrowed under this paragraph, the department may establish , revise, charge, and collect fees, premiums, and charges as necessary, reasonable, or convenient, to assure repayment of the funds borrowed, and the fees, premiums, and charges shall be deposited into the Hawaiian home trust fund; and provided further that no moneys of the Hawaiian home loan fund may be pledged as security under this paragraph; and³⁰³
- (9) Notwithstanding any other provisions of this Act to the contrary, transfer into the Hawaiian home trust fund any available and unpledged moneys from any loan funds, the Hawaiian loan guarantee fund, or any fund or account succeeding thereto, except the Hawaiian home loan fund, for use as cash guarantees or reserves when required by a federal agency authorized to insure or guarantee loans to lessees.³⁰³

SEC. 215. CONDITIONS OF LOANS.³⁰⁴ Except as otherwise provided in section ³⁰⁵ ³⁰⁶ ³⁰⁷ ~~section~~³⁰⁷ 213 (c)3, each contract of loan with the lessee or ~~the~~ any⁵¹ successor or successors⁵¹ to ~~his~~³ the lessee's³ interest in the tract or with any agricultural, ~~or~~¹⁰⁹ mercantile²⁷⁵ or aquacultural¹⁰⁹ cooperative association composed entirely of lessees²⁷⁸ shall be held subject to the following conditions, whether or not stipulated in the contract ~~of~~²⁷⁵ loan:

(1) [§³⁰⁸] [§³⁰⁹] At any one time, the outstanding amount of loans made³¹⁰ to any lessee, or successor or successors in interest,⁵⁴ [§³¹¹] for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed [§³¹²] [§³¹³] [§³¹⁴] [fifty percent]³¹⁵ 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)³¹⁶, for the development ~~or~~¹⁰⁹ and¹⁰⁹ operation of a farm, ~~or~~¹⁰⁹ ranch, or aquaculture¹⁰⁹ operation shall not exceed [§³¹⁷] [§³¹⁸] \$50,000³¹⁶ except that when loans are made to an agricultural or aquaculture¹⁰⁹ cooperative association for the purposes stated in [§³¹⁹] section [§³²⁰] 214(a)(4)³²¹, 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;³¹⁰ provided that [§³²²] upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands,⁵⁴ or the cancellation of a lease by the ~~commission~~⁴⁹ department⁴⁹, or the surrender of a lease by the lessee, the ~~commission~~⁴⁹ department⁴⁹ shall make the [§³²³] payment provided for by section [§³²⁴] 209(a)³¹⁶ the amount of any such payment [§³²⁵] [§³²⁶] 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 ~~the~~²⁷⁵ case of the death of a lessee, or ~~the~~²⁷⁵ cancellation of a lease by the [§³²⁷] by the department, or the surrender of a lease by the¹⁰⁹ 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 to⁵⁴ [§³²⁸] paragraph (3).²⁹²

(2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semiannual, or annual as may be determined by the ~~commission~~⁴⁹ department⁴⁹ in each case. The term of ~~the~~²⁷⁵ any loan shall not exceed thirty years. [§³²⁹] Payments of²⁷⁸ 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 [§³³⁰] [§³³¹] two and one-half per cent²⁷⁸ [§³³²] a year for loans made directly from the Hawaiian home-loan fund, or at the rate [§³³³] of two and one-half per cent or higher as established by law³³⁴ [§³³⁵] for other loans¹⁰⁹ [§³³⁶] [§³³⁷] payable periodically or upon demand by the ~~commission~~⁴⁹ department⁴⁹, as the ~~commission~~⁴⁹ department⁴⁹ may determine.¹⁰⁶ [§³³⁸] The payment of any installment due shall [§³³⁹] be postponed in whole or in part by the ~~commission~~⁴⁹ department⁴⁹ 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 [§³⁴⁰] on the unpaid principal at the rate established for the loan.³¹⁰

(3) In the¹⁰⁹ case of the [§³⁴¹] [§³⁴²] death of a lessee⁵⁴ the ~~commission~~⁴⁹ department⁴⁹ shall, in any case,⁵⁴ permit the successor or successors to the tract to assume the contract of loan subject to [§³⁴³] paragraph (1) [§³⁴⁴]. In case of the cancellation of a lease by the ~~commission~~⁴⁹ department⁴⁹ or the surrender of a lease by ~~a~~²⁷⁵ the lessee, the ~~commission~~⁴⁹ department⁴⁹ may, at its option, declare all ~~annual~~¹⁵⁴ 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 [§³⁴⁵] paragraph (1) ⁵¹ [§³⁴⁶]. The ~~commission~~⁴⁹ department⁴⁹ may [§³⁴⁷], 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 ~~said~~¹⁰⁹ the¹⁰⁹ loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments shall, however, continue to bear interest [§³⁴⁸] on the unpaid principal at the rate established for the loan.³¹⁰ Further, the ~~commission~~⁴⁹ department⁴⁹ may, [§³⁴⁹] 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,¹⁰⁹ on the tract involved, such appraisal to be made in the manner and as provided for by section ☐³⁵⁰ 209(a)³¹⁶. 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 ☐³⁵¹ paragraph (1)⁵⁴ ☐³⁵².

(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 ~~his~~³ the borrower's³ interest ☐³⁵³ shall comply with such other conditions, not in conflict with any provision of this title, as the ~~commission~~⁴⁹ department⁴⁹ may stipulate in the contract of loan.

(6) The borrower or the successor to ~~his~~³ the borrower's³ interest ☐³⁵⁴ shall comply with the conditions enumerated in section 208, and with ☐³⁵⁵ section 209 of this ~~title~~²⁹² Act²⁹² in respect to the lease of ~~the~~²⁷⁸ any²⁷⁸ tract.

(7) Whenever the ~~commission~~⁴⁹ department⁴⁹ shall determine that a ~~lessee~~²⁷⁸ borrower²⁷⁸ is delinquent in the payment of ~~his~~²⁷⁸ any²⁷⁸ indebtedness to the ~~commission~~⁴⁹ department⁴⁹ it may require such ~~lessee~~²⁷⁸ borrower²⁷⁸ to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such ~~lessee~~²⁷⁸ borrower²⁷⁸, including the indebtedness to others the payment of which has been assured by the ~~commission~~⁴⁹ department⁴⁹ of all moneys due or to become due to such ~~lessee~~²⁷⁸ borrower²⁷⁸ by reason of any agreement or contract, collective or otherwise, to which the ~~lessee~~²⁷⁸ borrower²⁷⁸ is a party ☐³⁵⁶. Failure to execute such an assignment when requested by the ~~commission~~⁴⁹ department⁴⁹ shall be sufficient ground for cancellation of the ~~lessee's~~²⁷⁸ borrower's²⁷⁸ lease or interest therein.⁵⁴

SEC. 216. INSURANCE BY BORROWERS; ACCELERATION OF LOANS; LIEN AND

ENFORCEMENT THEREOF.³⁰⁴ (a) ²²⁰ The ~~commission~~⁴⁹ department⁴⁹ may require the borrower to insure, in such amount as the ~~commission~~⁴⁹ department⁴⁹ may ☐³⁵⁷ prescribe, ☐³⁵⁸ any livestock, aquaculture stock,¹⁰⁹ swine, poultry, fowl,²²⁰ machinery, equipment, dwellings, and permanent improvements purchased or constructed out of any moneys loaned or assured²²⁰ by the ~~commission~~⁴⁹ department⁴⁹; or in lieu thereof, the ~~commission~~⁴⁹ department⁴⁹ may directly take out such insurance and add the cost thereof to the amount of ☐³⁵⁹ principal payable under the loan.¹⁰⁶

(b)²²⁰ Whenever the ~~commission~~⁴⁹ department⁴⁹ has reason to believe that the borrower has violated any condition enumerated in paragraph (2), (4), (5), or (6) of section 215 of this ~~title~~²²⁰ Act²²⁰, the ~~commission~~⁴⁹ department⁴⁹ shall give due notice and afford opportunity for a hearing to the borrower or the successor or successors⁵¹ to his interest ☐³⁶⁰ as the case demands. If upon such hearing the ~~commission~~⁴⁹ department⁴⁹ finds that the borrower has violated the condition, the ~~commission~~⁴⁹ department⁴⁹ may declare all ☐³⁶¹ principal and interest of the loan¹⁰⁶ immediately due and payable notwithstanding any provision in the contract of loan to the contrary.

(c)²²⁰ The ~~commission~~⁴⁹ department⁴⁹ shall have a first¹⁰⁶ lien upon the borrower's or lessee's interest in ☐³⁶² any lease, growing crops, aquaculture stock,¹⁰⁹ either on ~~the~~²⁷⁸ his²⁷⁸ tract or share²²⁰ in any collective

contract or program,⁵¹ []³⁶³ livestock, swine, poultry, fowl,²²⁰ aquaculture stock,¹⁰⁹ machinery, and equipment purchased with moneys loaned by the ~~commission~~⁴⁹ department⁴⁹, and in any dwellings or other permanent improvements on any lease hold tract, to the amount of all principal and interest due and unpaid and of all taxes and insurance and improvements paid by the ~~commission~~⁴⁹ department⁴⁹, and []³⁶⁴ any other²²⁰ indebtedness of the borrower, the payment of which has been assured by the ~~commission~~⁴⁹ department⁴⁹ ²⁷⁸ []³⁶⁵. Such lien shall have priority over any other obligation for which []³⁶⁶ the¹⁰⁹ property subject to the lien²⁷⁸ may be security.

(d)²²⁰ The ~~commission~~⁴⁹ department⁴⁹ may, []³⁶⁷ subject to this Act and procedures established by rule,²²⁰ enforce any ~~such~~¹⁰⁹ lien by declaring the borrower's interest in []³⁶⁸ the property subject to the lien to be forfeited, any lease held by the borrower cancelled, and shall thereupon order such lease hold premises vacated and the property subject to the lien surrendered within a reasonable time.²⁷⁸ The right to the use and occupancy of the Hawaiian home lands contained in such ~~tract~~²⁷⁸ lease²⁷⁸ shall thereupon revert in the ~~commission~~⁴⁹ department⁴⁹, and the ~~commission~~⁴⁹ department⁴⁹ may take possession of the ~~tract~~²⁷⁸ lease¹⁰⁹ premises covered therein and the improvements and growing crops⁵¹ or improvements and aquaculture stock¹⁰⁹ thereon; provided that the ~~commission~~⁴⁹ department⁴⁹ shall pay to the borrower any difference []³⁶⁹ which may be due him after the appraisal provided for¹⁰⁹ in []³⁷⁰ section 209 []³⁷¹ has been made.⁵¹

SEC. 217. **EJECTMENT, WHEN; LOAN TO NEW LESSEE FOR IMPROVEMENTS.**³ In case the lessee or borrower or the successor to ~~his~~³ ~~an~~³ interest in the tract, as the case may be, fails to comply with any order issued by the ~~commission~~⁴⁹ department⁴⁹ under the provisions of section 210 or 216 of this title, the ~~commission~~⁴⁹ department⁴⁹ may:

- (1) Bring action of ejectment or other appropriate proceeding; or
- (2) Invoke the aid of the circuit court of the ~~Territory~~⁴⁹ State⁴⁹ for the judicial circuit in which the tract designated in the ~~commission's~~⁴⁹ department's⁴⁹ order is situated. Such court may thereupon order the lessee or ~~his~~³ ~~the lessee's~~³ successor to comply with the order of the ~~commission~~⁴⁹ department⁴⁹. Any failure to obey the order of the court may be punished by it as contempt thereof. Any tract forfeited under the provisions of section 210 or 216 of this title may be again leased by the ~~commission~~⁴⁹ department⁴⁹ as authorized by the provisions of section 207 of this title, except that the value, in the opinion of the ~~commission~~⁴⁹ department⁴⁹, of all improvements made in respect to such tract by the original lessee or any successor to ~~his~~³ ~~an~~³ interest therein shall constitute a loan by the ~~commission~~⁴⁹ department⁴⁹ to the new lessee. Such loan shall be subject to the provisions of this section and sections 215, except paragraph (1), and 216 to the same extent as loans made by the ~~commission~~⁴⁹ department⁴⁹ from the Hawaiian loan fund.

[]³⁷²

SEC. 219. **AGRICULTURAL AND AQUACULTURAL EXPERTS.**¹⁰⁹ The ~~commission~~⁴⁹ department⁴⁹ is authorized to employ agricultural and aquacultural¹⁰⁹ experts at such compensation and in such number as it deems necessary. The annual expenditures for such compensation shall not exceed \$6,000. It shall be the duty of such agricultural and aquacultural¹⁰⁹ experts to instruct and advise the lessee of any tract or the successor to the lessee's interest therein as to the best methods of diversified farming and stock raising and aquaculture operations¹⁰⁹ and such other matters as will tend successfully to accomplish the purposes of this title.

SEC. 219.1. GENERAL ASSISTANCE.³⁷³ (a)³⁷⁴ The ~~commission~~⁴⁹ department⁴⁹ is authorized to carry on any activities it deems necessary to assist the lessees in obtaining maximum utilization of the leased lands, including taking any steps necessary to develop these lands for their highest and best use commensurate with the purpose for which the land is being leased as provided for in section 207, and assisting the lessees in all phases of farming, ~~and~~¹⁰⁹ ranching, and aquaculture¹⁰⁹ operations and []the marketing of their agriculture or aquaculture¹⁰⁹ produce and livestock.²⁷⁸

(b) Notwithstanding any law to the contrary, the department either alone or together with any other governmental agency, may:³⁷⁴

- (1) Form an insurance company, association (nonprofit or otherwise), pool, or trust;³⁷⁴
- (2) Acquire an existing insurance company;³⁷⁴
- (3) Enter into arrangements with one or more insurance companies; or³⁷⁴
- (4) Undertake any combination of the foregoing; upon such terms and conditions and for such periods, as the commission shall approve, to provide homeowner protection, including hurricane coverage, for lessees participating in such undertaking. Such undertaking shall be subject to the provisions of chapter 431P, including but not limited to section 431P-10(b), and chapter 431.³⁷⁴

(c) The department, if experiencing any of the powers as authorized under subsection (b) may:³⁷⁴

- (1) Issue revenue bonds under and pursuant to part III of chapter 39, Hawaii Revised Statutes, to establish necessary reserves to provide for the payment of claims in excess of reserves and for other related purposes; or to pay any liability incurred that is self-insured or uninsured by the commission including without limitations, liabilities for damage to property, comprehensive liability, environmental, or other losses; and³⁷⁴
- (2) Invest funds held in reserve, which are not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control or as the commission may authorize by resolution.³⁷⁴

SEC. 220. []³⁷⁵DEVELOPMENT PROJECTS; APPROPRIATIONS BY LEGISLATURE; BONDS ISSUED BY LEGISLATURE⁵⁴; MANDATORY RESERVATION OF WATER.³⁷⁶ (a)³¹ Subject to subsection (d),³⁷⁶ the ~~commission~~⁴⁹ department⁴⁹ is hereby⁵⁴ authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands and to undertake other activities having to do with the economic and social welfare of the homesteader⁵⁴, including the authority to derive revenue from the sale, to others than homesteaders, of water and other products of such projects or activities, or from the enjoyment thereof by others than homesteaders, where such sale of products or enjoyment of projects or activities by others does not interfere with the proper performance of the duties of the ~~commission~~⁴⁹ department⁴⁹ ¹⁰⁶; provided, however³¹, that roads through or over Hawaiian home lands, other than Federal-aid highways and roads, shall be maintained by the county []³⁷⁷ in which ~~said~~³¹ the³¹ particular road or roads to be maintained are located.⁵⁴ ¹⁰⁶

(b)³¹ The Legislature of the ~~Territory~~⁴⁹ State⁴⁹ is authorized to appropriate out of the treasury of the ~~Territory~~⁴⁹ State⁴⁹ such sums as it deems necessary to augment the []³⁷⁸ funds of the department³¹ and to⁵⁴

provide the ~~commission~~⁴⁹ department⁴⁹ with funds sufficient to execute and carry on¹⁰⁶ such projects []³⁷⁹ and activities.⁵⁴ The legislature is further authorized to issue bonds to the extent required to yield the amount of any sums so appropriated for the payment of which, if issued for revenue-producing improvements, the ~~commission~~⁴⁹ department⁴⁹ shall provide, as set forth in section 213 (d)³¹.¹⁰⁶ []³⁸⁰

(c)³¹ To enable the construction of irrigation projects which will service Hawaiian home lands, either exclusively or in conjunction with other lands served by such projects, the ~~commission~~⁴⁹ department⁴⁹ is authorized, with the approval of the governor, and subject to subsection (d),³⁷⁶ to:

(1)³¹ Grant to the []³⁸¹ board of land and natural resources³¹, or to any other agency of the government of the ~~Territory~~⁴⁹ State⁴⁹ or the United States undertaking the construction and operation of such irrigation projects, licenses for rights-of-way for pipelines, tunnels, ditches, flumes, and other water conveying facilities, reservoirs and other storage facilities, and for the development and use of water appurtenant to Hawaiian home lands; ~~to~~³¹

(2)³¹ Exchange available lands for public lands, as provided in section 204 (4) of this Act, for sites for reservoirs and subsurface water development wells and shafts; ~~to~~³¹

(3)³¹ Request any such irrigation agency to organize irrigation projects for Hawaiian home lands and to transfer irrigation facilities constructed by the ~~commission~~⁴⁹ department⁴⁹ to any such irrigation agency; ~~to~~³¹

(4)³¹ Agree to pay the tolls and assessments made against community pastures for irrigation water supplied to such pastures; and ~~to~~³¹

(5)³¹ Agree to pay the costs of construction of projects constructed for Hawaiian home lands at the request of the ~~commission~~⁴⁹ department⁴⁹, in the event the assessments paid by the homesteaders upon lands are not sufficient to pay such costs: provided, That licenses for rights-of-way for the purposes and in the manner specified in this section may be granted for a term of years longer than is required for amortization of the costs of the project or projects requiring use of such rights-of-way only if authority for such longer grant is approved by an Act of the Legislature of the ~~Territory~~⁴⁹ State⁴⁹ of Hawaii. Such payments shall be made from, and be a charge against the Hawaiian home operating fund.³⁸²

(d) For projects, pursuant to this section, sufficient water shall be reserved for current and foreseeable domestic, stock water, aquaculture, and irrigation activities on tracts leased to native Hawaiians pursuant to section 207(a).³⁷⁶

[SEC. 220.5]³⁸³

SEC. 221. WATER.³⁸⁴ (a) When used in this section-

(1) The term "water license" means any license issued by the []³⁸⁵ board of land and natural resources⁴⁹ granting to any person the right to the use of government-owned water; and

(2) The term "surplus water" means so much of any government-owned water covered by a water license or so much of any privately owned water as is in excess of the quantity required for the use of the licensee or owner, respectively.

(b) All water licenses issued after the passage of this Act shall be deemed subject to the condition, whether or not stipulated in the license, that the licensee shall, upon the demand of the ~~commission~~⁴⁹ ~~department~~⁴⁹, grant to it the right to use, free of all charge, any water which the ~~commission~~⁴⁹ ~~department~~⁴⁹ deems necessary adequately to supply the livestock, aquaculture operations,¹⁰⁹ agriculture operations,³⁸⁴ or ~~the~~¹⁰⁹ domestic needs of individuals upon any tract.

(c) In order adequately to supply livestock, the aquaculture operations,¹⁰⁹ the agriculture operations,³⁸⁴ or the domestic needs of individuals upon any tract, the ~~commission~~⁴⁹ ~~department~~⁴⁹ is authorized

(1) to use, free of all charge, government-owned water not covered by any water license or covered by a water license issued after the passage of this Act, or covered by a water license issued previous to the passage of this Act but containing a reservation of such water for the benefit of the public, and

(2) to contract with any person for the right to use or to acquire, under eminent domain proceedings similar, as near as may be, to the proceedings provided in respect to land by sections []³⁸⁶ 101-10 to 101-34, Hawaii Revised Statutes³²¹,³²¹ the right to use any privately owned surplus water or any government-owned surplus water covered by a water license issued previous to the passage of this Act, but not containing a reservation of such water for the benefit of the public. Any such acquirement shall be held to be for a public use and purpose. The ~~commission~~⁴⁹ ~~department~~⁴⁹ may institute the eminent domain proceedings in its own name.

(d) The ~~commission~~⁴⁹ ~~department~~⁴⁹ is authorized, for the additional purpose of adequately irrigating any tract, to use, free of all charge, []³⁸⁷ Government-owned surplus water tributary to the Waimea River upon the island of Kauai, not covered by a water license or covered by a water license issued after []³⁸⁸ July 9, 1921.³⁸⁴ Any water license issued after the passage of this Act and covering any such government-owned water shall be deemed subject to the condition, whether or not stipulated therein, that the licensee shall, upon the demand of the ~~commission~~⁴⁹ ~~department~~⁴⁹, grant to it the right to use, free of all charge, []³⁸⁹ any of the surplus water tributary to the Waimea river upon the island of Kauai, which is covered by the license and which the ~~commission~~⁴⁹ ~~department~~⁴⁹ deems necessary for the additional purpose of adequately irrigating any tract.

Any funds which may be appropriated by Congress as a grant-in-aid for the construction of an irrigation and water utilization system on the island of Molokai designed to serve []³⁹⁰ Hawaiian home³⁸⁴ lands, and which are not required to be reimbursed to the federal government, shall be deemed to be payment in advance by the []³⁹¹ department³⁸⁴ and lessees of the []³⁹² department³⁸⁴ of charges to be made to them for the construction of such system and shall be credited against such charges when made.³⁸²

(e) All rights conferred on the ~~commission~~⁴⁹ ~~department~~⁴⁹ by this section to use, contract for, or³⁸⁴ acquire the use of water shall be deemed to include the right to use, contract for, or acquire the use of any ditch or pipe line constructed for the distribution and control of such water and necessary to such use by the ~~commission~~⁴⁹ ~~department~~⁴⁹.

(f) Water systems in the exclusive control of the department shall remain under its exclusive control; provided that the department may negotiate an agreement to provide for the maintenance of the water system and the billing and collection of user fees.³⁹³ If any provision or the application of ~~such~~³⁹³ that³⁹³

provision is inconsistent with []³⁹⁴ provisions³⁹³ contained ~~herein~~³⁹³ in this section³⁹³, this section shall control.⁶⁸

Water systems include all real and personal property together with all improvements to such systems acquired or constructed by the department for the distribution and control of ~~such~~³⁹³ water for domestic or agricultural use.⁶⁸

SEC. 222. []³⁹⁵ ADMINISTRATION.³⁹⁶ (a) []³⁹⁷ The department ~~may make such expenditures and shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes,~~³⁹⁸ as are necessary for the efficient execution of the functions vested in the department by this Act. All expenditures of the department []³⁹⁹, []⁴⁰⁰ and all moneys necessary for loans made by the department,³¹ in accordance with the provisions of this Act, []⁴⁰¹ shall be allowed and paid upon the presentation of itemized vouchers ~~therefor,~~³¹ approved by the chairman of the commission or the chairman's designated representative.³¹ The department shall make an annual report to the legislature of the State upon the first day of each regular session ~~thereof~~³¹ and such special reports as the legislature may from time to time require. The chairman and members¹⁹ of the commission shall give bond []⁴⁰² as required by law. The sureties upon the bond and the conditions thereof shall be approved annually by the governor.⁴⁹

(b) When land originally leased by the department ~~in accordance with chapter 171, Hawaii Revised Statutes,~~³⁹⁸ is, in turn, subleased by the department's lessee or sublessee, the department shall submit, []⁴⁰³ ~~upon the first day~~³⁹⁸ of the convening of any regular session, a written report to the legislature which shall cover the sublease transactions occurring in the ~~calendar~~³⁹⁸ fiscal³⁹⁸ year prior to the regular session and shall contain the names of persons involved in the transaction, the size of the area under lease, the purpose of the lease, the land classification of the area under lease, the tax map key number, the lease rental, the reason for approval of the sublease by the department, and the estimated net economic result accruing to the department, lessee and sublessee.⁴⁰⁴

SEC. 223. The Congress of the United States reserves the right to alter, amend, or repeal the provisions of this title.

SEC. 224. SANITATION AND RECLAMATION EXPERT.⁴⁰⁵ —⁴⁰⁶ The Secretary of the Interior shall designate from his Department someone experienced in sanitation, rehabilitation, and reclamation work to reside in the ~~Territory~~⁴⁹ State⁴⁹ []⁴⁰⁷ and cooperate with the ~~commission~~⁴⁹ department⁴⁹ in carrying out its duties. The salary of such official so designated by the Secretary of the Interior shall be paid by the []⁴⁰⁸ department while he is carrying on his duties in the State.⁴⁰⁶

SEC. 225. INVESTMENT OF LOAN⁴⁰⁹ FUNDS; DISPOSITION.⁴⁰⁹ — (a)²²⁰ The ~~commission~~⁴⁹ department⁴⁹ shall have the power and authority to invest and reinvest any of the moneys in []⁴¹⁰ any of its funds,⁴⁰⁹ not otherwise immediately needed for the purposes of the fund, in such bonds and securities as authorized by ~~Territorial~~⁴⁹ state⁴⁹ law for the investment of ~~Territorial~~⁴⁹ State⁴⁹ sinking fund moneys []⁴¹¹.

(b) (1) The department may receive, manage, and invest moneys or other property, real, personal or mixed, or any interest therein, which may be given, bequeathed, or devised, or in any manner received from sources other than the legislature or any federal appropriation, for the purposes of the Act.²²⁰

(2) All moneys received by or on behalf of the department shall be deposited into the state treasury to be expended according to law and for purposes in accordance with the terms and conditions of the gift. All

moneys shall be appropriated for purposes enumerated in such gifts and if no specific purpose is enumerated, shall be appropriated to the Hawaiian home trust fund.²²⁰

(3) The department is authorized to sell, lease, or in any way manage such real, personal, or mixed property or any interest therein, in the manner and for the purposes enumerated in the gift. If no conditions are enumerated, the gift may be sold, leased, managed, or disposed of and the income or proceeds there from shall be deposited into the Hawaiian home trust fund.²²⁰

(4) The real property or any interest therein received by the department through contributions or grants shall not attain the status of Hawaiian home lands as defined in section 201(a) (5).²²⁰

(5) The department shall cause to be kept suitable books of account wherein shall be recorded each gift, the essential facts of the management thereof, and the expenditure of income.²²⁰

(6) Any action to be taken with respect to gifts shall be made in a public meeting where any pertinent information and reasons for any decisions shall be fully disclosed.²²⁰

SEC. 226. QUALIFICATION FOR FEDERAL PROGRAMS.⁴¹²—The department shall be qualified to participate in any federal program that renders assistance in program areas that the department is mandated by the Act to implement.⁴¹²

SEC. 227. ENTERPRISE ZONES³. The department is authorized to participate in any federal or state program that permits the establishment of one or more enterprise zones on available lands, provided that participation in the program will result in economic benefits to native Hawaiians. The administration of the program shall be governed by rules adopted by the department in accordance with chapter 91, Hawaii Revised Statutes.⁴¹³

[SEC. 228]⁴¹⁴

TITLE 3.—AMENDMENTS TO HAWAIIAN ORGANIC ACT.

SEC. 301. Section 26 of the Hawaiian Organic Act is hereby amended to read as follows:

SEC. 26. That the members of the legislature shall receive for their services, in addition to mileage at the rate of 20 cents a mile each way, the sum of \$1,000 for each regular session, payable in three equal installments on and after the first, thirtieth, and fiftieth days of the session, and the sum of \$500 for each special session: *Provided*, That they shall receive no compensation for any extra session held under the provisions of section 54 of this Act.

SEC. 302. Section 55 of the Hawaiian Organic Act is hereby amended by deleting there from that Portion thereof which reads: "*Provided*, That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of one thousand acres, and all real estate acquired or held by such corporation or Association contrary hereto shall be forfeited and escheat to the United States, but existing vested rights in real estate shall not be impaired," and by amending so much of section 55 as reads, "*and* the total indebtedness of the Territory shall not at any time be extended beyond 7 per centum of such assessed

value of property in the Territory," to read as follows: "and the total indebtedness of the Territory shall not at any time be extended beyond 10 per centum of such assessed value of property in the Territory.

SEC. 303. Section 66 of the Hawaiian Organic Act is hereby amended to read as follows:

SEC. 66. That the executive power of the government of the Territory of Hawaii shall be vested in a governor, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and shall hold office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall be not less than thirty-five years of age; shall be a citizen of the Territory of Hawaii; shall have resided therein for at least three years next preceding his appointment; shall be commander in chief of the militia thereof; and may grant pardons or reprieves for offenses against the laws of the said Territory and reprieves for offenses against the laws of the United States until the decision of the President is made known thereon.

SEC. 304. The first, second, and third paragraphs of section 73 of the Hawaiian Organic Act are hereby amended to read as follows:

SEC. 73. (a) That when used in this section—

(1) The term 'commissioner' means the Commissioner of Public Lands of the Territory of Hawaii;

(2) The term 'land board' means the board of public lands, as provided in subdivision (1) of this section;

(3) The term 'public lands' includes all lands in the Territory of Hawaii classed as government or crown lands previous to August 15, 1895, or acquired by the government upon or subsequent to such date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; except (1) lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, (2) lands set apart or reserved by Executive order by the President, (3) lands set aside or withdrawn by the governor under the provisions of subdivision (g) of this section, (4) sites of public buildings, lands used for roads, streets, landings, nurseries, parks, tracts reserved for forest growth or conservation of water supply, or other public purposes, and (5) lands to which the United States has relinquished the absolute fee and ownership, unless subsequently placed under the control of the commissioner and given the status of public lands in accordance with the provisions of this Act, the Hawaiian Homes Commission Act, 1920, or the Revised Laws of Hawaii of 1915; and

(4) The term 'person' includes individual, partnership, corporation, and association.

(b) Any term defined or described in section 347 or 351 of the Revised Laws of Hawaii of 1915, except a term defined in subdivision (a) of this section, shall, whenever used in this section, if not inconsistent with the context or any provision of this section, have the same meaning as given it by such definition or description.

(c) The laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land commission awards, except as changed by this Act, shall continue in force until Congress shall otherwise provide. Subject to the approval of the President, all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian government in conformity with the laws of Hawaii between the 7th day of July, 1898, and the 28th day of September, 1899, are hereby ratified and confirmed. In said laws 'land patent' shall be substituted for

'royal patent'; 'board of public lands,' for 'minister of the interior,' 'agent of public lands,' and 'commissioners of public lands,' or their equivalents; and the words 'that I am a citizen of the United States,' or 'that I have declared my intention to become a citizen of the United States, as required by law,' for the words 'that I am a citizen by birth (or naturalization) of the Republic of Hawaii,' or 'that I have received letters of denization under the Republic of Hawaii,' or 'that I have received a certificate of special right of citizenship from the Republic of Hawaii.'

(d) No lease of agricultural lands or of undeveloped arid public land which is capable of being converted into agricultural land by the development, for irrigation purposes, of either the underlying or adjacent waters, or both, shall be granted, sold, or renewed by the government of the Territory of Hawaii for a longer period than fifteen years. Each such lease shall be sold at public auction to the highest bidder after due notice as provided in subdivision (h) of this section and the laws of the Territory of Hawaii. Each such notice shall state all the terms and conditions of the sale. The land, or any part thereof so leased, may at any time during the term of the lease be withdrawn from the operation thereof for homestead or public purposes, in which case the rent reserved shall be reduced in proportion to the value of the part so withdrawn. Every such lease shall contain a provision to that effect. *Provided*, That the commissioner may, with the approval of the governor and at least two-thirds of the members of the land board, omit such withdrawal provision from the lease of any lands suitable for the cultivation of sugar cane whenever he deems it advantageous to the Territory of Hawaii. Land so leased shall not be subject to such right of withdrawal.

(e) All funds arising from the sale or lease or other disposal of public land shall be appropriated by the laws of the government of the Territory of Hawaii and applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation, approved July 7, 1898.

(f) No person shall be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement who, or whose husband or wife, has previously taken or held more than ten acres of land under any such certificate, lease, or agreement made or issued after May 27, 1910, or under any homestead lease or patent based thereon; or who, or whose husband or wife, or both of them, owns other land in the Territory, the combined area of which and the land in question exceeds eighty acres; or who is an alien, unless he has declared his intention to become a citizen of the United States as provided by law. No person who has so declared his intention and taken or held under any such certificate, lease, or agreement shall continue so to hold or become entitled to a homestead lease or patent of the land, unless he becomes a citizen within five years after so taking.

(g) No public land for which any such certificate, lease, or agreement is issued after May 27, 1910, or any part thereof, or interest therein or control thereof, shall, without the written consent of the commissioner and governor, thereafter, whether before or after a homestead lease or patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise, conveyed, mortgaged, leased, or otherwise transferred to, or acquired or held by or for the benefit of, any alien or corporation; or before or after the issuance of a homestead lease or before the issuance of a patent to or by or for the benefit of any other person; or, after the issuance of a patent, to or by or for the benefit of any person who owns, or holds, or controls, directly or indirectly, other land or the use thereof, the combined area of which and the and in question exceeds eighty acres. The prohibitions of this paragraph shall not apply to transfers or acquisitions by inheritance or between tenants in common.

SEC. 305. The fourth and fifth paragraphs of section 73 of the Hawaiian Organic Act are hereby amended by inserting "(h)" at the beginning of the fourth paragraph and "(i)" at the beginning of the fifth paragraph.

SEC. 306. The sixth paragraph of section 73 of the Hawaiian Organic Act is hereby amended to read as follows:

(j) The commissioner, with the approval of the governor, may give to any person (1) who is a citizen of the United States or who has legally declared his intention to become a citizen of the United States and hereafter becomes such, and (2) who has, or whose predecessors in interest have, improved any parcel of public lands and resided thereon continuously for the ten years next preceding the application to purchase, a preference right to purchase so much of such parcel and such adjoining land as may reasonably be required for a home, at a fair price to be determined by three disinterested citizens to be appointed by the governor. In the determination of such purchase price the commissioner may, if he deems it just and reasonable, disregard the value of the improvements on such parcel and adjoining land. If such parcel of public lands is reserved for public purposes, either for the use of the United States or the Territory of Hawaii, the commissioner may with the approval of the governor grant to such person a preference right to purchase public lands which are of similar character, value, and area, and which are situated in the same land district. The privilege granted by this paragraph shall not extend to any original lessee or to an assignee of an entire lease of public lands.

SEC. 307. The seventh paragraph of section 73 of the Hawaiian Organic Act is hereby amended by inserting "(k)" at the beginning thereof.

SEC. 308. The eighth paragraph of section 73 of the Hawaiian Organic Act is hereby amended to read as follows:

(1) No sale of lands for other than homestead purposes, except as herein provided, and no exchange by which the Territory shall convey lands exceeding either forty acres in area or \$5,000 in value shall be made. No lease of agricultural lands exceeding forty acres in area, or of pastoral or waste lands exceeding two hundred acres in area, shall be made without the approval of two-thirds of the board of public lands, which is hereby constituted, the members of which are to be appointed by the governor as provided in section 80 of this Act, and until the legislature shall otherwise provide said board shall consist of six members, and its members be appointed for a term of four years: *Provided, however,* That the commissioner shall, with the approval of said board, sell to any citizen of the United States, or to any person who has legally declared his intention to become a citizen, for residence purposes lots and tracts, not exceeding three acres in area, and that sales of Government lands may be made upon the approval of said board whenever necessary to locate thereon railroad rights of way, railroad tracks, side tracks, depot grounds, pipe lines, irrigation ditches, pumping stations, reservoirs, factories, and mills and appurtenances thereto, including houses for employees, mercantile establishments, hotels, churches, and private schools; and all such sales shall be limited to the amount actually necessary for the economical conduct of such business or undertaking: *Provided further,* That no exchange of Government lands shall hereafter be made without the approval of two-thirds of the members of said board, and no such exchange shall be made except to acquire lands directly for public uses.

SEC. 309. The ninth paragraph of section 73 of the Hawaiian Organic Act is hereby amended by inserting "(in)" at the beginning thereof.

SEC. 310. The tenth paragraph of section 73 of the Hawaiian Organic Act is hereby amended to read as follows:

(n) It shall be the duty of the commissioner to cause to be surveyed and opened for homestead entry a reasonable amount of desirable agricultural lands and also of pastoral lands in the various parts of the Territory for homestead purposes on or before January 1, 1911, and he shall annually thereafter cause to be surveyed for homestead purposes such amount of agricultural lands and pastoral lands in various parts of the Territory as there may be demand for by persons having the qualifications of homesteaders. In laying out any homestead the commissioner shall include in the homestead lands sufficient to support thereon an ordinary family, but not exceeding eighty acres of agricultural lands and two hundred and fifty acres of first-class pastoral lands or five hundred acres of second-class pastoral lands; or in case of a homestead, including pastoral lands only, not exceeding five hundred acres of first-class pastoral lands or one thousand acres of second-class pastoral lands. All necessary expenses for surveying and opening any such lands for homesteads shall be paid for out of any funds of the Territorial treasury derived from the sale or lease of the public lands, which funds are hereby made available for such purposes

(o) The Commissioner, with the approval of the governor, may by contract or agreement authorize any person who has the right of possession, under a general lease from the Territory, of agricultural or pastoral lands included in any homestead, to continue in possession of such lands after the expiration of the lease until such time as the homesteader takes actual possession thereof under any form of homestead agreement. The commissioner may fix in the contract or agreement such other terms and conditions as he deems advisable.

SEC. 311. The eleventh and twelfth paragraphs of section 73 of the Hawaiian Organic Act are hereby amended by inserting " (p) " at the beginning of the eleventh paragraph and "(q)" at the beginning of the twelfth paragraph.

SEC. 312. The fourth paragraph of section 80 of the Hawaiian Organic Act is hereby amended to read as follows:

All officers appointed under the provisions of this section shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment.

SEC. 313. Section 86 of the Hawaiian Organic Act is hereby amended to read as follows:

SEC. 86. (a) That there shall be established in the said Territory a district court, to consist of two judges, who shall reside therein and be called district judges, and who shall each receive an annual salary of \$7,500. The said court while in session shall be presided over by only one of said judges. The two judges shall from time to time, either by order or rules of the court, prescribe at what times and in what class of cases each of them shall preside. The said two judges shall have the same powers in all matters coming before said court.

(b) The President of the United States, by and with the advice, and consent of the Senate of the United States, shall appoint two district judges, a district attorney, and a marshal of the United States for the said district all of whom shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment. Said judges, attorney, and marshal shall hold office for six years unless sooner removed by the President.

(c) The said court shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizable in a circuit court of the United States, and shall proceed therein in the same manner as a circuit court; and the said judges, district attorney, and marshal shall have and exercise in the Territory of Hawaii all the powers conferred by the laws of the United States upon the judges, district attorneys, and marshals of district and circuit courts of the United States.

(d) Writs of error and appeals from the said district court shall be had and allowed to the circuit court of appeals for the ninth judicial circuit in the same manner as writs of error and appeals are allowed from circuit courts to circuit courts of appeal as provided by law, and appeals and writs of error may be taken to the Supreme Court of the United States from said district court in cases where appeals and writs of error are allowed from the district and circuit courts of the United States to the Supreme Court, and the laws of Appeals, writs of the United States relating to juries and jury trials shall be applicable to said district court. The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. Regular terms of said court shall be held at Honolulu on the second Monday in April and October, and special terms may be held at such times and places in said district as the said judges may deem expedient. The said district judges shall appoint a clerk of said court at a salary of \$4,200 per annum and shall appoint a reporter of said court at a salary of \$3,000 per annum. The clerk of the district court with the approval of the judges thereof may appoint two deputy clerks at salaries of \$2,500 each per annum.

SEC. 314. Section 92 of the Hawaiian Organic Act is hereby amended to read as follows:

SEC. 92. That the following officers shall receive the following annual salaries, to be paid by the United States: The governor, \$10,000; the secretary of the Territory, \$5,400; the chief justice of the Supreme Court of the Territory, \$7,500; the associate judges of the Supreme Court, \$7,000 each; the judges of the circuit courts, \$6,000 each; the United States district attorney, \$5,000; the United States marshal, \$5,000. The governor shall receive annually from the United States, in addition to his salary, (1) the sum of \$1,000 for stationery, postage, and incidentals, and (2) his traveling expenses while absent from the capital on official business. The governor is authorized to employ a private secretary who shall receive an annual salary of \$3,000, to be paid by the United States.

SEC. 315. The Hawaiian Organic Act is hereby further amended by adding at the end thereof three additional sections to read as follows:

SEC. 105. That no person shall be employed as a mechanic or laborer upon any public work carried on in the Territory of Hawaii by the Government of the United States, whether the work is done by contract or otherwise, unless such person is a citizen of the United States or eligible to become such a citizen.

SEC. 106. The board of harbor commissioners of the Territory of Hawaii shall have and exercise all the powers and shall perform all the duties which may lawfully be exercised by or under the Territory of Hawaii relative to the control and management of the shores, shore waters, navigable streams, harbors, harbor and water-front improvements, ports, docks, wharves, quays; bulkheads, and landings belonging to or controlled by the Territory, and the shipping using the same, and shall have the authority to use and permit and regulate the use of the wharves, piers, bulkheads, quays, and landings belonging to or controlled by the Territory for receiving or discharging passengers and for loading and landing

merchandise, with a right to collect wharfage and demurrage thereon or therefor, and, subject to all applicable provisions of law, to fix and regulate from time to time rates for services rendered in mooring vessels, charges for the use of moorings belonging to or controlled by the Territory, rates or charges for the services of pilots, wharfage, or demurrage, rents or charges for warehouses or warehouse space, for office or office space, for storage of freight, goods, wares, and merchandise, for storage space for the use of donkey engines, derricks, or other equipment belonging to the Territory, under the control of the board, and to make other charges, including toll or tonnage charges on freight passing over or across wharves, docks, quays, bulkheads, or landings. The board shall likewise have power to appoint and remove clerks, wharfingers and their assistants, pilots and pilot-boat crews, and all such other employees as may be necessary, and to fix their compensation; to make rules and regulations pursuant to this section and not inconsistent with law; and generally shall have all powers necessary fully to carry out the provisions of this section.

All moneys appropriated for harbor improvements, including new construction, reconstruction, repairs, salaries, and operating expenses, shall be expended under the supervision and control of the board, subject to the provisions of law. All contracts and agreements authorized by law to be entered into by the board shall be executed on its behalf by its chairman.

The board shall prepare and submit annually to the governor a report of its official acts during the preceding year, together with its recommendations as to harbor improvements throughout the Territory.

SEC. 107. That this Act may be cited as the 'Hawaiian Organic Act.'

TITLE 4.—MISCELLANEOUS PROVISIONS.

SEC. 401. All Acts or parts of Acts, either of the Congress of the United States or of the Territory of Hawaii, to the extent that they are inconsistent with the provisions of this Act, are hereby repealed.

SEC. 402. If any provision of this Act, or the application of such provision *to* certain circumstances, is held unconstitutional, the remainder of the Act and the application of such provision to circumstances other than those as to which it is held unconstitutional shall not be held invalidated thereby.

[REPEALED]⁴¹⁵

Approved, July 9, 1921.

REPEALED PROPOSED AMENDMENTS.

Act 112, 1981, Haw. Sess. Laws.

Act 75, 1985, Haw. Sess. Laws.

ENDNOTES

An asterisk (*) within an endnote denotes the first textual change made by an amendment, and subsequent textual changes made by the same amendment are cross-referenced throughout the document.

¹Small capitals styling of “Title” and “Section” references, as well as the text of titles and captions, is the applied style of this document. Although small capitals were used by Congress in the original HHCA and in Congressional amendments through at least 1935, Congress used regular styling and capitalization in its amendments of 1941, including in its insertion of a section caption for section 202.

²Act 349, 1990, Haw. Sess. Laws. Adding the following text within []: *TITLE 1A: PURPOSE. SEC. 101. (a) The Congress of the United States and the State of Hawaii declare that the policy of this Act is to enable native Hawaiians to return to their lands in order to fully support self-sufficiency for native Hawaiians and the self-determination of native Hawaiians in the administration of this Act, and the preservation of the values, traditions, and culture of native Hawaiians. (b) The principal purposes of this Act include but are not limited to: (1) Establishing a permanent land base for the benefit and use of native Hawaiians, upon which they may live, farm, ranch, and otherwise engage in commercial or industrial or any other activities as authorized in this Act. (2) Placing native Hawaiians on the lands set aside under this Act in a prompt and efficient manner and assuring long-term tenancy to beneficiaries of this Act and their successors; (3) Preventing alienation of the fee title to the lands set aside under this Act so that these lands will always be held in trust for continued use by native Hawaiians in perpetuity; (4) Providing adequate amounts of water and supporting infrastructure, so that homestead lands will always be usable and accessible; and (5) Providing financial support and technical assistance to native Hawaiian beneficiaries of this Act so that by pursuing strategies to enhance economic self-sufficiency and promote community-based development, the traditions, culture and quality of life of native Hawaiians shall be forever self-sustaining. (c) In recognition of the solemn trust created by this Act, and the historical government to government relationship between the United States and the Kingdom of Hawaii, the United States and the State of Hawaii hereby acknowledge the trust established under this Act and affirm their fiduciary duty to faithfully administer the provisions of this Act on behalf of the native Hawaiian beneficiaries of the Act. (d) Nothing in this Act shall be construed to: (1) Affect the rights of the descendants of the indigenous citizens of the Kingdom of Hawaii to seek redress of any wrongful activities associated with the overthrow of the Kingdom of Hawaii; or (2) Alter the obligations of the United States and the State of Hawaii to carry out their public trust responsibilities under section 5 of the Admission Act to native Hawaiians and other descendants of the indigenous citizens of the Kingdom of Hawaii. Note: The Department interprets Act 349’s requirement of the consent of the United States Congress to be the consent of the United States.*

³*Act 197, 1997, Haw. Sess. Laws (also removing brackets surrounding section titles for sections 201, 205, 206, 210, 211, 217, and 227).

⁴Act 197, 1997, Haw. Sess. Laws. Deleting the following text within []:(1) *The term*; capitalizing first word of sentence.

⁵Act 197, 1997, Haw. Sess. Laws.

⁶Act 197, 1997, Haw. Sess. Laws. Deleting the following text within []:(2) *The term*; capitalizing first word of sentence.

⁷Act 197, 1997, Haw. Sess. Laws. Deleting the following text within []:(3) *The term*; capitalizing first word of sentence.

⁸Act 197, 1997, Haw. Sess. Laws. Deleting the following text within []:(4) *The term*

⁹Act 197, 1997, Haw. Sess. Laws. Deleting the following text within []:(5) *The term*

¹⁰Act 197, 1997, Haw. Sess. Laws. Deleting the following text within []:(6) *The term*; capitalizing first word of sentence.

¹¹Act 197, 1997, Haw. Sess. Laws. Deleting the following text within []:(7) *The term*; capitalizing first word of sentence.

¹²Act 197, 1997, Haw. Sess. Laws. Deleting the following text within []:(8) *The term*; capitalizing first word of sentence.

¹³*Hawaiian Homes Commission-Lease of Irrigated Lands for Grazing*, Pub. L. No. 83-417, 68 Stat. 263 (1954).

¹⁴*Act 302, 2001, Haw. Sess. Laws. Adding the following text which requires Congressional approval within []:*SEC. 201.5. FEDERAL REAFFIRMATION. The United States and State of Hawaii hereby reaffirm and recognize that: (1)The native Hawaiian people are a distinct native, indigenous people who have maintained their own language, culture, and traditions, and have established Hawaiian home lands areas protected under federal and*

state law; (2) The United States has a unique trust responsibility to promote the welfare of the aboriginal, indigenous people of the State, and the federal government has delegated broad authority to the State to act for their betterment; and (3) The aboriginal, indigenous people of the State retain their inherent sovereign authority and their right to organize for their common welfare. Note: The Department interprets Act 302's requirement of the consent of Congress to be the approval of Congress.

¹⁵Act 302, 2001, Haw. Sess. Laws. Adding the following text which requires Congressional approval within []: SEC. 201.6. COMMUNITY BASED GOVERNANCE ON HAWAIIAN HOME LANDS. It is the policy of the State to support participation in governance by promoting the empowerment of democratically-elected Hawaiian homestead community self-governance organizations. In furtherance of this policy, and with the consent of the Congress of the United States, the State may delegate to a democratically-elected organization representing a Hawaiian homestead community or communities the authorities delegated to the State by the United States, relating to the administration of the Hawaiian Home Commission Act, 1920, as amended. The commission may establish a working relationship with a democratically-elected Hawaiian homestead community self-governance organization to promote community welfare. The selection of authorities to be delegated shall be left to the Hawaiian homes commission's discretion. The commission may establish criteria to determine the boundaries and location of a Hawaiian homestead community and whether a Hawaiian homestead community organization is eligible for delegation. Criteria for eligibility shall include but not be limited to the following: (1) The organization and its leadership is a bona fide representative body of native Hawaiian residents, homestead lessees, qualified successors residing within the homestead community, and native Hawaiians who have designated that homestead community as their primary choice of residence with the department of Hawaiian home lands and who are awaiting an award of a lease under this Act; (2) The organization is governed by free and fair elections; and (3) The organization demonstrates sufficient capacity to implement the authorities that are delegated. The commission may contract with and delegate authority to a Hawaiian homestead community self-governance organization to perform governmental services for the homestead community represented by that homestead organization. Any such contract shall include a requirement that the government service shall be performed at a level and quality comparable to the services that would otherwise be provided by the department of Hawaiian home lands. The department of Hawaiian home lands may adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to implement this section. Note: The Department interprets Act 302's requirement of the consent of Congress to be the approval of Congress.

¹⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: COMMISSION; MEMBERS, OFFICERS, COMPENSATION.— {Pub. L. No. 82-485, 66 Stat. 515 (1952)} (a) There is hereby established a commission to be known as the 'Hawaiian Homes Commission' [] {Pub. L. No. 82-485, 66 Stat. 515 (1952)} to be composed of seven members, four of whom, including the chairman, shall be residents of the city and county of Honolulu; of the remaining members, one shall be a resident of the county of Hawaii, one a resident of the county of Maui, and one a resident of the county of Kauai {Pub. L. No. 82-485, 66 Stat. 515 (1952)}. The members shall be appointed by the Governor and may be removed in the manner provided by section 80 of the [] {Pub. L. No. 82-485, 66 Stat. 515 (1952)} Hawaiian Organic Act, as amended. All of the members shall have been residents of the Territory of Hawaii at least three years prior to their appointment and at least ~~three~~ {Pub. L. No. 82-485, 66 Stat. 515 (1952)} four {Pub. L. No. 82-485, 66 Stat. 515 (1952)} of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands ~~previous~~ {Pub. L. No. 82-485, 66 Stat. 515 (1952)} prior {Pub. L. No. 82-485, 66 Stat. 515 (1952)} to 1778. {Pub. L. No. 74-223, 49 Stat. 504 (1935)}. []¹⁶ {Pub. L. No. 74-223, 49 Stat. 504 (1935)} (b) Any vacancy in the office of an appointed member shall be filled in the same manner and under the [] {Pub. L. No. 74-223, 49 Stat. 504 (1935)} limitations of this Act. { Pub. L. No. 74-223, 49 Stat. 504 (1935)} (c) [] {Pub. L. No. 74-223, 49 Stat. 504 (1935)} One of the members shall be designated by the Governor as chairman. An executive officer and such clerical assistants as may be necessary shall be appointed by the Commission to serve at its pleasure. The executive officer shall [] {Pub. L. No. 78-320, 58 Stat. 260 (1944)} reside habitually at the major Hawaiian Homes Settlement. He shall receive an annual salary in such amount as shall be set by the Commission, from time to time, not to exceed \$6,000: Provided, That if the compensation for like positions in the Territorial service is fixed by classification thereof, pursuant to any schedule established by legislative or executive authority, such compensation may equal but shall not exceed the amount certified for the position by the Board, Commission, officer, or other agency determining such classifications for the Territorial procedure. { Pub. L. No. 78-320, 58 Stat. 260 (1944)} Clerical assistants shall be paid in accordance with Territorial practice for such services. The members of the Commission shall serve without pay, but shall receive actual expenses incurred by them in the discharge of their duties as such members. [] {Pub. L. No. 82-485, 66 Stat. 515 (1952)} The members of the Commission shall hold office for terms of five years except

that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. { Pub. L. No. 82-485, 66 Stat. 515 (1952)}

¹⁷ Act 174, 1977, Haw. Sess. Laws. is the earliest amendment on file incorporating this section title as currently reflected by the HHCA.

¹⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *14A-3, revised laws of Hawaii 1955, as amended*

¹⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws.

²⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *seven members, four of whom shall be residents of the city and county of Honolulu; of the remaining members one shall be a resident of the county of Hawaii, one a resident of the county Maui, and one a resident of the county Kauai.*

²¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 265, 1989, Haw. Sess. Laws.

²² Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 265, 1989, Haw. Sess. Laws. Deleting the following text within []: *of whom one shall be a resident of the Third Senatorial District, a second shall be a resident of the Fourth Senatorial District, and a third shall be a resident of either the Fifth, Sixth, or Seventh Senatorial District*

²³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *of Hawaii*

²⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *, and shall be compensated therefor in the sum of \$18,500 per annum.*

²⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *3-20 (o) Revised Laws of Hawaii 1955, as amended*

²⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *All other positions in the department shall be subject to the provisions of chapters 3 and 4, Revised Laws of Hawaii 1955, as amended, and employees having tenure, according to the employment practices of the department, immediately prior to the passage of this Act and occupying positions in accordance with the State's position classifications and compensation plans shall be given permanent appointment status under chapter 3 without a reduction in pay or the loss of seniority, prior service credit, vacation or sick leave earned heretofore. An employee with tenure who does not occupy a position under chapters 3 and 4*

²⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 295, 1985, Haw. Sess. Laws.

²⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 295, 1985, Haw. Sess. Laws. Deleting the following text within []: *consisting of qualified aides in finance and funding, planning and development, legal matters, agriculture and ranching, and other individuals*

²⁹ Act 148, 2002, Haw. Sess. Laws. Making the following changes to the text within []: ~~77~~

³⁰ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *development,*

³¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws.

³² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 199, 1984, Haw. Sess. Laws. Deleting the following text within []: *and no individual*

³³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 199, 1984, Haw. Sess. Laws.

³⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 199, 1984, Haw. Sess. Laws. Deleting the following text within []: *the provisions of*

³⁵ *Act 148, 2002, Haw. Sess. Laws. Making the following changes to the text within []: ~~chapters~~ chapter

³⁶ Act 148, 2002, Haw. Sess. Laws. Making the following changes to the text within []: ~~and 77~~

³⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws.

³⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 295, 1985, Haw. Sess. Laws. Deleting the following text within []: *, and employees having tenure, according to the employment practices of the department, immediately prior to June 20, 1963 and occupying positions in accordance with the state's position classifications and compensation plans shall be given permanent appointment status under chapter 76 without a reduction in pay or the loss of seniority, prior service credit, vacation or sick leave earned heretofore. An employee with tenure occupy a position under chapters 76 and 77{Act 174, 1977, Haw. Sess. Laws} shall be appointed to the position after it has been classified and assigned to an appropriate salary range by the director of personnel services and such employee shall not suffer a reduction in pay or loss of seniority and other credits earned heretofore.*

³⁹ Act 148, 2002, Haw. Sess. Laws. Making the following changes to the text within []: ~~vacancies-vacant~~

⁴⁰ Act 148, 2002, Haw. Sess. Laws. Adding the following text within []: *civil service*

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- ⁴¹ Act 148, 2002, Haw. Sess. Laws. Deleting the following text within []: *which are*
- ⁴² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 199, 1984, Haw. Sess. Laws. Deleting the following text within []: *the provisions of*
- ⁴³ Act 148, 2002, Haw. Sess. Laws. Making the following changes to the text within []: ~~chapters~~ chapter
- ⁴⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *3 and 4, Revised Laws of Hawaii 1955, as amended*
- ⁴⁵ Act 148, 2002, Haw. Sess. Laws. Deleting the following text within []: *and 77*
- ⁴⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *3-21 (e) and (l), Revised Laws of Hawaii 1955, as amended*
- ⁴⁷ Act 148, 2002, Haw. Sess. Laws. Making the following changes to the text within []: ~~sections 76-23 and 76-31~~
section 76-22.5
- ⁴⁸ Act 148, 2002, Haw. Sess. Laws. Making the following changes to the text within []: ~~;~~
- ⁴⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws.
- ⁵⁰ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 150, 1990, Haw. Sess. Laws. Added the text "or under Section ___ of the Act of _____ (___ Stat. ___, ___)." Also removes brackets surrounding the section title.
- ⁵¹ Pub. L. No. 75-200, 50 Stat. 497 (1937).
- ⁵² Pub. L. No. 73-227, 48 Stat. 777 (1934).
- ⁵³ Pub. L. No. 77-325, 55 Stat. 782 (1941). Deleting the following text within []: *Fifty-seven*
- ⁵⁴ Pub. L. No. 77-325, 55 Stat. 782 (1941).
- ⁵⁵ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 150, 1990, Haw. Sess. Laws. Deleting the following text within []: *Puuowaina*
- ⁵⁶ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 150, 1990, Haw. Sess. Laws. Deleting the following text within []: *REF. SUB-PARAGRAPH (4) IN WITHDRAWAL OF 'AVAILABLE LANDS' (III) [] {Pub. L. 75-200, 50 Stat. 497 (1937)} Portion of the land of Kalawahine situate mauka or northeast of Roosevelt High School, Honolulu, Oahu. {Pub. L. No. 75-200, 50 Stat. 497 (1937)} Being portion of L.C. award 11215, Apana 2, to Keliiahonui conveyed by W.M. Giffard to the Territory of Hawaii by deed dated February 1, 1907, and recorded in liber 291, page 1. (Being portion of the lands set aside for the Hawaiian Homes Commission by the Seventy-third Congress by Act Numbered 227, approved May 16, 1934.) Beginning at the south corner of this parcel of land and near the east corner of Roosevelt High School lot, the coordinates of said point of beginning referred to Government survey triangulation station "Punchbowl", being twenty-five and two one-hundredths feet south and four thousand one hundred and seventeen and thirty-nine one-hundredths feet east as shown on Government survey registered map numbered 2985 and running by azimuths measured clockwise from true south: 1. One hundred and twenty-eight degrees fifty-four minutes seven hundred and six and thirteen one-hundredths feet along Roosevelt High School lot, and passing over a pipe at six hundred eighty-four and thirteen one-hundredths feet; 2. Thence up along the middle of stream in all its turns and windings along the land of Kewalo-uka to the south corner of Hawaiian Home Land (Presidential Executive Order Numbered 5561), the direct azimuth and distance being two hundred and thirteen degrees forty-eight minutes forty seconds one thousand one hundred twelve and twenty one-hundredths feet; 3. Thence continuing up along the middle of stream in all its turns and windings along the land of Kewalo-uka (Presidential Executive Order Numbered 5561) to the south side of Tantalus Drive realignment[sic], the direct azimuth and distance being two hundred and twenty-eight degrees twenty-nine minutes ten seconds one thousand three hundred and ninety-one feet; 4. Thence on a curve to the right with a radius of one hundred twenty and seventy-eight one-hundredths feet along the southerly side of Tantalus Drive realignment[sic] (sixty feet wide), the direct azimuth and distance being three hundred and fifty-eight degrees twenty-one minutes one hundred ninety-three and eighty one-hundredths feet; 5. Fifty-one degrees forty-two minutes one hundred ninety-three and thirty-five one-hundredths feet along the southerly side of Tantalus Drive realignment[sic]; 6. Thence on a curve to the left with a radius of three hundred and thirty feet, along same, the direct azimuth and distance being twenty-five degrees twenty-three minutes ten seconds two hundred ninety-two and fifty-eight one-hundredths feet; 7. Twenty-two degrees fifty-three minutes two hundred ninety-one and ninety-three one-hundredths feet along the southerly side of Tantalus Drive realignment[sic] and along the west side of Kalawahine Slope lots; 8. Thence on a curve to the left with a radius of three hundred, five and sixty one-hundredths feet along the west side of the Kalawahine Slope lots, the direct azimuth and distance being six degrees twenty-one minutes thirty seconds one hundred seventy-three and eighty-five one-hundredths feet; 9. Three hundred and forty-nine degrees fifty minutes forty-seven feet along the west side of the Kalawahine Slope lots; 10. Thence on a curve to the right with a radius of five hundred and twenty feet along same and along Territorial land, the direct azimuth and distance being seventeen degrees thirty-one*

minutes four hundred eighty-three and eighteen one hundredths feet; 11. Three hundred and fifteen degrees twelve minutes seventy-five feet along Territorial land; 12. Forty-five degrees twelve minutes six hundred eleven and two one-hundredths feet along the northwest side of a twenty-foot road reserve; 13. Thirty-four degrees four minutes thirty seconds three hundred thirty-six and ninety-six one-hundredths feet along same to the point of beginning and containing an area of thirty-one and sixty one-hundredths acres {Pub. L. No. 75-200, 50 Stat. 497 (1937)}

⁵⁷ Pub. L. No. 82-481, 66 Stat. 511 (1952).

⁵⁸ Pub. L. No. 80-581, 62 Stat. 295 (1948).

⁵⁹ Pub. L. No. 80-594, 62 Stat. 303 (1935).

⁶⁰ Pub. L. No. 74-397, 49 Stat. 966 (1935).

⁶¹ Pub. L. No. 78-320, 58 Stat. 260 (1944).

⁶² Pub. L. No. 80-634, 62 Stat. 387 (1948).

⁶³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []:*Commissioner of Public Lands*

⁶⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []:*Commissioner of Public Lands*

⁶⁵ Pub. L. No. 82-481, 66 Stat. 511 (1952). Deleting the following text within []: *are on the date of the enactment of this Act residing on the lands of Auwaiolimu, Kewalo, and Kalawahine on the island of Oahu placed under the control of the Hawaiian Homes Commission by this Act, shall be given first opportunity to lease such lands on which they reside.* {Pub. L. No. 73-227, 48 Stat. 777 (1934)}

⁶⁶ Pub. L. No. 99-557, 100 Stat. 3143, (1986); Act 24, 1976, Haw. Sess. Laws (earliest amendment on file that incorporates the section title).

⁶⁷ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 14, 1990, Haw. Sess. Laws (adds to section title as currently reflected by the HHCA).

⁶⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 3, 1978.

⁶⁹ Pub. L. No. 70-105, 45 Stat. 246 (1928). Deleting the following text within []: *For a period of five years after the first meeting of the Hawaiian Homes Commission only those lands situate on the island of Molokai, which are particularly named in paragraphs 1 and 3 of section 203 hereof; Waimanu, in the district of Hamakua; Keaaukaha, in the district of South Hilo; and Panaewa, Waiakea, in the district of South Hilo, island of Hawaii, shall be available for use and disposition by said commission under the provisions of this title and none of the of remaining available lands named in said section 203 shall, after the expiration of the said five-year period, be leased, used, or otherwise disposed of by the commission under the provisions of this title, except by further authorization of Congress and with the written approval of the Secretary of the Interior of the United States.*

⁷⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []:*Commissioner of Public Lands*

⁷¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 60, 1985, Haw. Sess. Laws. Deleting the following text within []:*subdivision (d) of*

⁷² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 60, 1985, Haw. Sess. Laws.

⁷³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []:*Commissioner of Public Lands*

⁷⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 3, 1978. Deleting the following text within []: *with the approval of the Secretary of the Interior,*

⁷⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 3, 1978. Deleting the following text within []:~~him~~ {Act 24, 1976, Haw. Sess. Laws} *it* {Act 24, 1976, Haw. Sess. Laws}

⁷⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 60, 1985, Haw. Sess. Laws. Deleting the following text within []:*subdivision (d) of*

⁷⁷ Pub. L. No. 70-105, 45 Stat. 246 (1928).

⁷⁸ Pub. L. No. 70-105, 45 Stat. 246 (1928). Deleting the following text within []: *In case any available land is under lease 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 commissioner of public lands 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 of the Hawaiian Organic Act, the commissioner of public lands shall withdraw such lands from the operation of the lease whenever the commission with the approval of the Secretary of the Interior gives notice to him that the commission is of the opinion that the lands are required by it for leasing as authorized by the provisions of section 207, or for a*

community pasture as provided in section 211 of this title. 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 of the Hawaiian Organic Act.

⁷⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 3, 1978. Deleting the following text within []: *as may not be immediately needed for the purposes of this Act,*

⁸⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 90, 1981, Haw. Sess. Laws. Deleting the following text within []: *the provisions of*

⁸¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *Commissioner of Public Lands*

⁸² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 3, 1978. Deleting the following text within []: *and may be leased by him* { Act 271, H.B. 557 (1965)} *it* { Act 271, H.B. 557 (1965)} *as provided* [] {Act 271, H. B. 557 (1965)} [] {Act 24, 1976, Haw. Sess. Laws} *in chapter 171, Hawaii Revised Statutes,* {Act 24, 1976, Haw. Sess. Laws}

⁸³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 271, 1965, Haw. Sess. Laws.

⁸⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 3, 1978. Deleting the following text within []: *Any lease by the board of land and natural resources of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and lands so leased shall be withdrawn by the board of land and natural resources, for the purposes of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided, that the minimum withdrawal notice period shall be specifically stated in such lease.* {Act 271, 1965, Haw. Sess. Laws}

⁸⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 24, 1976, Haw. Sess. Laws. Deleting the following text within []: *by lease or license to the general public,*

⁸⁶ *Act 119, 2000, Haw. Sess. Laws.

⁸⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 24, 1976, Haw. Sess. Laws. Deleting the following text within []: *public lands in chapter 103A*

⁸⁸ Act 119, 2000, Haw. Sess. Laws. Deleting the following text within []: *of a lease*

⁸⁹ Act 119, 2000, Haw. Sess. Laws.

⁹⁰ Act 119, 2000, Haw. Sess. Laws. Deleting the following text within []: *section 171-59, Hawaii Revised Statutes, subject to the notice requirement of section 171-16(c), Hawaii Revised Statutes, and the lease rental limitations imposed by section 171-17(b)*

⁹¹ Act 173, 2014, Haw. Sess. Laws. . Adding the following text which requires Congressional approval within []: ; provided further that in addition to dispositions made pursuant to chapter 171, Hawaii Revised Statutes, the department may lease by direct negotiation and at fair market rents, and for a term not to exceed five years, any improvements on Hawaiian home lands, or portions thereof, that are owned or controlled by the department.

⁹² Note: If Act 236, 2021, Haw. Sess. Laws. is amended by the State to reflect their intent to apply its terms to lands held in the Hawaiian Home Lands Trust, see 43 CFR part 48.50, and it becomes effective pursuant to 43 CFR part 48.45, certain general leases issued under HHCA section 204(a) may be extended up to an additional 40 years beyond the current 65-year maximum lease term for a total lease term of up to 105 years.

⁹³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 4, 1978. Deleting the following text within []: (3) [] {Pub. L. No. 70-105, 45 Stat. 246 (1928)}. *The ~~commission~~* {Act 207, 1963, Haw. Sess. Laws} *department* {Act 207, 1963, Haw. Sess. Laws} *shall not lease, use, nor dispose of more than twenty thousand (20,000) acres of the area of Hawaiian home lands, for settlement by native Hawaiians, in any calendar five-year period.* {Pub. L. No. 70-105, 45 Stat. 246 (1928)}

⁹⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 4, 1978. Deleting the following text within []: *the governor and*

⁹⁵ Pub. L. No. 83-415, 68 Stat. 259 (1954). Deleting the following text within []: *at Waimanalo, Island of Oahu, for similarly located publicly owned lands*

⁹⁶ Pub. L. No. 83-415, 68 Stat. 259 (1954).

⁹⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 4, 1978. Deleting the following text within []: *the same*

⁹⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 60, 1985, Haw. Sess. Laws. Deleting the following text within []: *hereof,*

⁹⁹ Pub. L. No. 83-297, 68 Stat. 16 (1954).

¹⁰⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *Commissioner of Public Lands and*

¹⁰¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *Board of Public Lands*. {Act 207, 1963, Haw. Sess. Laws}

¹⁰² *Act 283, 1989, Haw. Sess. Laws. Adding the following text: In addition and supplemental to the powers granted to the department by law, and notwithstanding any law to the contrary, the department may:

- (1) With the approval of the governor, undertake and carry out the development of any Hawaiian home lands available for lease under and pursuant to section 207 of this Act by assembling these lands in residential developments and providing for the construction, reconstruction, improvement, alteration or repair of public facilities therein, including, without limitation, streets, storm drainage systems, pedestrian ways, water facilities and systems, sidewalks, street lighting, sanitary sewerage facilities and systems, utility and service corridors, and utility lines, where applicable sufficient to adequately service developable improvements therein, sites for schools, parks, off-street parking facilities, and other community facilities;
- (2) With the approval of the governor, undertake and carry out the development of available lands for homestead, commercial, and multipurpose projects as provided in section 220.5 of this Act, as a developer under this section or in association with a developer agreement entered into pursuant to this section by providing for the construction, reconstruction, improvement, alteration, or repair of public facilities for development, including, without limitation, streets, storm drainage systems, pedestrian ways, water facilities and systems, sidewalks, street lighting, sanitary sewerage facilities and systems, utility, and service corridors, and utility lines, where applicable, sufficient to adequately service developable improvements therein, sites for schools, parks, off-street parking facilities, and other community facilities;
- (3) With the approval of the governor, designate by resolution of the commission all or any portion of a development or multiple developments undertaken pursuant to this section an “undertaking” under part III of chapter 39, Hawaii Revised Statutes; and
- (4) Exercise the powers granted under section 39-53, Hawaii Revised Statutes, including the power to issue revenue bonds from time to time as authorized by the legislature.

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

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

¹⁰³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *the Commissioner of Public Lands*

¹⁰⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *board of public lands*

¹⁰⁵ Section title is not officially incorporated in any amendments on file, but is currently reflected in the HRS.

¹⁰⁶ Pub. L., No. 80-638, 62 Stat. 390 (1948).

¹⁰⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 69, 1985, Haw. Sess. Laws. Deleting the following text within []: *Not less than [] {Pub. L. No. 75-200, 50 Stat. 497 (1937)} one nor*

¹⁰⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 69, 1985, Haw. Sess. Laws.

¹⁰⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 90, 1981, Haw. Sess. Laws (amends section 219 section caption)

¹¹⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 69, 1985, Haw. Sess. Laws. Deleting the following text within []: *Not less than one hundred nor*

¹¹¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 69, 1985, Haw. Sess. Laws. Deleting the following text within []: *first-class*

¹¹² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 69, 1985, Haw. Sess. Laws. Deleting the following text within []: *(3) Not less than two hundred ~~and~~ {Act 27, 1984, Haw. Sess. Laws} fifty nor more than one thousand acres of second-class pastoral lands [] {Pub. L. No. 78-320, 58 Stat. 260 (1944)}; or (4) not less than forty nor more than one hundred acres of irrigated pastoral lands; or ~~(4)~~ (5) {Pub. L. No. 83-417, 68 Stat. 263 (1954)}*

¹¹³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 90, 1981, Haw. Sess. Laws. Deleting the following text within []: *however,*

¹¹⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 23, 1976, Haw. Sess. Laws. Deleting the following text within []: *lessee concerned:*

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- ¹¹⁵ Pub. L. No. 80-638, 62 Stat. 390 (1948). Deleting the following text within []: *both a residence and an agricultural or pastoral lot, the gross acreage of both lots not to exceed the maximum acreage of either the agricultural or pastoral lot, as the case may be, and as provided for in this section: And provided further, That any such detached residence lot shall be located on the same island as the agricultural or pastoral lot concerned, and within a reasonable distance thereof. The Commission is also authorized to grant licenses for terms of not to exceed twenty-one years in each case, to public-utility companies or corporations as easements for railroads, telephone lines, electric power, and light lines, gas mains and the like.* {Pub. L. No. 78-320, 58 Stat. 260 (1944)}
- ¹¹⁶ *Hawaiian Homes Commission Act, Pub. L. No. 80-638, 62 Stat. 390 (1948).
- ¹¹⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 27, 1984, Haw. Sess. Laws. Deleting the following text within []: *provided further, that the department may designate the location of the homesite on residence lots less than 10,000 square feet.* {Act 23, 1976, Haw. Sess. Laws}
- ¹¹⁸ Act 196, 1997, Haw. Sess. Laws. Deleting the following text within []: *The department is authorized to develop and construct multi-family units for housing native Hawaiians. The method of disposition, as well as the terms, conditions, covenants, and restrictions as to the use and occupancy of such multi-family units shall be prescribed by rules adopted by the department pursuant to chapter 91.* {Act 27, 1984, Haw. Sess. Laws}
- ¹¹⁹ Act 196, 1997, Haw. Sess. Laws. Deleting the following text within []: *United States*
- ¹²⁰ Pub. L. No. 80-638, 62 Stat. 390 (1948). Deleting the following text within []: *to churches, hospitals, public schools, and stores (the latter to be owned by lessees or by organizations formed and controlled by said lessees) for lots within the district in which agricultural lands are leased under the provisions of this section.* {Pub. L. No. 78-320, 58 Stat. 260 (1944)}
- ¹²¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 125, 1983, Haw. Sess. Laws. Deleting the following text within []: *for terms of not to exceed twenty-one years in each case, to public utility companies or corporations*
- ¹²² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 37, 1984, Haw. Sess. Laws.
- ¹²³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 125, 1983, Haw. Sess. Laws. Deleting the following text within []: -
- ¹²⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 125, 1983, Haw. Sess. Laws.
- ¹²⁵ Pub. L. No. 85-733, 72 Stat. 822 (1958)
- ¹²⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 125, 1983, Haw. Sess. Laws.
- ¹²⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 125, 1983, Haw. Sess. Laws.
- ¹²⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 37, 1984, Haw. Sess. Laws. Deleting the following text within []: *lessees of the ~~commission~~* {Act 207, 1963, Haw. Sess. Laws} {Act 207, 1963, Haw. Sess. Laws}
- ¹²⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 37, 1984, Haw. Sess. Laws. Deleting the following text within []: *said lessees*
- ¹³⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 159, 1985, Haw. Sess. Laws. Deleting the following text within []: *, with the approval of the governor,*
- ¹³¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 159, 1985, Haw. Sess. Laws. Deleting the following text within []: *for terms not to exceed five years,*
- ¹³² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 159, 1985, Haw. Sess. Laws. Deleting the following text within []: *provided, that any such license may be extended from time to time by the ~~commission~~* {Act 207, 1963, Haw. Sess. Laws} *department* {Act 207, 1963, Haw. Sess. Laws}, *with the approval of the Governor, for additional terms of three years: Provided further, That any such license shall not restrict the areas required by the ~~commission~~* {Act 207, 1963, Haw. Sess. Laws} *department* {Act 207, 1963, Haw. Sess. Laws} *in carrying on its duties, nor interfere in any way with the ~~commission's~~* {Act 207, 1963, Haw. Sess. Laws} *department's* {Act 207, 1963, Haw. Sess. Laws} *operation or maintenance activities.*
- ¹³³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 125, 1983, Haw. Sess. Laws.
- ¹³⁴ *Act 196, 1997, Haw. Sess. Laws.
- ¹³⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 175, 1974, Haw. Sess. Laws. Deleting the following text within []: *in* (amends section title as currently reflected).
- ¹³⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 66, 1973, Haw. Sess. Laws (earliest amendment on file that incorporates the section title.).
- ¹³⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *the provisions of*
- ¹³⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 60, 1985, Haw. Sess. Laws. Deleting the following text within []: *twenty-one*

¹³⁹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 305, 1990, Haw. Sess. Laws.

¹⁴⁰ Act 17, 1999, Haw. Sess. Laws. Deleting the following text within []: ~~his~~ {Act 60, 1985, Haw. Sess. Laws} *the person's* {Act 60, 1985, Haw. Sess. Laws}

¹⁴¹ *Act 17, 1999, Haw. Sess. Laws.

¹⁴² Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 305, 1990, Haw. Sess. Laws. Deleting the following text within []: *lease is made*

¹⁴³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *The lessee of agricultural lands shall plant and maintain not less than five, ten, fifteen and twenty trees per acre of land leased, and the lessee of pastoral lands shall plant and maintain not less than two, three, four and five trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of lease. Such trees shall be of types approved by the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} and at locations specified by the ~~commission's~~ {Act 207, 1963, Haw. Sess. Laws} department's {Act 207, 1963, Haw. Sess. Laws} agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} free of charge {Pub. L. No. 77-325, 55 Stat. 782 (1941)}.*

¹⁴⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 60, 1985, Haw. Sess. Laws. Deleting the following text within []: *by regulation*

¹⁴⁵ Act 17, 1999, Haw. Sess. Laws. Deleting the following text within []: ~~his~~ {Act 60, 1985, Haw. Sess. Laws} *the person's* {Act 60, 1985, Haw. Sess. Laws}

¹⁴⁶ *Act 17, 1999, Haw. Sess. Laws.

¹⁴⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 146, 1967, Haw. Sess. Laws. Deleting the following text within []: *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 {Pub. L. No. 75-200, 50 Stat. 497 (1937)}, except a native Hawaiian or Hawaiians {Pub. L. No. 75-200, 50 Stat. 497 (1937)}, and then only upon the approval of the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws}, or agree so to transfer, mortgage, pledge, or otherwise hold, his interest in the tract.*

¹⁴⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 284, 1985, Haw. Sess. Laws. Deleting the following text within []: *or mortgage, pledge,*

¹⁴⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 284, 1985, Haw. Sess. Laws. Deleting the following text within []: *mortgage, pledge,*

¹⁵⁰ Act 17, 1999, Haw. Sess. Laws. Deleting the following text within []: ~~his~~ {Act 60, 1985, Haw. Sess. Laws} *the person's* {Act 60, 1985, Haw. Sess. Laws}

¹⁵¹ *Act 12, 2002, Haw. Sess. Laws. Adding the following text which requires Congressional approval within []: *A lessee who is at least one-quarter Hawaiian who has received an interest in the tract through succession or transfer may, with the approval of the department, transfer the lessee's leasehold interest to a brother or sister who is at least one-quarter Hawaiian.*

¹⁵² Note: Act 187 2023, Haw. Sess. Laws., would likely require the addition of the following text within []: “Adopted person shall be considered as a child of both the adopted and natural parents for the sole purpose of determining familial relationships, including the identification of successors to lessees and conditions of leases under sections 208 and 209 of the Hawaiian Homes Commission Act, 1920, as amended.” The State has not submitted the proposed amendment to the Department, nor has Congressional consent been given. Upon submission by the State, the Department will provide a formal review of Act 187 and may provide additional drafting guidance to Congress to perfect the State's proposed amendment.

¹⁵³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 284, 1985, Haw. Sess. Laws. Deleting the following text within []: *mortgage, or pledge*

¹⁵⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 146, 1967, Haw. Sess. Laws.

¹⁵⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 146, 1967, Haw. Sess. Laws. Deleting the following text within []: *The lessee shall not sublet his interest in the tract or improvements thereon.*

¹⁵⁶ Pub. L. No. 75-200, 50 Stat. 497 (1937). Deleting the following text within []: *Upon the death of the lessee his interest in the tract and improvements thereon shall vest under the limitations provided for homesteads in section 403 of the Revised Laws of Hawaii of 1915;*

¹⁵⁷ Act 17, 1999, Haw. Sess. Laws. Deleting the following text within []: ~~his~~ {Act 60, 1985, Haw. Sess. Laws} *the person's* {Act 60, 1985, Haw. Sess. Laws}

¹⁵⁸ *Act 17, 1999, Haw. Sess. Laws.

¹⁵⁹ Act 196, 1997, Haw. Sess. Laws. Deleting the following text within []: *Veterans Administration*

¹⁶⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 284, 1985, Haw. Sess. Laws.

¹⁶¹ Act 196, 1997, Haw. Sess. Laws. Deleting the following text within []: *Veterans Administration*

¹⁶² *Act 53, 2005, Haw. Sess. Laws. Adding the following text within []: *or any acceptable private mortgage insurance,*

¹⁶³ Pub. L. No. 75-200, 50 Stat. 497 (1937). Deleting the following text within []: *within sixty days after they became delinquent. If the lessee fails so to pay, the commission shall thereupon pay the taxes and have a lien therefor as provided in section 216 of this title;*

¹⁶⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 60, 1985, Haw. Sess. Laws. Deleting the following text within []: *in its discretion*

¹⁶⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *however,*

¹⁶⁶ Pub. L. No. 85-710, 72 Stat. 706 (1958).

¹⁶⁷ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 305, 1990, Haw. Sess. Laws. Deleting the following text within []: *from date of lease*

¹⁶⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *(8) The department may assure the repayment of loans [] {Act 175, 1974, Haw. Sess. Laws} made by {Act 175, 1974, Haw. Sess. Laws} governmental agencies or by private lending institutions, defined as banks, building or savings and loan associations, trustees, guardians, trust companies, insurance companies, fiduciaries, and all other persons or organizations having moneys to invest, to lessees when {Act 175, 1974, Haw. Sess. Laws} ~~where~~ {Act 175, 1974, Haw. Sess. Laws} such loans have been approved by the department, up to the limits prescribed in section 215; provided that the lessee has no indebtedness due the department and the department shall not make any loans to the lessees while such assured {Act 175, 1974, Haw. Sess. Laws} loans [] {Act 175, 1974, Haw. Sess. Laws} are outstanding; provided further that upon receipt of notice of default in the payment of such assured¹³⁵ loans, the department may, upon failure of the lessee to cure the default within 60 days, cancel the lease and thereupon use its best efforts to redispense of the tract to a qualified and responsible native Hawaiian or Hawaiians as a new lessee who will assume the obligation of the outstanding debt, thereby assured, and make payments to the governmental agency or the private lending institution {Act 175, 1974, Haw. Sess. Laws} from available funds either for the monthly payments as they become due and payable or for the amount of debt. In no event shall the aggregate amount [] {Act 66, 1972, Haw. Sess. Laws} assured by the department exceed [] {Act 175, 1974, Haw. Sess. Laws} \$8,000,000. {Act 175, 1974, Haw. Sess. Laws}*

¹⁶⁹ Act 272, 1982, Haw. Sess. Laws (earliest amendment on file that incorporates section title as currently reflected).

¹⁷⁰ Pub. L. No. 75-200, 50 Stat. 497 (1937). Deleting the following text within []: *All successors, whether by agreement or process of law, to the interest of the lessee in any tract, shall be deemed to receive such interest subject to the conditions which would rest upon the lessee, if he then were the party holding the interest in the tract: Provided, That a successor receiving such interest by inheritance shall not, during the two years next following his inheritance, be deemed to have violated any of the conditions enumerated in section 208 of this title, even though he is not a native Hawaiian and does not on his own behalf occupy and use or cultivate the tract as a home or farm for such part of the year as the commission requires in accordance with the regulations prescribed by it under paragraph (4) of section 208 of this title.*

¹⁷¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 272, 1982, Haw. Sess. Laws.

¹⁷² Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 36, 1987, Haw. Sess. Laws.

¹⁷³ Pub. L. No. 77-325, 55 Stat. 782 (1941). Deleting the following text within []: *and be determined in the following manner. A lessee shall furnish the Commission, in writing, the name or names of such person or persons being a qualified native Hawaiian or Hawaiians, within the limits prescribed in the following sequence of succession, to whom he wishes his interest in the lease to be transferred after his death, this designation to be subject to the approval of the Commission: (1) In the widow or widower; (2) if there is no widow or widower, then in the children; (3) if there are no children, then in the widows or widowers of the children; (4) if there are no such widows or widowers, then in the grandchildren ; (5) if there are no grandchildren, then in the brothers and sisters; (6) if there are no brothers or sisters, then in the windows or widowers of the brothers and sisters; (7) if there are no such widows or widowers of the brothers or sisters, then in the nephews and nieces. {Pub. L. No. 75-200, 50 Stat. 497 (1937)}.*

¹⁷⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 272, 1982, Haw. Sess. Laws.

¹⁷⁵ *Act 80, 2017, Haw. Sess. Laws. Deleting the following text within []: one-quarter. Adding the following text within []: one thirty-second

¹⁷⁶ *Act 80, 2017, Haw. Sess. Laws. Deleting the following text within []: husband, wife. Adding the following text within the []: spouse

¹⁷⁷ Pub. L. No. 105-21, 111 Stat. 235 (1997); Act 37, 1994, Haw. Sess. Laws. Deleting the following text within []: or {Act 272, 1982, Haw. Sess. Laws}

¹⁷⁸ *Act 16, 2005, Haw. Sess. Laws. Deleting the following text within []: or

¹⁷⁹ Pub. L. No. 105-21, 111 Stat. 235 (1997); Act 37, 1994, Haw. Sess. Laws.

¹⁸⁰ Act 16, 2005, Haw. Sess. Laws. Adding the following text which requires Congressional approval within []: *brothers and sisters*,

¹⁸¹ *Pub. L. No. 105-21, 111 Stat. 235 (1997); Act 147, 1993, Haw. Sess. Laws within text of Act 37, 1994].

¹⁸² Pub. L. No. 105-21, 111 Stat. 235 (1997); Act 37, 1994, Haw. Sess. Laws. Deleting the following text within []: *grandchildren*,

¹⁸³ Act 16, 2005, Haw. Sess. Laws. Deleting the following text within []: *brothers and sisters*,

¹⁸⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 272, 1982, Haw. Sess. Laws. Deleting the following text within []: *Such person or persons must be qualified to be a lessee of Hawaiian home lands: provided, however, {Pub. L. No. 82-481, 66 Stat. 511 (1952)} that*

¹⁸⁵ Note: Act 187 2023, Haw. Sess. Laws., would likely require the addition of the following text within []: “Adopted person shall be considered as a child of both the adopted and natural parents for the sole purpose of determining familial relationships, including the identification of successors to lessees and conditions of leases under sections 208 and 209 of the Hawaiian Homes Commission Act, 1920, as amended.” The State has not submitted the proposed amendment to the Department, nor has Congressional consent been given. Upon submission by the State, the Department will provide a formal review of Act 187 and may provide additional drafting guidance to Congress to perfect the State’s proposed amendment.

¹⁸⁶ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *the provisions of*

¹⁸⁷ Pub. L. No. 82-481, 66 Stat. 511 (1952). Deleting the following text within []: *Public Document Numbered 227 in the Seventy-third Congress, approved May 16, 1934*

¹⁸⁸ Pub. L. No. 82-481, 66 Stat. 511, 513 *1952); Act 92, 1992, Haw. Sess. Laws. Deleting the following text within []: *section ____ of the Act ____ (Stat. __, __)*

¹⁸⁹ * Pub. L. No. 82-481, 66 Stat. 511, 513 *1952)(allowing certain non-beneficiary persons to retain their leasehold on lands of Auwaiolimu, Kewalo-Uka, and Kalawahine, on the island of O’ahu); Act 92, 1992, Haw. Sess. Laws.

¹⁹⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); 272, 1982, Haw. Sess. Laws. Deleting the following text within []: *provided further, that*

¹⁹¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); 272, 1982, Haw. Sess. Laws. Deleting the following text within []: ~~*must*~~ {Act 90, 1981, Haw. Sess. Laws} *shall* {Act 90, 1981, Haw. Sess. Laws}

¹⁹² Pub. L. No. 99-557, 100 Stat. 3143 (1986); 272, 1982, Haw. Sess. Laws. Deleting the following text within []: *In the absence of such designation as approved by the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} shall [] {Pub. L. No. 77-325, 55 Stat. 782 (1941)} select from the relatives of the lessee in the order named above, as limited by the foregoing paragraph, one or more persons who are qualified to be lessees of Hawaiian home lands, except as hereinabove provided, as the successor or successors of the lessee’s interest in the tract or tracts, and upon the death of the lessee, his interest shall vest in the person or persons so selected. The ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} may select such a successor or successors after the death of the lessee, and the rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee. {Pub. L. No. 77-325, 55 Stat. 782 (1941)}*

¹⁹³ Act 16, 2005, Haw. Sess. Laws. Adding the following text which requires Congressional approval within []: *brothers or sisters; or (5) If there is no husband, wife, child, grandchild, brother or sister, then*

¹⁹⁴ Act 16, 2005, Haw. Sess. Laws. Deleting the following text within []: *brothers and sisters*,

¹⁹⁵ Pub. L. No. 77-325, 55 Stat. 782 (1941). Deleting the following text within []: *Upon the death of a lessee, or the cancelation of a lease by the Commission, or the surrender of a lease by the lessee, the Commission shall appraise the value of all such improvements and said growing crops and shall pay to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness due the Commission, or for taxes, or for any other indebtedness the payment of which has been assured by the Commission, from the*

previous lessee. Such appraisal shall be made by three appraisers, one of which shall be named by the Commission, one by the previous lessee or the legal representative of his estate, and the third shall be selected by the two appraisers hereinbefore mentioned. {Pub. L. No. 75-200, 50 Stat. 497 (1937)}

¹⁹⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 272, 1982, Haw. Sess. Laws. Deleting the following text within []:*such relative*

¹⁹⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 272, 1982, Haw. Sess. Laws. Deleting the following text within []:*or Hawaiians*

¹⁹⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 272, 1982, Haw. Sess. Laws. Deleting the following text within []:*such relative*

¹⁹⁹*Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 137, 1985, Haw. Sess. Laws. Deleting the following text within []:*leaving no designated successor or successors, husband, wife, or children* {Act 272, 1982, Haw. Sess. Laws}

²⁰⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 137, 1985, Haw. Sess. Laws.

²⁰¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 36, 1987, Haw. Sess. Laws. Deleting the following text within []:*reimbursable out of payments made*

²⁰² *Act 122, 2001, Haw. Sess. Laws.

²⁰³ Act 109, 1994, Haw. Sess. Laws. Deleting the following text within []:~~Such~~¹⁸¹ *The appraisal shall be made by three appraisers, one of which* {Act 36, 1987, Haw. Sess. Laws} *whom* {Act 36, 1987, Haw. Sess. Laws} *shall be named by the commission* {Act 207, 1963, Haw. Sess. Laws} *department* {Act 207, 1963, Haw. Sess. Laws}, *one by the previous lessee or the legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two appraisers* [] {Act 36, 1987, Haw. Sess. Laws} *mentioned* {Act 36, 1987, Haw. Sess. Laws}. { Pub. L. No. 77-325, 55 Stat. 782 (1941)}

²⁰⁴ *Act 109, 1994, Haw. Sess. Laws.

²⁰⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 272, 1982, Haw. Sess. Laws. Deleting the following text within []:*(2)*

²⁰⁶ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 36, 1987, Haw. Sess. Laws. Deleting the following text within []:*the provisions of*

²⁰⁷ Act 109, 1994, Haw. Sess. Laws. Deleting the following text within []:*is authorized to*

²⁰⁸ Act 109, 1994, Haw. Sess. Laws. Deleting the following text within []:~~he~~ {Act 36, 1987, Haw. Sess. Laws} *the qualified Hawaiian* {Act 36, 1987, Haw. Sess. Laws}

²⁰⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 272, 1982, Haw. Sess. Law. Deleting the following text within []:*[/]* {Act 272, 1982, Haw. Sess. Law} ~~(4)~~ {Pub. L. No. 77-325, 55 Stat. 782 (1941)} *(3)* {Pub. L. No. 77-325, 55 Stat. 782 (1941)}

²¹⁰ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 36, 1987, Haw. Sess. Laws. Deleting the following text within []:*the provisions of*

²¹¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 36, 1987, Haw. Sess. Laws. Repealing the following text within []:
Sec.210.5. VALUE AND PURCHASE OF IMPROVEMENTS AT SURRENDER OR CANCELLATION. (a) For a period of ten years after the effective date of an award, transfer, succession, home replacement, or substantial improvement, as the case may be, if the lessee surrenders or the lessor cancels the lease, the department shall purchase the improvements on the lot at a price which shall not exceed the sum of: (1)The original cost of improvements to the lessee (2)The original cost of improvement added by the lessee, except when the department determines, in accordance with adopted rules, that such improvements are luxurious in nature, and (3) Simple interest on the lessee's equity in the improvements at the rate of seven per cent a year. "Equity", as used in this paragraph, means the differences between the sum of the original cost of the improvements to the lessee and improvements added by the lessee, and the principal amount on any mortgage, lien., or note outstanding.(b) After the end of the tenth year from the effective date of an award, transfer, succession, home replacement, or substantial improvement, as the case may be, the department shall purchase the improvements on the lot at a price not to exceed the appraised value of the improvements, except when the department determines, in accordance with adopted rules, that such improvements are luxurious in nature. (c) For a surrender or cancellation involving a commercial farm, in addition to purchasing the improvements, the department shall also purchase the mature crops and tree crops,. The purchase price shall not exceed the value of the mature crops and the residual value of the tree crops, and shall be established by appraisal, whether or not surrender or cancellation occurs during the ten-year restriction period.(d) In a surrender or cancellation occurring during the ten-year restriction period. The department's purchase price of the improvements shall be the lesser of the price calculated in subsection (a) and the value appraised in subsection (b).(e) In a surrender or cancellation, the department's payment to the lessee shall be

the difference of the amount calculated in subsection (a) or appraised in subsection (b) and (c), as the case may be, and any indebtedness to the department, any indebtedness for taxes, or any indebtedness the payment of which has been assured by the department at the time of surrender or cancellation of the residential lot lease. (f)

Notwithstanding any other law to the contrary, if upon surrender or cancellation, the department determines that the cost to remedy, renovate, or to restore the premises to a safe and reasonably comfortable condition is unwarranted due to the age, condition, or the estimated remaining economic life of the improvements, the department shall assign no value of the improvements. The lessee or the lessee's legal representative may be authorized by the department to dispose of the improvements under terms and conditions prescribed by the department. (g) For the purposes of this section, the appraisal of improvements or crops to be purchased by the department shall be performed by either of the following methods: (1) By one appraiser mutually agreeable to both the department and the lessee. The cost of the appraisal shall be borne equally by the department and the lessee; or (2) By not more than three disinterested appraisers of which the first shall be contracted for by the department; provided that should the lessee fail to agree upon the value, the lessee may appoint the lessee's own appraiser. If the appraisal values are different and a settlement between the department and the lessee is not possible, a third appraisal shall be performed by a disinterested appraiser appointed by the department's appraiser and the lessee's appraiser; provided that the third appraiser shall act as an arbitrator and determine the final value which shall be between the values of the first and second appraisals. The department shall pay for its own appraiser, the lessee or lessee's legal representative shall pay for its own appraiser, the lessee or lessee's legal representative shall pay for the lessee's own appraiser, and the cost of the third appraiser shall be borne equally by the lessee and the department. (h) Nothing contained in this section shall be construed in a manner as to infringe upon or prejudice in any way rights or interests which shall have vested prior to the effective date hereof. {Act 112, 1981, Haw. Sess. Laws}

²¹² Constitutional Convention Hawaii 1978 (removing brackets around section title).

²¹³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *Commissioner of Public Lands*

²¹⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 4, 1978. Deleting the following text within []: *Hawaiian Organic Act and the Revised Laws of Hawaii of 1915, except*

²¹⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 4, 1978. Deleting the following text within []: *with the approval of the Secretary of the Interior,*

²¹⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Constitutional Convention Hawaii 1978, at p. 4, 1978. Deleting the following text within []: *by it for leasing as authorized by the provisions of section 207 of this title or for a community pasture.*

²¹⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *HAWAIIAN HOME-LOAN FUND; HAWAIIAN HOME-DEVELOPMENT FUND; HAWAIIAN HOME-OPERATING FUND; {Pub. L., No. 80-638, 62 Stat. 390 (1948)} [] {Act 76, 1972, Haw. Sess. Laws} ADMINISTRATION ACCOUNT [] {Pub. L. No. 80-638, 62 Stat. 390 (1948)}; HAWAIIAN HOME-FARM LOAN FUND; HAWAIIAN HOME-COMMERCIAL LOAN FUND; HAWAIIAN HOME-REPAIR LOAN FUND; ANAHOLA-KEKAHA LOAN FUND; { Act 76, 1972, Haw. Sess. Laws} THE HAWAIIAN LOAN GUARANTEE FUND; {Act 130, 1973, Haw. Sess. Laws} [] {Act 176, 1974, Haw. Sess. Laws} PAPA KOLEA HOME-REPLACEMENT LOAN FUND {72, 1976, Haw. Sess. Laws}; ~~AND~~ {72, 1976, Haw. Sess. Laws}; THE KEAUKAHA-WAIAKEA HOME-REPLACEMENT LOAN FUND; KEAUKAHA-WAIAKEA HOME-CONSTRUCTION FUND {Act 176, 1974, Haw. Sess. Laws}; THE STATEWIDE REPLACEMENT LOAN FUND; AND THE HAWAIIAN HOME GENERAL HOME LOAN FUND {72, 1976, Haw. Sess. Laws};— (a) ~~There is~~ {Act 76, 1972, Haw. Sess. Laws} ~~are~~ {Act 76, 1972, Haw. Sess. Laws} ~~hereby established in the treasury of the Territory~~ {Act 207, 1963, Haw. Sess. Laws} ~~State~~ {Act 207, 1963, Haw. Sess. Laws} [] {Pub. L. No. 80-638, 62 Stat. 390 (1948)} [] {Act 76, 1972, Haw. Sess. Laws} ~~six~~ {Act 170, 1974, Haw. Sess. Laws} ~~seven~~ {Act 176, 1974, Haw. Sess. Laws} ~~eight~~ {Act 176, 1974, Haw. Sess. Laws} ~~eleven~~ {72, 1976, Haw. Sess. Laws}; revolving funds to be known as the Hawaiian home-loan fund, the Hawaiian home-operating fund, the Hawaiian home-farm loan, the Hawaiian home-commercial loan fund, the Hawaiian home-repair loan fund, ~~and~~ {Act 130, 1973, Haw. Sess. Laws} the Anahola-Kekaha loan fund, [] {Act 76, (1972, Haw. Sess. Laws} the Papakolea home-replacement loan fund, {Act 170, 1974, Haw. Sess. Laws} Keaukaha-Waiakea home-replacement loan fund, and the Keaukaha-Waiakea home construction fund, {Act 176, 1974, Haw. Sess. Laws} statewide replacement loan fund and the Hawaiian home general home loan fund {72, 1976, Haw. Sess. Laws}; and ~~two~~ three {Act 130, 1973, Haw. Sess. Laws} special funds to be known as the Hawaiian home-development fund, ~~and~~ {Act 130, 1973, Haw. Sess. Laws}*

the Hawaiian home-administration account {Act 76, 1972, Haw. Sess. Laws} and the Hawaiian loan guarantee fund {Act 130, 1973, Haw. Sess. Laws}. (b) HAWAIIAN HOME-LOAN FUND.—[] {Act 114, 1969, Haw. Sess. Laws} [] {Act 76, 1972, Haw. Sess. Laws} Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law, or from water licenses, [] {Act 76, 1972, Haw. Sess. Laws} shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000 {Act 76, 1972, Haw. Sess. Laws} In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209 (1), but not including interest on such loans or advances. The moneys in ~~said~~ {Act 176, 1974, Haw. Sess. Laws} the {Act 176, 1974, Haw. Sess. Laws} fund shall be available only for loans to lessees as provided for in this Act, and for the payment provided for in section 209 (1), and shall not be expended for any other purpose whatsoever, except as provided in paragraphs (c) and (d) of this section. {Pub. L., No. 80-638, 62 Stat. 390 (1948)} [] {Act 76, 1972, Haw. Sess. Laws} Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from the water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5 million, which additional amount is herein after called “Additional Receipts”, shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and [] {Act 76, 1972, Haw. Sess. Laws} advances {Act 76, 1972, Haw. Sess. Laws} made from the Additional Receipts but not from the moneys borrowed under (6) herein below, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal [] {Act 76, 1972, Haw. Sess. Laws} \$5,000,000 {Act 76, 1972, Haw. Sess. Laws}. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by the borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the state upon proper action by the legislature directing repayment. {Act 4, 1965, Haw. Sess. Laws} Eighty-five per cent of the annual Additional Receipts, hereinafter called the “Additional Receipts—Development Fund Portion,” is to be transferred to the Hawaiian home-development fund [] {Act 76, 1972, Haw. Sess. Laws}, to be used in accordance with the amended provisions of subsection (c) of this section. {Act 76, 1972, Haw. Sess. Laws} Fifteen per cent of the annual Additional Receipts, hereinafter called the “Additional Receipts—Loan Fund Portion,” shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or {Act 259, 1969, Haw. Sess. Laws} purchase or erection or improvement of dwelling on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased [] {Act 175, 1974, Haw. Sess. Law}, with loans by the department or by financial institutions, governmental or private. {Act 176, 1974, Haw. Sess. Laws} In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) herein below: {Act 4, 1965, Haw. Sess. Laws} (1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act; {Act 4, 1965, Haw. Sess. Laws} (2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorizes loan, up to ~~the a~~ {72, 1976, Haw. Sess. Laws}; maximum of [] {Act 76, 1972, Haw. Sess. Laws} [] {Act 220, 1973, Haw. Sess. Laws} [] {72, 1976, Haw. Sess. Laws}; \$35,000 {72, 1976, Haw. Sess. Laws}; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease¹³⁵ by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of [] {Act 76, 1972, Haw. Sess. Laws} [] {Act 220, 1973, Haw. Sess. Laws} [] {72, 1976, Haw. Sess. Laws} \$35,000 {72, 1976, Haw. Sess. Laws} under and in accordance with the provisos of section 215(1), subject, as stated to the provisions of section 215(3); {Act 4, 1965, Haw. Sess. Laws} (3) [] {Act 146, 1967, Haw. Sess. Laws} Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department ~~or~~ {Act 175, 1974, Haw. Sess. Laws}, other {Act 175, 1974, Haw. Sess. Laws} governmental agencies, or private lending institutions {Act 259, 1969, Haw. Sess. Law} may make loans, and the loans made in connection with the repair or maintenance or {Act 175, 1974, Haw. Sess. Laws} purchase or erection or improvement of dwellings shall be subject to, all {Act 175, 1974, Haw. Sess. Laws} applicable provisions of the Act, [] {Act 259, 1969, Haw. Sess. Laws} including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a

reduction or impairment of the Hawaiian home-loan fund, Hawaiian home-operating fund or Hawaiian home development fund or otherwise require the consent of the United States {Act 259, 1969, Haw. Sess. Laws}. Loans made to lessees by governmental agencies or private lending institutions {Act 175, 1974, Haw. Sess. Laws} shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to lessee's interests and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department {Act 76, H.B. 819 (1972, Haw. Sess. Laws)}; (4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department, [] {Act 175, 1974, Haw. Sess. Laws} other governmental agencies, or private lending institutions¹³⁵ may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or {Act 259, 1969, Haw. Sess. Laws} purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, ~~however,~~ {Act 259, 1969, Haw. Sess. Laws} the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities; {Act 4, 1965, Haw. Sess. Laws} (5) The department shall establish interest rate or rates at two and one-half per cent [] {Act 76, 1972, Haw. Sess. Laws} a year {Act 76, 1972, Haw. Sess. Laws} or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by [] {Act 175, 1974, Haw. Sess. Laws} other governmental agencies or by private lending institutions {Act 175, 1974, Haw. Sess. Laws} to native Hawaiians is higher, the department may {Act 175, 1974, Haw. Sess. Laws} pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates; {Act 4, 1965, Haw. Sess. Laws} (6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or {Act 259, 1969, Haw. Sess. Laws} purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in second paragraph of (8) hereinafter, from [] {Act 175, 1974, Haw. Sess. Laws} governmental agencies or private lending institutions {Act 175, 1974, Haw. Sess. Laws} and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes; {Act 4, 1965, Haw. Sess. Laws} (7) The department may purchase or otherwise acquire, or ~~otherwise~~ {Act 130, 1973, Haw. Sess. Laws} agree so to do, before or after default, any notes and mortgages or other securities covering loans [] {Act 175, 1974, Haw. Sess. Laws} made by other governmental agencies or by private lending institutions to native Hawaiians {Act 175, 1974, Haw. Sess. Laws} ~~and~~ {Act 175, 1974, Haw. Sess. Laws} or {Act 175, 1974, Haw. Sess. Laws} guarantee the repayment of otherwise underwrite the loans and ~~to~~ {Act 76, 1972, Haw. Sess. Laws} accept the assignment of any notes and mortgages or other securities in connection therewith; {Act 4, 1965, Haw. Sess. Laws} (8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans [] {Act 175, 1974, Haw. Sess. Laws} made by other governmental agencies or by private lending institutions to native Hawaiians {Act 175, 1974, Haw. Sess. Laws}. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment or otherwise {Act 76, 1972, Haw. Sess. Laws} underwriting, of any loan, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department. {Act 76, H.B. 819 (1972, Haw. Sess. Laws)} The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment {Act 4, 1965, Haw. Sess. Laws} (c) HAWAIIAN HOME-DEVELOPMENT FUND.—Twenty-five per ~~centum~~ {Act 76, 1972, Haw. Sess. Laws} cent {Act 76, 1972, Haw. Sess. Laws} of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund [] {Act 183, 1961, Haw. Sess. Laws}. The moneys in said development fund shall be available, with the prior written approval of the governor, [] {Act 71, 1976, Haw. Sess. Laws} for off-site improvements and development; for

improvements, additions and repairs to all assets as structures and buildings owned by the department excluding, however, such structures or improvements that the department shall be required to acquire under section 209 of this Act; for engineering and architectural planning to maintain and develop properties; for purchase of equipment of every kind and nature as the department shall deem necessary or proper for its use; for nonrevenue producing improvements to fulfill the intent of the Act not permitted in the various loan funds, the administration account or the operating fund. {Act 71, 1976, Haw. Sess. Laws} With respect to the Additional Receipts—Development Fund Portion, fifteen per cent thereof shall be used, with prior written approval of the governor, {Act 71, 1976, Haw. Sess. Laws} for off-site improvements and development; for improvements, additions and repairs to all assets as structures and buildings owned by the department excluding, however, such structures or improvements that the department shall be required to acquire under section 209 of this Act; for engineering and architectural planning to maintain and develop properties; for purchase of equipment of every kind and nature as the department shall deem necessary or proper for its use; for nonrevenue producing improvements to fulfill the intent of the Act not permitted in the various loan funds, the administration account or the operating fund, {Act 71, 1976, Haw. Sess. Laws} and the remaining eighty-five per cent shall be segregated into a special account which may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education after consultation with the University of Hawaii and the department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of the {Act 76, 1972, Haw. Sess. Laws} lessees, the funds to be used primarily at the preschool and elementary grade levels. {Act 4, 1965, Haw. Sess. Laws}. Only so much of the Additional Receipts—Development Fund Portion not encumbered at the time of appropriate legislative action directing repayment, shall be repaid to the general fund of the State. {Act 4, 1965, Haw. Sess. Laws} (d) HAWAIIAN HOME-OPERATING FUND.—All moneys received by the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} from any other source, except moneys received for {Act 130, 1973, Haw. Sess. Laws} from {Act 130, 1973, Haw. Sess. Laws} the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in said fund shall be available (1) for construction and reconstruction of revenue-producing improvements, including acquisition therefor of real property and interests therein, such as water rights or other interests; (2) for payment into the treasury of the ~~Territory~~ {Act 207, 1963, Haw. Sess. Laws} State {Act 207, 1963, Haw. Sess. Laws} of such amounts as are necessary to meet the following charges for ~~Territorial~~ {Act 207, 1963, Haw. Sess. Laws} state {Act 207, 1963, Haw. Sess. Laws} bonds issued for such revenue-producing improvements, to wit, the interest on such bonds, and the principal of such serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from ~~said~~ {Act 176, 1974, Haw. Sess. Laws} such {Act 176, 1974, Haw. Sess. Laws} funds or other funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies, or equipment and for services, to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in ~~said~~ {Act 176, 1974, Haw. Sess. Laws} the {Act 176, 1974, Haw. Sess. Laws} fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, ~~said~~ {Act 176, 1974, Haw. Sess. Laws} the {Act 176, 1974, Haw. Sess. Laws} fund, with the approval of the governor, may be supplemented by transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund in not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000. No projects or activities shall be undertaken hereunder except as authorized by sections 220 and 221 or the other provisions of this Act. {Pub. L., No. 80-638, 62 Stat. 390 (1948)} (e) MATCH MONEYS.—The ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, H.B. 1352 (1963)} is authorized and empowered to use moneys in the development and operating funds, with the prior written approval of the governor, to match federal, ~~Territorial~~ {Act 207, 1963, Haw. Sess. Laws} state {Act 207, 1963, Haw. Sess. Laws} or county funds available for the same purposes and to that end is authorized to enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works. {Pub. L., No. 80-638, 62 Stat. 390 (1948)} (f) HAWAIIAN HOME-ADMINISTRATION ACCOUNT.—The entire receipts derived from any leasing of the available lands defined in section 204 shall be deposited into the Hawaiian home-administration account. The moneys in ~~such~~ {Act 176, 1974, Haw. Sess. Laws} said {Act 176, 1974, Haw. Sess. Laws} account shall be expended by the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, H.B. 1352 (1963)} for salaries and all other administrative expenses of the department, {Act 76, 1972, Haw. Sess. Laws} not including structures and other permanent improvements, subject, however, to the following conditions and requirements: {Pub. L., No. 80-638, 62 Stat. 390 (1948)} [/] {Pub. L. No.

80-638, 62 Stat. 390 (1948)) (1) *The ~~commission~~* {Act 207, 1963, Haw. Sess. Laws} *department* {Act 207, 1963, Haw. Sess. Laws} *shall, at such time as the governor may prescribe, but not later than November 15, preceding each ~~biennial~~* {Act 13, 1959, Haw. Sess. Laws} *[]* {Act 176, 1974, Haw. Sess. Laws} *regular* {Act 176, 1974, Haw. Sess. Laws} *session of the legislature, submit to the ~~Territorial~~* {Act 207, 1963, Haw. Sess. Laws} *state* {Act 207, 1963, Haw. Sess. Law} *[]* {Act 114, H.B. 32 (1963, Haw. Sess. Laws} *director of finance* {Act 114, 1963, Haw. Sess. Laws} *its budget estimates of expenditures for the next ensuing ~~biennium~~* {Act 13, 1959, Haw. Sess. Laws} *(fiscal period* {Act 13, 1959, Haw. Sess. Laws}) *in the manner and form and as required by ~~Territorial~~* {Act 207, 1963, Haw. Sess. Laws} *state* {Act 207, 1963, Haw. Sess. Laws} *law of ~~Territorial~~* {Act 207, 1963, Haw. Sess. Laws} *state* {Act 207, 1963, Haw. Sess. Laws} *departments and establishments.* {Pub. L. No. 77-325, 55 Stat. 782 (1941)} (2) *The ~~commission's~~* {Act 207, 1963, Haw. Sess. Laws} *department's* {Act 207, 1963, Haw. Sess. Laws} *budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.* *[]* {Pub. L. No. 80-638, 62 Stat. 390 (1948)} (3) *Upon approval by the legislature of the ~~commission's~~* {Act 207, 1963, Haw. Sess. Laws} *department's* {Act 207, 1963, Haw. Sess. Laws} *budget estimate of expenditures for the ensuing ~~biennium~~* {Act 13, 1959, Haw. Sess. Laws} *(fiscal period* {Act 13, 1959, Haw. Sess. Laws} *[]* {Pub. L. No. 80-638, 62 Stat. 390 (1948)} *the amount thereof shall be available to the ~~commission~~* {Act 207, 1963, Haw. Sess. Laws} *department* {Act 207, 1963, Haw. Sess. Laws} *for ~~said~~* {Act 130, 1973, Haw. Sess. Laws} *the* {Act 130, 1973, Haw. Sess. Laws} *~~biennium~~* {Act 13, 1959, Haw. Sess. Laws} *(fiscal period* {Act 13, 1959, Haw. Sess. Laws}) *) and shall be expendable by the ~~commission~~*⁹⁹ *department*⁹⁹ *for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of \$200,000, shall be available for such expenditures; any amount of money in said account in excess of the amount approved by the legislature for the ~~biennium~~* {Act 13, 1959, Haw. Sess. Laws} *(fiscal period* {Act 13, 1959, Haw. Sess. Laws}) *or so made available shall be transferred to the* *[]* {Pub. L. No. 85-708, 72 Stat. 705 (1958)} *Hawaiian home-development fund* {Pub. L. No. 85-708, 72 Stat. 705 (1958)}, *such transfer to be made immediately after the amount of moneys deposited in ~~said~~* {Act 176, 1974, Haw. Sess. Laws} *the* {Act 176, 1974, Haw. Sess. Laws} *administration account shall equal the amount approved by the legislature or so made available.*¹⁰⁶ (4) *The money in ~~said~~* {Act 176, 1974, Haw. Sess. Laws} *the* {Act 176, 1974, Haw. Sess. Laws} *administration account shall be expended by the ~~commission~~* {Act 207, 1963, Haw. Sess. Laws} *department* {Act 207, 1963, Haw. Sess. Laws} *in accordance with ~~Territorial~~* {Act 207, 1963, Haw. Sess. Laws} *state* {Act 207, 1963, Haw. Sess. Laws} *laws, rules, and regulations and practices.* {Pub. L., No. 80-638, 62 Stat. 390 (1948)} *[]* {Pub. L. No. 80-638, 62 Stat. 390 (1948)} (g) *HAWAIIAN HOME-FARM LOAN FUND.—The department shall create a fund of \$500,000 out of ~~the~~* {Pub. L., No. 80-638, 62 Stat. 390 (1948)} *moneys heretofore appropriated to it by the legislature to be known as the "farm loan fund." The moneys in this fund shall be used to make loans to lessees of agricultural tracts leased under the provisions of section 207 of this Act. Such loans shall be subject to restrictions imposed by sections 214 and 215 of this act.* {Act 76, 1972, Haw. Sess. Laws} (h) *HAWAIIAN HOME-COMMERCIAL LOAN FUND.—The department is authorized to create a fund out of which loans may be made to those holding ~~leases~~* {Act 172, 1974, Haw. Sess. Laws} *licenses* {Act 172, 1974, Haw. Sess. Laws} *issued under section 207 of this Act. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by ~~said~~* {Act 176, 1974, Haw. Sess. Laws} *the* {Act 176, 1974, Haw. Sess. Laws} *lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act* {Act 76, 1972, Haw. Sess. Law} (i) *HAWAIIAN HOME-REPAIR LOAN FUND.—The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the Hawaiian home-repair loan fund. The moneys in this fund shall be used to make loans in amounts not in excess of* *[]* {Act 76, 1972, Haw. Sess. Laws} *\$10,000* {Act 72, 1976, Haw. Sess. Laws} *to lessees for repairs to their existing homes and for ~~necessary~~* {Act 72, 1976, Haw. Sess. Laws} *additions to such homes* *[]* {Act 72, 1976, Haw. Sess. Laws} *Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.* {Act 72, 1976, Haw. Sess. Laws} (j) *ANAHOLA-KEKAHA FUND.—The department shall create a fund of \$121,500 out of the moneys heretofore appropriated to it by the legislature to be known as the Anahola-Kekaha fund. The moneys in this fund shall be used to make loans to lessees who are to be residents of Anahola-Kekaha on the island of Kauai to construct homes upon ~~homestead~~* {Act 72, 1976, Haw. Sess. Laws} *their residence* {Act 72, 1976, Haw. Sess. Laws} *lots. Such loans shall be* *[]* {Act 174, 1974, Haw. Sess. Laws} *subject to the restrictions imposed by sections 214 and 215 of this Act.* {Act 174, 1974, Haw. Sess. Laws} (k) *THE HAWAIIAN HOME LOAN GUARANTEE FUND.—The department is authorized to create a fund* *[]* {Act 175, 1974, Haw. Sess. Laws} *to support, if necessary, its guarantee of repayment of* {Act 175, 1974, Haw. Sess. Laws} *loans made by governmental agencies or by private*¹³⁵ *lending institutions to those holding*

leases or licenses issued under section 207 of this Act [] {Act 175, 1974, Haw. Sess. Laws}. The loan guarantees shall be subject to the restrictions imposed by sections 208, 214, and 215 of this Act. {Act 130, 1973, Haw. Sess. Laws} The department's guarantee of repayment shall be adequate security for a loan under any State law prescribing the nature, amount, or form of security or requiring security upon which loans may be made {Act 175, 1974, Haw. Sess. Laws}. (l) PAKOLEA HOME-REPLACEMENT LOAN FUND.—The department shall create a fund of \$200,000 out of moneys heretofore appropriated to it by the legislature to be known as the Papakolea home-replacement loan fund. The moneys in this fund shall be used to make loans to lessees who are residents of Papakolea on the island of Oahu to construct replacement homes upon their residence lots. Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act. {Act 176, 1974, Haw. Sess. Laws} (m) [] {Act 176, 1974, Haw. Sess. Laws} KEAUKAHA-WAIAKEA HOME-REPLACEMENT LOAN FUND.—The department is authorized to create a fund to be known as the “Keaukaha-Waiakea home-replacement loan fund.” The moneys in this fund shall be used to make loans to lessees who are residents of Keaukaha-Waiakea on the island of Hawaii to construct replacement homes upon [] {Act 176, 1974, Haw. Sess. Laws} their residence {Act 176, 1974, Haw. Sess. Laws} lots. Such loans shall be [] {Act 176, 1974, Haw. Sess. Laws} subject to the restrictions imposed by sections 214 and 215 of this Act. {Act 176, 1974, Haw. Sess. Laws} (n) KEAUKAHA-WAIAKEA HOME CONSTRUCTION FUND.—The department is authorized to create a fund to be known as the Keaukaha-Waiakea home construction fund. The moneys in this fund shall be used to make loans to [] {Act 176, 1974, Haw. Sess. Laws} lessees {Act 176, 1974, Haw. Sess. Laws} to construct homes upon their {Act 176, 1974, Haw. Sess. Laws} vacant ~~homestead~~ {Act 176, 1974, Haw. Sess. Laws} residence {Act 176, 1974, Haw. Sess. Laws} lots. Such loans shall be [] {Act 176, 1974, Haw. Sess. Laws} subject to the restrictions imposed by sections 214 and 215 of this Act. {Act 176, 1974, Haw. Sess. Laws} (o) STATEWIDE REPLACEMENT LOAN FUND.—The department shall create a fund of \$5,250,000 out of moneys heretofore appropriated to it by the legislature to be known as the Statewide replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their residence lots. Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act. {Act 176, 1974, Haw. Sess. Laws} (p) HAWAIIAN HOME GENERAL HOME LOAN FUND.—The department shall create a fund to be known as the Hawaiian home general home loan fund. Funds appropriated by the legislature for the construction of home but not otherwise set aside for a particular fund shall be deposited to this fund. The moneys in this fund shall be used to make loans to lessees for the purposes set forth by the legislature in the enactment appropriating said funds. Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act. {Act 176, 1974, Haw. Sess. Laws}

²¹⁸ Act 76, 1972, Haw. Sess. Laws; Act 130, 1973, Haw. Sess. Laws; Act 170, 1974, Haw. Sess. Laws; Act 179, 1974, Haw. Sess. Laws; Act 72, 1976, Haw. Sess. Laws; Act 229, 1978, Haw. Sess. Laws (amending section title)

²¹⁹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []:
the additional receipts loan fund,

²²⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws.

²²¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []:
the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund

²²² Act 145, 1993, Haw. Sess. Laws. Deleting the following text within []: (1). NOTE: Although Act 145 requires Congressional approval to become effective, this Reference Guide displays portions of the proposed amendment providing better structure, organization, readability, and means of reference. Such provisions, taken separately, would likely qualify as administrative amendments.

²²³ *Act 145, 1993, Haw. Sess. Laws. Revising within [] numbering of subsections and paragraphs, capitalizing first words of such subsections and paragraphs as appropriate; deleting extraneous words where appropriate. See NOTE in previous endnote.

²²⁴ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []:
(1) Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including: {Act 229, 1978, Haw. Sess. Laws} (A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and {Act 229, 1978, Haw. Sess. Laws} The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements on account of advances, but not including interest on such loans or advances, shall not exceed \$5,000,000.

²²⁵ Act 145, 1993, Haw. Sess. Laws. Deleting the following text within []: (b)(1) of this section.

²²⁶ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts," shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-two per cent to the Hawaiian home education fund; provided that [] {Act 260, 1984, Haw. Sess. Laws} the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000 [] {Act 260, 1984, Haw. Sess. Laws}. {Act 229, 1978, Haw. Sess. Laws}*

²²⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 143, 1983, Haw. Sess. Laws.

²²⁸ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *(2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans or advances, shall be used for the purposes enumerated in section 214 of this Act. {Act 229, 1978, Haw. Sess. Laws} (3).*

²²⁹ Act 145, 1993, Haw. Sess. Laws. Deleting the following text within []: (2)

²³⁰ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *excluding moneys appropriated*

²³¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *the Hawaiian ~~loan~~ {Act 143, 1983, Haw. Sess. Laws} home {Act 143, 1983, Haw. Sess. Laws} interest fund*

²³² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 260, 1984, Haw. Sess. Laws.

²³³ *Act 145, 1993, Haw. Sess. Laws. Deleting the following text within []: *of this Act*

²³⁴ Act 145, 1993, Haw. Sess. Laws. Deleting the following text within []: *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;*

²³⁵ Act 145, 1993, Haw. Sess. Laws. Deleting the following text within []: (A)

²³⁶ Act 145, 1993, Haw. Sess. Laws. Deleting the following text within []: (B)

²³⁷ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *(4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their [] {Act 158, 1981, Haw. Sess. Laws} lots. Moneys appropriate by the legislature for replacement home construction loans; moneys transferred from the Hawaiian ~~loan~~ {Act 143, 1983, Haw. Sess. Laws} home {Act 143, 1983, Haw. Sess. Laws} interest fund; installments principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund {Act 229, 1978, Haw. Sess. Laws} (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian ~~loan~~ {Act 143, 1983, Haw. Sess. Laws} home {Act 143, 1983, Haw. Sess. Laws} interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited ~~to~~ {Act 260, 1984, Haw. Sess. Laws} into {Act 260, 1984, Haw. Sess. Laws} this fund. The moneys in this fund shall be used to make loans in amounts not in excess of [] {Act 203, 1981, Haw. Sess. Laws} \$15,000 {Act 203, 1981, Haw. Sess. Laws} to lessees for repairs to their existing homes and for additions to such homes. {Act 229, 1978, Haw. Sess. Laws} (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian ~~loan~~ {Act 143, 1983, Haw. Sess. Laws} home {Act 143, 1983, Haw. Sess. Laws} interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited ~~to~~ {Act 260, 1984, Haw. Sess. Laws} into {Act 260, 1984, Haw. Sess. Laws} this fund. The moneys in this fund shall be used to make loans not in excess of \$35,000 to lessees of agricultural tracts and tracts used for aquaculture {Act 90, 1981, Haw. Sess. Laws} leased under section 207 of this Act. {Act 229, 1978, Haw. Sess. Laws} In addition to the purposes enumerated in section 214(1) such loans may be made for the following purposes: {Act 143, 1983, Haw. Sess. Laws} (A) The initial and on-going devilmint, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises; {Act 143, 1983, Haw. Sess. Laws} (B) The liquidation of indebtedness incurred for any of the foregoing purposes relating to farm loans aged less than five years; {Act 143, 1983, Haw. Sess. Laws} (C) The payment of normal and reasonable living expense of a full-time farmer; ²²⁷ (D) The planning, layout, and installation of soil and water conservation practices; or {Act 143, 1983, Haw. Sess. Laws} (E) For emergency purposes to provide relief and rehabilitation to homestead farmers and ranchers due to damage by rain and wind storms, droughts, tidal wave, earthquake, volcanic eruption, and other natural catastrophes, and for livestock disease, epidemics, crop blights and serious effects of prolonged shipping and dock strikes. {Act 143, 1983, Haw. Sess. Laws} In addition to the*

conditions enumerated in section 215 farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive a major portion of his income from farming; 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. 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 lessee is required to carry out recommended farm management practices approved by a qualified agricultural agency. {Act 143, 1983, Haw. Sess. Laws} (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian ~~loan~~ {Act 143, 1983, Haw. Sess. Laws} home {Act 143, 1983, Haw. Sess. Laws} interest fund, except moneys received by the Hawaiian home administration account shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available: {Act 229, 1978, Haw. Sess. Laws} (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests; {Act 229, 1978, Haw. Sess. Laws} (B) 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; {Act 229, 1978, Haw. Sess. Laws} (C) For operation and maintenance of such improvements constructed from such funds or other funds; {Act 229, 1978, Haw. Sess. Laws} (D) 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 {Act 229, 1978, Haw. Sess. Laws} For appraisals, studies, consultants (architects, engineers), or any other staff services including those in section 202(b) required to implement, develop, and 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, maybe supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregated {Act 260, 1984, Haw. Sess. Laws} aggregate {Act 260, 1984, Haw. Sess. Laws} amount of such transfers outstanding at any one time shall not exceed \$500,000. {Act 229, 1978, Haw. Sess. Laws}

²³⁸ Act 27, 1998, Haw. Sess. Laws. Deleting the following text within []:~~seven~~{ Constitutional Convention Hawaii 1978, at p. 2, 1978.}~~eight~~{ Constitutional Convention Hawaii 1978, at p. 2, 1978} ~~five~~{ Act 249, 1986, Haw. Sess. Laws}~~special~~

²³⁹ *Act 27, 1998, Haw. Sess. Laws.

²⁴⁰ Act 27, 1998, Haw. Sess. Laws. Deleting the following text within []:~~the Hawaiian home administration account,~~

²⁴¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []:~~the Hawaiian loan guarantee fund,~~

²⁴² Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []:~~the borrowed money fund,~~

²⁴³ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []:~~and~~{ Constitutional Convention Hawaii 1978, at p. 2, 1978} ~~the Hawaiian home education fund~~{Act 229, 1978, Haw. Sess. Laws},

²⁴⁴ Act 174, 2012, Haw. Sess. Laws; deleted the following text within []: *Expenditures and procurements less than \$100,000 made from these trust funds and accounts shall be exempt from chapter 103D, Hawaii Revised Statutes; provided that the department shall develop internal policies and procedures for the procurement of goods, services, and construction that are consistent with the goals of public accountability and public procurement practices for expenditures from these funds. The department is encouraged to use the provisions of chapter 103D, Hawaii Revised Statutes, where possible; provided that the use of one or more provisions of chapter 103D, Hawaii Revised Statutes, shall not constitute a waiver of the exemption from that chapter and shall not subject the department to any other provision of chapter 103D, Hawaii Revised Statutes.*

The department shall submit an annual report to the legislature no later than twenty days before the convening of each regular session. The report shall include, but not be limited to, solicitations of goods, services, and construction, types of procurements, and awardees. {Self-repealed on June 30, 2015.}

²⁴⁵ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []:~~Moneys transferred to~~

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- ²⁴⁶ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *or the operating fund.* {Act 229, 1978, Haw. Sess. Laws}
- ²⁴⁷ Act 145, 1993, Haw. Sess. Laws. Adding the following text within []: *or other disposition*
- ²⁴⁸ Act 145, 1993, Haw. Sess. Laws. Deleting the following text within []: *defined in*
- ²⁴⁹ Act 145, 1993, Haw. Sess. Laws. Adding the following text within []: *pursuant to*
- ²⁵⁰ Act 145, 1993, Haw. Sess. Laws. Making the following text change within []: ~~204 of this Act~~ 204(2)
- ²⁵¹ *Act 152, 1994, Haw. Sess. Laws.
- ²⁵² Act 145, 1993, Haw. Sess. Laws. Deleting the following text within []:
- ²⁵³ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: (3) *The Hawaiian loan guarantee fund. There may be created a fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to those holding leases or licenses issued under section 207 of this Act. The department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made.* {Act 229, 1978, Haw. Sess. Laws} (4)
- ²⁵⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 143, 1983, Haw. Sess. Laws. Deleting the following text within []: *the borrowed money fund, and* {Act 192, 1981, Haw. Sess. Laws} *the Hawaiian home loan fund, and the native Hawaiian rehabilitation fund* {Act 192, 1981, Haw. Sess. Laws}
- ²⁵⁵ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *the Hawaiian home development fund,*
- ²⁵⁶ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: (5) *Moneys transferred to the Hawaiian home administration account shall be used to fund salaries and other administrative expenses related to loan services and delinquent collection activities.* {Act 260, 1984, Haw. Sess. Laws} (6) *Borrowed money fund. The department may borrow from government agencies or private lending institutions and deposit borrowed moneys into this fund to be used for the purpose 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 upon loans made to them from this fund shall be deposited into this fund* {Act 229, 1978, Haw. Sess. Laws}; *any additional interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home interest fund* {Act 143, 1983, Haw. Sess. Laws}
- ²⁵⁷ Act 145, 1993, Haw. Sess. Laws. Making the following text substitution within []: ~~All~~ *Except for gifts, bequests, and other moneys given for designated purposes,*
- ²⁵⁸ Act 145, 1993, Haw. Sess. Laws. Adding the following text within []: *Department of*
- ²⁵⁹ Act 145, 1993, Haw. Sess. Laws. Making the following text substitution within []: ~~Administration~~ *Affairs*
- ²⁶⁰ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: (7) *Hawaiian home education fund. Moneys transferred to this fund may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education and department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.* {Act 229, 1978, Haw. Sess. Laws}
- ²⁶¹ Act 187, 2010, Haw. Sess. Laws. Deleting and adding the following text within [] ~~State-Hawaii~~
- ²⁶² Act 187, 2010, Haw. Sess. Laws. Adding the following text within []: *and fifteen per cent of all revenues from lease agreements granted lease extensions pursuant to section ____;* {Act 175, 2012, Haw. Sess. Laws.} repealing the same language.
- ²⁶³ *Act 117, 2002, Haw. Sess. Laws.
- ²⁶⁴ *Act 117, 2002, Haw. Sess. Laws. Deleting the following text within []: *but not be limited to*
- ²⁶⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 192, 1981, Haw. Sess. Laws.
- ²⁶⁶ Act 145, 1993, Haw. Sess. Laws. Adding the following text within []: *under chapter 91*
- ²⁶⁷ Act 187, 2010, Haw. Sess. Laws. Adding the following text within []: *The department shall submit an annual report to the legislature and the United States Department of the Interior, no later than twenty days prior to the convening of each regular session of the legislature, beginning with the regular session of 2011, on expenditures from this fund that are derived from the amounts deposited from commercial and multipurpose project lease extensions pursuant to section (e), including the amount expended, the recipients of the moneys expended, and the purpose of the expenditure.*”; {Act 175, 2012, Haw. Sess. Laws.} repealing the same language.
- ²⁶⁸ Act 283, 1989, Haw. Sess. Laws. Creating section 213.5 with the following text: *A separate special fund of the department shall be established for each undertaking or part thereof financed from the proceeds of revenue bonds*
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equally secured. Each fund shall be designated “department of Hawaiian home lands revenue bond special fund” and bear any additional designation the department deems appropriate to properly identify the fund. Any law to the contrary notwithstanding, including nay provision of this Act, from and after the issuance of revenue bonds under the pursuant to the provisions of this Act and part III of chapter 39, Hawaii Revised Statutes, to finance an undertaking , all rentals, income, receipts, and other revenues derived by the department from the particular undertaking for which financing is undertaken shall be paid into the special fund established pursuant to this Act and applied in the manner and for the purposes set forth in part III of chapter 39, Hawaii Revised Statutes, and the proceedings authorizing the issuance of revenue bonds. (including section title as currently reflected).

²⁶⁹ *Act 177, 2006, Haw. Sess. Laws.

²⁷⁰ Act 177, 2006, Haw. Sess. Laws. Deleting the following text within []:*in the treasury of the State*

²⁷¹ *Act 14, 1995, Haw. Sess. Laws (including section title as currently reflected).

²⁷² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *LOANS, PURPOSES OF.* {Act 14, 1962, Haw. Sess. Laws}

²⁷³ Act 76, 1972, Haw. Sess. Laws.; Act 209, Haw. Sess. Laws (amending section title as currently reflected).

²⁷⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *is hereby authorized to*

²⁷⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 76, H.B. 819 (1972).

²⁷⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *the lessee of any tract, or* {Act 14, 1962, Haw. Sess. Laws} *the successor to his interest therein*

²⁷⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *all of whose members are lessees.* {Act 14, 1962, Haw. Sess. Laws}

²⁷⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 259, H.B. 21 (1969).

²⁷⁹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *and* {Act 259, 1969, Haw. Sess. Laws}

²⁸⁰ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *lessees of the department*

²⁸¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *said* {Act 229, 1978, Haw. Sess. Laws} *the* {Act 229, 1978, Haw. Sess. Laws} *lessee* {Act 76, 1972, Haw. Sess. Laws}

²⁸² Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *development in operating funds*

²⁸³ Act 114, 2011, Haw. Sess. Laws. Deleting and adding the following text within []: ~~*such*~~ *an*

²⁸⁴ Act 114, 2011, Haw. Sess. Laws. Deleting the following text within []: ~~*such*~~

²⁸⁵ Act 114, 2011, Haw. Sess. Laws. Deleting the following text within []: ~~*such*~~

²⁸⁶ Act 114, 2011, Haw. Sess. Laws. Deleting and adding the following text within []: ~~*such*~~ *the department's*

²⁸⁷ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 28, 1989, Haw. Sess. Laws. Deleting the following text within []: *up to a maximum of []* {Act 203, 1981, Haw. Sess. Laws} *\$50,000* {Act 203, 1981, Haw. Sess. Laws}

²⁸⁸ Act 114, 2011, Haw. Sess. Laws. Deleting and adding the following text within []: ~~*such*~~ *these*

²⁸⁹ Act 114, 2011, Haw. Sess. Laws. Deleting and adding the following text within []: ~~*such*~~ *the*

²⁹⁰ Act 114, 2011, Haw. Sess. Laws. Deleting and adding the following text within []: ~~*the*~~ (A) The

²⁹¹ Act 114, 2011, Haw. Sess. Laws. Deleting and adding the following text within []: ~~*the*~~ (B) The

²⁹² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 203, 1981, Haw. Sess. Laws.

²⁹³ Act 114, 2011, Haw. Sess. Laws. Deleting and adding the following text within []: ~~*any*~~ (C) Any

²⁹⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 203, 1981, Haw. Sess. Laws. Deleting the following text within []: *paragraph (3)*

²⁹⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 209, 1979, Haw. Sess. Laws.

²⁹⁶ *Act 283, 1997, Haw. Sess. Laws.

²⁹⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 203, 1981, Haw. Sess. Laws. Deleting the following text within []: *\$18,000,000* {Act 229, 1978, Haw. Sess. Laws}

²⁹⁸ Act 232, 1996, Haw. Sess. Laws. Deleting the following text within []: *\$21,000,000* {Act 209, 1979, Haw. Sess. Laws}

²⁹⁹ Act 114, 2011, Haw. Sess. Laws. Deleting the following text within []: *\$50,000,000*

³⁰⁰ *Act 232, 1996, Haw. Sess. Laws.

³⁰¹ Act 114, 2011, Haw. Sess. Laws. Adding the following text within []: *\$100,000,000*

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- ³⁰² Act 114, 2011, Haw. Sess. Laws. Deleting and adding the following text within *[]:such guarantee*
- ³⁰³ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 85, 1986, Haw. Sess. Laws.
- ³⁰⁴ Act 14, 1962, Haw. Sess. Laws, (earliest amendment on file incorporating the section title as currently reflected).
- ³⁰⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 90, 1981, Haw. Sess. Laws. Deleting the following text within *[]:213(i), {Act 76, 1972, Haw. Sess. Laws}*
- ³⁰⁶ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 28, 1989, Haw. Sess. Laws. Deleting the following text within *[]:213(a)(5)*
- ³⁰⁷ Act 197, 1997, Haw. Sess. Laws. Deleting the following text within *[]:213(a)(2){Act 28, 1989, Haw. Sess. Laws}*
- ³⁰⁸ Pub. L. No. 75-200, 50 Stat. 497 (1937). Deleting the following text within *[]: to any one borrower outstanding at any one time*
- ³⁰⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 173, 1974, Haw. Sess. Laws. Deleting the following text within *[]:The amount of loans*
- ³¹⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 173, 1974, Haw. Sess. Laws.
- ³¹¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 173, 1974, Haw. Sess. Laws. Deleting the following text within *[]: of a tract of agricultural or pastoral land {Pub. L. No. 75-200, 50 Stat. 497 (1937)} shall not, with respect to the provisions of subsections (1), (2), and (3) of section 214, {Act 14, 1962, Haw. Sess. Laws} exceed []{Pub. L. No. 80-638, 62 Stat. 390 (1948)} []{Pub. L. No. 82-482, 66 Stat. 514 (1952)} []{Pub. L. No. 82-482, 66 Stat. 514 (1952)} []{Act 29, 1968, Haw. Sess. Laws} \$25,000{Act 29, 1968, Haw. Sess. Laws} []{Pub. L. No. 75-200, 50 Stat. 497 (1937)}; ~~and~~{Act 14, S.B. 96 (1962, Haw. Sess. Laws} to any lessee {Hawaiian Homes Commission Act, Pub. L. No. 75-200, 50 Stat. 497 (1937)}, or successor or successors in interest, of a residence lot⁵⁴ shall not exceed []{Pub. L. No. 80-638, 62 Stat. 390 (1948)} []{Pub. L. No. 82-482, 66 Stat. 514 (1952)} []{Act 18, 1962, Haw. Sess. Laws} []{Act 29, 1968, Haw. Sess. Laws} \$20,000{Act 29, 1968, Haw. Sess. Laws}, but with respect to the provisions of subsection (4) of section 214 shall be without limit, and to any agricultural cooperative association shall be determined by the ~~commission~~{Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} on basis of the proposed operations of the association and the security available {Act 14, 1962, Haw. Sess. Laws} And with respect to subsection (5) of section 214 shall be determined by the department on the basis of the proposed operations of the lessee(s) or the association or the security available, {Act 76, 1972, Haw. Sess. Laws}*
- ³¹² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 72, 1976, Haw. Sess. Laws. Deleting the following text within *[]:\$25,000*
- ³¹³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 203, 1981, Haw. Sess. Laws. Deleting the following text within *[]: \$35,000{Act 72, 1976, Haw. Sess. Laws}*
- ³¹⁴ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 28, 1989, Haw. Sess. Laws. Deleting the following text within *[]:\$50,000{Act 203, 1981, Haw. Sess. Laws}*
- ³¹⁵ Act 130, 2024, Haw. Sess. Laws would amend amount to 75%. Act 130 has not yet been submitted by the State to the Department for review.
- ³¹⁶ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 28, 1989, Haw. Sess. Laws.
- ³¹⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 72, 1976, Haw. Sess. Laws. Deleting the following text within *[]:\$25,000*
- ³¹⁸ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 28, 1989, Haw. Sess. Laws. Deleting the following text within *[]:\$35,000{Act 72, 1976, Haw. Sess. Laws},*
- ³¹⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 90, 1981, Haw. Sess. Laws. Deleting the following text within *[]:paragraph (4) of section 214*
- ³²⁰ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 28, 1989, Haw. Sess. Laws. Deleting the following text within *[]:214(1)(4){Act 90, 1981, Haw. Sess. Laws}*
- ³²¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 90, 1981, Haw. Sess. Laws.
- ³²² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 90, 1981, Haw. Sess. Laws. Deleting the following text within *[]:where,*
- ³²³ Pub. L. No. 77-325, 55 Stat. 782 (1941). Deleting the following text within *[]: appraisal and*
- ³²⁴ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 28, 1989, Haw. Sess. Laws. Deleting the following text within *[]:209 (1)*
- ³²⁵ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 28, 1989, Haw. Sess. Laws. Deleting the following text within *[]:made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be,*
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- ³²⁶ Pub. L. No. 77-325, 55 Stat. 782 (1941). Deleting the following text within []: *shall be considered as part or all, as the case may be, of any such loan without limitation as to the maximum amounts herein specified in this section.* {Pub. L. No. 75-200, 50 Stat. 497 (1937)}
- ³²⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 29, 1968, Haw. Sess. Laws. Deleting the following text within []: ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} *department* {Act 207, 1963, Haw. Sess. Laws}, *or the surrender of a lease by the*
- ³²⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 203, 1981, Haw. Sess. Laws. Deleting the following text within []: ~~the~~ {Act 76, 1972, Haw. Sess. Laws} *provisions of paragraph (3) of this section.*
- ³²⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *Provided, That payments in*
- ³³⁰ Pub. L. No. 82-482, 66 Stat. 514 (1952). Deleting the following text within []: *3 per centum*
- ³³¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *2½ per centum* {Pub. L. No. 82-482, 66 Stat. 514 (1952)}
- ³³² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 76, 1972, Haw. Sess. Laws. Deleting the following text within []: *per annum*
- ³³³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 72, 1976, Haw. Sess. Laws. Deleting the following text within []: *the State has*
- ³³⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 72, 1976, Haw. Sess. Laws.
- ³³⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 72, 1976, Haw. Sess. Laws. Deleting the following text within []: *for other loans*³¹⁰
- ³³⁶ Act 107, 2000, Haw. Sess. Laws. Deleting the following text within []: *law* {Act 72, 1976, Haw. Sess. Laws} *for other loans*
- ³³⁷ *Act 107, 2000, Haw. Sess. Laws. Adding the following text which requires Congressional approval within []: *rule adopted by the department*
- ³³⁸ Pub. L. No. 80-638, 62 Stat. 390 (1948). Deleting the following text within []: *upon an amortization plan by means of a fixed number of annual* {Pub. L. No. 77-325, 55 Stat. 782 (1941)} *installments, such installments to be monthly, quarterly, semiannual, or annual as may be determined by the Commission in each case,* {Pub. L. No. 77-325, 55 Stat. 782 (1941)} *sufficient to cover (a) interest on the unpaid principal at the rate of* [] {Pub. L. No. 75-200, 50 Stat. 497 (1937)} *3* {Pub. L. No. 75-200, 50 Stat. 497 (1937)} *per centum per annum, and (b) such amount of the principal as will extinguish the debt within an agreed period not exceeding thirty years. The moneys received by the Commission from any installment paid upon such loan shall be covered into the fund.*
- ³³⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *, with the concurrence therein of* [] {Act 14, 1962, Haw. Sess. Laws} *the majority of all the* {Act 14, 1962, Haw. Sess. Laws} *members of the* ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} *department* {Act 207, 1963, Haw. Sess. Laws},
- ³⁴⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 173, 1974, Haw. Sess. Laws. Deleting the following text within []: *at the rate of* [] {Pub. L. No. 77-325, 55 Stat. 782 (1941)}. [] {Pub. L. No. 82-482, 66 Stat. 514 (1952)} *two and one-half per cent* {Pub. L. No. 82-482, 66 Stat. 514 (1952)} [] {Act 76, 1972, Haw. Sess. Laws} *a year on the unpaid principal* [] {Pub. L. No. 77-325, 55 Stat. 782 (1941)}
- ³⁴¹ Pub. L. No. 77-325, 55 Stat. 782 (1941). Deleting the following text within []: *borrower's*
- ³⁴² Pub. L. No. 75-200, 50 Stat. 497 (1937). Deleting the following text within []: *interest in his tract or his successor's interest therein is transferred to or mortgaged, pledged, or otherwise held for the benefit of any native Hawaiian, or agreed so to be transferred, mortgaged, pledged, or otherwise held, as permitted by paragraph (5) of section 208 of this title, the commission may at its option declare all annual installments upon the loan immediately due and payable or permit the successor to the borrower's interest in the tract to assume the contract of loan. In case of the borrower's death, the commission shall permit the successor to the borrower's interest in the tract to assume the contract of loan.*
- ³⁴³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 173, 1974, Haw. Sess. Laws. Deleting the following text within []: *the provisions of*
- ³⁴⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 203, 1981, Haw. Sess. Laws. Deleting the following text within []: *of this section*
- ³⁴⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 173, 1974, Haw. Sess. Laws. Deleting the following text within []: *the provisions of*

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- ³⁴⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 203, 1981, Haw. Sess. Laws. Deleting the following text within []: *of this section*
- ³⁴⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *, with the concurrence therein of [] {Act 14, 1962, Haw. Sess. Laws} of the majority of all its Act 14, 1962, Haw. Sess. Laws} members*
- ³⁴⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 173, 1974, Haw. Sess. Laws. Deleting the following text within []: *at the rate of [] {Pub. L. No. 82-482, 66 Stat. 514 (1952)} [] {Pub. L. No. 82-482, 66 Stat. 514 (1952)} two and one-half per cent {Pub. L. No. 82-482, 66 Stat. 514 (1952)} a year {Act 76, 1972, Haw. Sess. Laws} on the unpaid principal.*
- ³⁴⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *with the concurrence therein of [] Act 14, 1962, Haw. Sess. Laws} the majority of all its Act 14, 1962, Haw. Sess. Laws} members,*
- ³⁵⁰ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 28, 1989, Haw. Sess. Laws. Deleting the following text within []: *209 (1)*
- ³⁵¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 173, 1974, Haw. Sess. Laws. Deleting the following text within []: *the provisions of*
- ³⁵² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 203, 1981, Haw. Sess. Laws. Deleting the following text within []: *of this section*
- ³⁵³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *in the tract*
- ³⁵⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *in the tract*
- ³⁵⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 203, 1981, Haw. Sess. Laws. Deleting the following text within []: *the provisions of*
- ³⁵⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *by virtue of his interest in the tract*
- ³⁵⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *by regulation*
- ³⁵⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *all livestock and dwellings and other permanent improvements upon his tract, purchased or constructed out of any moneys loaned from the fund*
- ³⁵⁹ Pub. L. No. 80-638, 62 Stat. 390 (1948). Deleting the following text within []: *the annual installments payable under the amortization plan.*
- ³⁶⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *in the tract*
- ³⁶¹ Pub. L. No. 80-638, 62 Stat. 390 (1948). Deleting the following text within []: *annual installments*
- ³⁶² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *his tract*
- ³⁶³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *dwellings, or other permanent improvements thereon, and his livestock, to the amount of all [] {Pub. L. No. 80-638, 62 Stat. 390 (1948)} principal and interest {Pub. L., No. 80-638, 62 Stat. 390 (1948)} due and unpaid and of all taxes upon such tract and improvements paid by the Commission, and of all indebtedness of the lessee, the payment of which has been assured by the Commission. {Pub. L., No. 80-638, 62 Stat. 390 (1948)}*
- ³⁶⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *of all*
- ³⁶⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *, including loans from governmental agencies where such loans have been approved by the department. {Act 146, H.B. 138 (1967)}*
- ³⁶⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *the tract, said growing crops, {Pub. L. No. 75-200, 50 Stat. 497 (1937)} dwellings, other improvements, or livestock*
- ³⁶⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *at such times as it deems advisable,*
- ³⁶⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 14, 1962, Haw. Sess. Laws. Deleting the following text within []: *his tract, or his successor's interest therein, as the case may be, together with the said growing crops,⁵¹ dwellings*

and other permanent improvements thereon, and the livestock, to be forfeited, and the lease in respect to such tract canceled, and shall thereupon order the tract to be vacated and the livestock surrendered within a reasonable time.

³⁶⁹ Pub. L. No. 75-200, 50 Stat. 497 (1937). Deleting the following text within []: *in his favor between (1) the fair value of the live stock and any improvements in respect to the tract made by the borrower or any predecessor to his interest in the tract, and (2) the amount of the lien.*

³⁷⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *paragraph (1) of*

³⁷¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 229, 1978, Haw. Sess. Laws. Deleting the following text within []: *of this title*

³⁷² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 146, 1967, Haw. Sess. Laws. Repealing the following text within []: *SEC. 218. No lessee of any tract or any successor to his interest therein shall be eligible to receive in respect to such tract any loan made under the provisions of the act of the legislature of the Territory entitled "the Farm Loan Act of Hawaii, approved April 30, 1919.*

³⁷³ Act 325, 1991, Haw. Sess. Laws (renames section 219 and 219.1 title as currently reflected)

³⁷⁴ Pub. L. No. 105-21, 11 Stat. 235 (1997); Act 339, 1993, Haw. Sess. Laws.

³⁷⁵ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: **DEVELOPMENT PROJECTS; APPROPRIATIONS BY STATE LEGISLATURE; BONDS ISSUED BY LEGISLATURE.** It is likely this deletion was the result of a drafting error committed by the State when it submitted Act 249, 1986, to Congress. Evidence for this supposition is found in the State's passage of Act 325, 1991, which included the deleted text as if the text had not been previously proposed for deletion by the State (Act 249, 1986) and then deleted by Congress in 73 Stat. 4 (1992). Because the proposed edit by the State was likely a drafting error, is non-substantive, and hinders the readability of the HHCA, for the purpose of the guide, the title of Sec. 220 will remain listed in green.

³⁷⁶ *Act 325, 1991, Haw. Sess. Laws (incorporates section title as currently reflected).

³⁷⁷ Act 325, 1991, Haw. Sess. Laws. Deleting the following text within []: *or city and county*

³⁷⁸ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *Hawaiian home-loan fund, the Hawaiian home-development fund, the Hawaiian home-operating fund {Pub. L., No. 80-638, 62 Stat. 390 (1948)} and the Hawaiian home-administration account*

³⁷⁹ Pub. L. No. 77-325, 55 Stat. 782 (1941). Deleting the following text within []: *to carry on its administration and maintenance activities, and to accumulate a revolving loan fund of \$1,000,000 {Pub. L. No. 75-200, 50 Stat. 497 (1937)}.*

³⁸⁰ Pub. L. No. 80-638, 62 Stat. 390 (1948). Deleting the following text within []: *The Commission shall pay from the Hawaiian home-loan fund into the treasury of the Territory—(1) Upon the date when any interest payment becomes due upon any bond so issued, the amount of the interest then due; and (2) Commencing with the first such date more than one year subsequent to the issuance of any bond and at each interest date thereafter, an amount such that the aggregate of all such amounts which become payable during the term of the bond, compounded annually at the rate of interest specified therein, shall equal the par value of the bond at the expiration of its term.*

³⁸¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *Hawaiian Irrigation Authority*

³⁸² Pub. L. No. 84-899, 70 Stat. 915 (1956).

³⁸³ *Act 84, 1986, Haw. Sess. Laws (subject to consent; also note that upon consent, the administrative portions in blue will immediately take effect).

SEC. 220.5. DEVELOPMENT BY CONTRACT; DEVELOPMENT BY PROJECT DEVELOPER AGREEMENT.

(a) Notwithstanding any law to the contrary, the department is authorized to enter into and carry out contracts to develop available lands for homestead, commercial, and multi-purpose projects; provided that the department shall not be subject to the requirements of competitive bidding if no state funds are to be used in the development of the project.

(b) Notwithstanding any law to the contrary, the department is authorized to enter into project developer agreements with qualified developers for, or in connection with, any homestead, commercial, or multi-purpose project, or portion of any project; provided that prior to entering into a project developer agreement with a developer, the department shall:

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

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- (2) Give notice of the proposed disposition in accordance with applicable procedures and requirements of section 171-60(a)(3), Hawaii Revised Statutes;
 - (3) Establish reasonable criteria for the selection of the private developer; and
 - (4) Determine within forty-five days of the last day for filing applications the applicant or applicants who meet the criteria for selection, and notify all applicants of its determination within seven days of such determination. If only one applicant meets the criteria for selection as the developer, the department then may negotiate the details of the project developer agreement with the developer; provided that the terms of the project developer agreement shall not be less than those proposed by the developer in the application. If two or more applicants meet the criteria for selection, the department shall consider all of the relevant facts of the disposition or contract, the proposal submitted by each applicant, and the experience and financial capability of each applicant and, within forty-five days from the date of selection of the applicants that met the criteria, shall select the applicant who submitted the best proposal. The department then may negotiate the details of the disposition with the developer, including providing benefits to promote native Hawaiian socio-economic advancement; provided that the terms of the project developer agreement shall not be less than those proposed by the developer in the application.
- (c) Any project developer agreement entered into pursuant to this section shall include the following terms and conditions, wherever appropriate.
- (1) A requirement that the developer file with the department a good and sufficient bond conditioned upon the full and faithful performance of all the terms, covenants, and conditions of the project developer agreement;
 - (2) The use or uses to which the land will be put;
 - (3) The dates on which the developer must submit to the department for approval preliminary plans and final plans and specifications for the total development. No construction shall commence until the department has approved the final plans and specifications; provided that construction on an incremental basis may be permitted by the department;
 - (4) The date of completion of the total development, including the date of completion of any permitted incremental development;
 - (5) The minimum requirements for off-site and on-site improvements that the developer must install, construct, and complete by the date of completion of the total development. The department may permit incremental development and establish the minimum requirements for off-site and on-site improvements that must be installed, constructed, and completed prior to the date of completion of the total development; and
 - (6) Any other terms and conditions deemed necessary by the department to protect the interest of the State and the department
- (d) Any project developer agreement entered into pursuant to this section may provide for options for renewal of the term of the project developer agreement; provided that []: deleting the following text from within []: the {Act 146, 1993, Haw. Sess. Laws}:
- (1) The {Act 146, 1993, Haw. Sess. Laws} term of any one project developer agreement shall not exceed sixty-five years; []: deleting the following text from within []: and provided further that any {Act 146, 1993, Haw. Sess. Laws}
 - (2) Any {Act 146, 1993, Haw. Sess. Laws} lands disposed of under a project developer agreement shall be subject to withdrawal at any time during the term of the agreement, with reasonable notice; and []: deleting the following text from within []: and provided that the {Act 146, 1993, Haw. Sess. Laws}
 - (3) The {Act 146, 1993, Haw. Sess. Laws} rental shall be reduced in proportion to the value of the portion withdrawn and the developer shall be entitled to receive from the department the proportionate value of the developer's permanent improvements so taken in the proportion that they bear to the unexpired term of the agreement, with the value of the permanent improvements determined on the basis of fair market value or depreciated value, whichever is less; {Act 146, 1993, Haw. Sess. Laws} or the developer, in the alternative, may remove and relocate the developer's improvements to the remainder of the lands occupied by the developer.
- (e) The project developer agreement may permit the developer, after the developer has completed construction of any required off-site improvement, to assign or sublease with the department's approval portions of the leased lands in which the construction of any required off-site improvement has been completed to a purchaser or sublessee who shall assume the obligations of the developer relative to the parcel being assigned or subleased, including the construction of any on-site improvement. The department may permit a developer to share in the lease rent from the assigned lease for a fixed period in order to recover costs and profit.

(f) Whenever the department enters into a project developer agreement to develop a homestead project, the department shall provide for the purchase of the completed project or that portion of a completed project developed for disposition to native Hawaiians, and shall dispose of the lands in accordance with this Act; provided that the project developer agreement shall not encumber any existing homestead lease in the project area.

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

“Commercial project” means a project or that portion of a multi-purpose project, including single-family or multiple-family residential, agricultural, pastoral aquacultural, industrial, business, hotel and resort, or other commercial uses designed and intended to generate revenues as authorized by this Act;

“Developer” means any person, partnership, cooperative, firm, nonprofit or for-profit corporation, or public agency possessing the competence, expertise, experience, and resources, including financial, personal, and tangible resources, required to carry out a project;

“Homestead project” means a project or that portion of a multi-purpose project, including residential, agricultural, pastoral, or aquacultural uses designed and intended for disposition to native Hawaiians under this Act; provided that this term shall also include community facilities for homestead areas.

“Multi-purpose project” means a combination of a commercial project and a homestead project;

“Project” means a specific undertaking to develop, construct, reconstruct, rehabilitate, renovate, or to otherwise improve or enhance land or real property

“Project developer agreement” means any lease, sublease, conditional leasing agreement, disposition agreement, financing agreement, or other agreement or combination of agreement, entered into under this section by the department, for the purpose of developing one or more projects.

(h) The department is authorized to adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to implement and carry out the purposes of this section.

³⁸⁴ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 24, 1990, Haw. Sess. Laws.

³⁸⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *Commissioner of Public Lands*

³⁸⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 90, 1981, Haw. Sess. Laws. Deleting the following text within []: *667 to 678, inclusive, of the Revised Laws of Hawaii of 1915*

³⁸⁷ Pub. L. No. 84-899, 70 Stat. 915 (1956). Deleting the following text within []: *Government-owned water upon the island of Molokai, and*

³⁸⁸ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act, 24, 1990, Haw. Sess. Laws. Deleting the following text within []: *the passage of this Act*

³⁸⁹ Pub. L. No. 84-899, 70 Stat. 915 (1956). Deleting the following text within []: *any of the water upon the island of Molokai, and*

³⁹⁰ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 24, 1990, Haw. Sess. Laws. Deleting the following text within []: *Hawaiian Homes Commission*

³⁹¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 24, 1990, Haw. Sess. Laws. Deleting the following text within []: *Hawaiian Homes Commission*

³⁹² Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 24, 1990, Haw. Sess. Laws. Deleting the following text within []: *Hawaiian Homes Commission*

³⁹³ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 36, 1984, Haw. Sess. Laws.

³⁹⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 36, 1984, Haw. Sess. Laws. Deleting the following text within []: *the provision*

³⁹⁵ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 207, 1963, Haw. Sess. Laws. Deleting the following text within []: *The ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} may make such regulations and, with the approval in writing of the governor of the Territory, may make such expenditures including salaries, and appoint and remove such employees and agents, as are necessary to the efficient execution of the functions vested in the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} by this title. All expenditures of the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws}, [] {Pub. L. No. 77-325, 55 Stat. 782 (1941)} as herein provided out of the Hawaiian home-administration account, the Hawaiian home-development fund, or the Hawaiian home-operating fund, {Pub. L., No. 80-638, 62 Stat. 390 (1948)} and all moneys necessary for loans made by the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws}, in accordance with the provisions of this chapter, from the Hawaiian home-loan fund, shall be allowed and paid upon the presentation of itemized vouchers therefor,*

approved by the Chairman of the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws}. Pub. L. No. 77-325, 55 Stat. 782 (1941)}. The ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws} shall make a ~~biennial~~ report {Act 13, 1959, Haw. Sess. Laws} annual report {Act 13, 1959, Haw. Sess. Laws} to the legislature of the Territory upon the first day of each regular session thereof and such special reports as the legislature may from time to time require. The executive officer and secretary shall give bond in the sum of \$25,000 for the faithful performance of his duties. The sureties upon the bond and the conditions thereof shall be approved annually by the ~~commission~~ {Act 207, 1963, Haw. Sess. Laws} department {Act 207, 1963, Haw. Sess. Laws}.

³⁹⁶ Act 173, 1973, Haw. Sess. Laws (earliest amendment on file incorporating the section title as currently reflected).

³⁹⁷ Act 110, 2001, Haw. Sess. Laws. Deleting the following text within []: *The department shall adopt rules and regulation and policies in accordance with the provisions of chapter []* {Act 173, 1972, Haw. Sess. Laws} 91, *Hawaii Revised Statutes* {Act 173, 1972, Haw. Sess. Laws}.

³⁹⁸ * Act 110, 2001, Haw. Sess. Laws.

³⁹⁹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *as herein provided out of the Hawaiian home-administration account, the Hawaiian home-development fund, or the Hawaiian home-operating fund*

⁴⁰⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *and all monies necessary for loans made by the department,*

⁴⁰¹ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 249, 1986, Haw. Sess. Laws. Deleting the following text within []: *from the Hawaiian home-loan fund,*

⁴⁰² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 174, 1977, Haw. Sess. Laws. Deleting the following text within []: *in the sum of \$25,000 for the faithful of the performance of his duties.*

⁴⁰³ Act 110, 2001, Haw. Sess. Laws. Deleting the following text within []: *within ten days*

⁴⁰⁴ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 173, 1972, Haw. Sess. Laws.

⁴⁰⁵ Act 120, 1973, Haw. Sess. Laws (earliest amendment on file incorporating section title as currently reflected).

⁴⁰⁶ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 120, 1976, Haw. Sess. Laws.

⁴⁰⁷ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 120, 1976, Haw. Sess. Laws. Deleting the following text within []: *of Hawaii*

⁴⁰⁸ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 120, 1976, Haw. Sess. Laws. Deleting the following text within []: *Hawaiian Homes Commission while he is carrying on his duties in the ~~Territory~~ {Act 207, 1963, Haw. Sess. Laws} State {Act 207, 1963, Haw. Sess. Laws} of Hawaii, which salary, however, shall not exceed the sum of \$6,000 per annum* {Pub. L. No. 74-223, 49 Stat. 504 (1935)}

⁴⁰⁹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 30, 1965, Haw. Sess. Laws (earliest amendment on file incorporating section title as currently reflected).

⁴¹⁰ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 30, 1965, Haw. Sess. Laws. Deleting the following text within []: *the loan fund*

⁴¹¹ Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 143, 1983, Haw. Sess. Laws. Deleting the following text within []: *Any interest or other earnings arising out of such investments shall be credited to and deposited in []* {Pub. L. No. 80-638, 62 Stat. 390 (1948)} *the []* {Act 229, 1978, Haw. Sess. Laws} *Hawaiian home interest fund, except earnings derived from investments in the Hawaiian home administration account and the native Hawaiian rehabilitation fund account* {Act 192, 1981, Haw. Sess. Laws} *which shall revert to the same account.* {Act 229, 1978, Haw. Sess. Laws}

⁴¹² Pub. L. No. 99-557, 100 Stat. 3143 (1986); Act 204, 1978, Haw. Sess. Laws. (earliest amendment on file incorporating section title as currently reflected).

⁴¹³ Pub. L. No. 102-398, 73 Stat. 4 (1992); Act 16, 1986, Haw. Sess. Laws.

⁴¹⁴ Act 187, 2010, Haw. Sess. Laws. Adding the following text within []: *SEC. 228. COMMERCIAL AND MULTIPURPOSE PROJECT LEASES; EXTENSION OF TERM. (a) Notwithstanding any law to the contrary, the procedures under this section shall apply to commercial and multipurpose projects under section 204 or 220.5, and shall be in addition to any other procedures required by law. (b) Prior to the disposition of available land through a request for proposals for an initial lease for a commercial or multipurpose project, the department shall consult with the beneficiaries of the trust in the master planning of the available lands. The process of beneficiary consultation shall be as established by the department and shall: (1) Engage beneficiaries and beneficiary-serving organizations; (2) Provide for the timely dissemination of information about the proposed project and gathering of input; and (3) Allow for a reasonable time and reasonable access to relevant information for evaluation and*

consideration (c) Notwithstanding section 220.5(d)(1), the department may extend the term of a lease of Hawaiian home lands for commercial or multipurpose projects and with the approval by the department of a written agreement proposed by the lessee, or the lessee and developer, to: (1) Make improvements to the leased property; or (2) Obtain financing for the improvement of the leased lands. The extension of the lease pursuant to this section shall be based upon the improvements made or to be made, shall be no longer than twenty years, and shall be granted only once. (d) Before the written agreement is approved, the lessee, or the lessee and developer, shall submit to the department the plans and specification for the proposed development. The department shall review the plans, specifications, and the written agreement and determine: (1) Whether the development is of sufficient value and meets the priorities of the commission to justify an extension of the lease; (2) The estimated time needed to complete the improvements and expected date of completion of the improvements; and (3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the department, and percentage rent where gross receipts exceed a specified amount. The commission shall adopt and publish a policy pursuant to chapter 91, Hawaii Revised Statutes, which shall be used to evaluate any request for a lease extension, including the terms of the lease, prospective payments, and renegotiation, and shall be used by the commission for any final determination on a lease extension request. (e) Upon the extension of a lease term pursuant to subsection (c), the department shall deposit fifteen per cent of all revenues generated from the lease from the time the lease extension is granted, into the native Hawaiian rehabilitation fund under section 213(i). {Act 175, 2012, Haw. Sess. Laws.} repealing subsection (e) and renumbering subsection (f) to (e). ~~§~~ (e) The department shall submit an annual report to the legislature and the United States Department of the Interior, no later than twenty days prior to the convening of each regular session, beginning with the regular session of 2011, of all leases of available lands for commercial and multipurpose projects, including the following: (1) The total number of leases; (2) Acreage of each lease; (3) Terms of each lease; (4) Whether the lessee is a beneficiary or beneficiary controlled organization; and (5) Whether the lease was for retained available lands not required for leasing under section 207(a), and was negotiated with a native Hawaiian, or organization or association owned or controlled by native Hawaiians, under section 204(a)(2). {Act 175, 2012, Haw. Sess. Laws.} adding a new subsection (f): (f) All lease revenues from commercial and multipurpose project leases collected by the department to which this section applies shall be deposited into the Hawaiian home administration account established under section 213(f). (g) As used in this section, “improvements” means any renovation, rehabilitation, reconstruction, or construction of the property, including minimum requirements for off-site and on-site improvements.”

⁴¹⁵Act 75, 1986, Haw. Sess. Laws. Repealed by its own sunset terms the following text within []: TITLE 5.—

HOMESTEAD GENERAL LEASING PROGRAM. SEC. 501. DEFINITIONS. As used in this title if not inconsistent with the context: “Homestead general lease” means a lease for residential, agricultural, pastoral, or aquacultural purposes issued under this title; “Homestead general lessee” means the lessee under a homestead general lease and the successors in interest of the lessee.⁴¹⁵

SEC. 502. SUBDIVISION, IMPROVEMENT, AND LEASE OF HAWAIIAN HOME LANDS. (a) The department is authorized to subdivide and improve any Hawaiian home lands suitable for residential use including single-family, multiple-family, apartment, cluster, and row housing, or for agricultural, pastoral, or aquacultural uses, or a combination of uses. (b) The department is authorized to enter into agreements, including leases, subleases, conditional leasing agreements, or other agreements or auction for the construction of off-site and on-site infrastructure improvements and for the development of tracts or residential units on Hawaiian home lands; provided that the developers’ lease and security interest therein will be retired on a pro rata basis by the issuance of either homestead leases or homestead general leases to native Hawaiians purchasing the subdivided lot and the improvements related thereto; provided further that no state funds shall be utilized. (c) The qualification requirements to be met by developers and the minimum standards for improvements to be built shall be as provided by rules adopted by the department. **SEC. 503. TERM, RENT, AND OTHER CONDITIONS OF THE HOMESTEAD GENERAL LEASE.** (a) Leases under this title may be for an initial term of not more than fifty-five years with the privilege of extension when such extension is a condition for participation in any government or private mortgage lending, guarantee, or insurance program; provided that the initial term and extensions shall not exceed seventy-five years. (b) Annual lease rent shall be an amount equal to the fair market rent of the premises at the inception of the homestead general lease, as determined by appraisal. The homestead general lease may include rent escalation and renegotiation clauses for specific periods during the term of the homestead general lease as determined by the department; provided that the department is authorized to subsidize lease rents for native Hawaiian homestead general lessees. (c) The homestead general lessee shall pay all real property taxes, assessments for the homestead general lessee’s pro rata share of the costs of improvements of the tract in which the land is located, and such other charges made against or levied upon the premises. (d) When constructing any

improvements on the premises, the homestead general lessee shall comply with building standards and requirements established by the department. (e) The premises shall be used for the purpose prescribed in the original homestead general lease and shall not be used for any other purpose without the prior written consent of the department. (f) Leases under this title shall contain conditions permitting the homestead general lessee to sublet or part with the possession of the whole or any part of the premise and to sell, assign, transfer, or otherwise dispose of, or encumber by way of a mortgage or otherwise, any interest in the homestead general lease or any improvements erected on the premises with the prior written consent of the department. (g) The department is authorized from time to time upon the issuance of a homestead general lease, to modify any provision contained in this section and section 512 of this title to the extent necessary to qualify the homestead general lease for any government or private mortgage lending, guarantee, or insurance program. (h) The department is authorized to include any other conditions in homestead general leases that it deems advisable to effectuate the purposes of this title. SEC. 504. QUALIFICATIONS OF ORIGINAL LESSEE. The original lessee of a homestead general lease shall be a native Hawaiian or native Hawaiians not less than eighteen years of age. SEC. 505. The following shall not be eligible to receive a homestead general lease: (1) Any individual, or the spouse of any individual who holds a homestead lease under section 207(a) of this Act; provided that such an individual shall be eligible if the homestead lease is transferred or surrendered to the department prior to assuming the homestead general lease, or if the homestead lease is converted to a homestead general lease as provided in section 507. (2) Any individual, or the spouse of any individual who currently holds a homestead general lease. SEC. 506. AWARD OF HOMESTEAD GENERAL LEASES; NOTIFICATION OF APPLICANTS ON HOMESTEAD WAITING LISTS; DISPOSITION BY RENT. (a) Homestead general leases in a new subdivision created under this title shall be offered and awarded in the following priority order: (1) First, to applicants on the appropriate waiting list (residential, agricultural, pastoral, or aquacultural) of the island on which the lots are located, in rank order based on rules of the department; (2) Second, to applicants on all other homestead waiting lists of the island on which the lots are located, consolidated in rank order based on date of application; (3) Third, to all other applicants on homestead waiting lists, consolidated in rank order based on date of application; and (4) Finally, to any native Hawaiian who is at least eighteen years of age, based on the date that written applications are received; provided that department shall not be required to maintain the applications received as a waiting list for other subdivisions subsequently created. (b) The department shall notify applicants on homestead waiting lists of the availability of homestead general leases by publishing a public notice in a newspaper of general circulation and in a newspaper published in each county; provided that the department shall also notify active applicants on the appropriate waiting list on the island on which the lots are located by certified mail. (c) If lots or units are available after all interested and qualified native Hawaiians have been awarded lots or units, the department may temporarily dispose of the remaining lots or units at fair market rental to the general public with preference to native Hawaiians. The department may develop rental units on the remaining lots and rent them at fair market rental to the general public, with preference given to native Hawaiians. SEC. 507. CONVERSION OF HOMESTEAD LEASE TO HOMESTEAD GENERAL LEASE. The department is authorized to permit a lessee to convert any homestead lease to a homestead general lease. The procedures and conditions for such conversion shall be as provided by rules adopted by the department. SEC. 508. TRANSFER OF TITLE BY BEQUEST, DEVISE, INTESTATE SUCCESSION, OR OPERATION OF LAW, AND UPON FORECLOSURE. Title to a homestead general lease and to the improvement upon the premises, may be transferred by assignment, operation of law. Individuals, partnerships, corporations, or agencies of government, disqualified under the Act to take a lease for homestead purposes, may succeed and take title to a homestead general lease and the improvements on the premises by transfer or by purchasing at or after a sale upon a foreclosure of a mortgage permitted under this title. SEC. 509. NOTICE OF BREACH OR DEFAULT. In the event of a breach or default of any term, covenant, restriction, or condition of any homestead general lease or other instrument issued under this title, the department shall deliver a written notice of the breach or default by personal service or by registered or certified mail to the party in default and to each holder of record having any security interest in the land covered by or subject to the lease or other instrument, making demand upon the party to cure or remedy the breach or default within sixty calendar days from the date of receipt of the notice; provided that where the breach involves a failure to make timely rental payments pursuant to the homestead general lease or other instrument issued under this title, the written notice shall include a demand upon the party to cure the breach within not less than five or more than thirty calendar days after receipt of the notice. Upon failure of the party to cure or remedy the breach or default within the time period provided in this section or within such additional period as the department may allow for good cause, subject to section 510, the department may exercise such rights as it may have at law or as set forth in the homestead general lease or other instrument. SEC. 510. RIGHT OF HOLDER OF SECURITY INTEREST.

Whenever any notice of breach or default is given to any party under section 509, or under the terms of any homestead general lease or other instrument issued under this title, a copy of the notice shall be delivered by the department to all holders of record of any security interest covered by the homestead general lease or other instrument whose security interest has been duly recorded with the bureau of conveyances. If the department chooses to forfeit the privilege, interest, or estate created by the homestead general lease or other instrument, each holder, at its option, may cure or remedy the breach or default, if the same can be cured or remedied by the payment of money or, if such is not the case, by performing or pledging in writing to perform all the terms, covenants, restrictions, or conditions of any homestead general lease or other instrument capable of performance by the holder as determined by the department within the time period provided in section 509 or within such additional period as the department may allow for good cause and add the cost thereof to the mortgage debt and the lien of the mortgage. SEC. 511. CANCELLATION OF HOMESTEAD GENERAL LEASE. After giving notice of breach or default as provided in section 509, and subject to the rights of each holder of record having a security interest as provided in section 510, the department may terminate the homestead general lease or tenancy and take possession of the leased land together with all improvements placed thereon, without demand or previous entry and without legal process, and shall retain all rent paid in advance as damages for the breach or default. SEC. 512. RESTRICTIONS ON TRANSFERS; APPRAISALS; WAIVER WHEN. (a) The following restrictions shall apply to any transfers, assignments of lease, or agreements of sale: (!)For a period of ten years after the date of the original lease, the department shall be given the first option to purchase the unit, property, or lease at a price which shall not exceed the sum of: (A) The original cost to the homestead general lessee; (B) The cost of any improvements added by the homestead general lessee; and (C) Simple interest on the homestead general lessee's equity in the property at the rate of seven per cent a year. The department may purchase the unit, property, or lease either outright, free and clear of all liens and encumbrances, or by transfer subject to an existing mortgage. If by outright purchase, the department shall insure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the homestead general lessee. In any purchase by transfer subject to an existing mortgage, the department shall agree to assume and to pay the balance on any general lessee to obtain funds for the purchase of the unit, property, or lease and any other mortgages which were created with the approval and consent of the department. In such cases, the amount to be paid to the homestead general lessee by the department shall be the difference between the above-mentioned price and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the department.(1) After the end of the tenth year from the date of the original homestead general lease, the department shall have the first option to purchase the improvements on the lot at a price not to exceed the appraised value of the improvements.(2) For a transfer, assignment of lease, or agreement of sale involving a commercial farm, in addition to purchasing the improvements, the department may also purchase the mature crops and tree crops. The purchase price shall not exceed the value of the mature crops and the residual value of the tree crops, and shall be established by appraisal, whether or not the transfer, assignment of lease or agreement of sale occurs during the ten-year restriction period. (3) In a transfer, assignment of lease, or agreement of sale occurring during the ten-year restriction period, the department's purchase price of the improvements shall be the lesser of the price calculated in paragraph (1) and the value appraised in paragraph (2). (4)In a transfer, assignment of lease, or agreement of sale, the department's payment to the homestead general lessee shall be the difference of the amount calculated in paragraph (1) or appraised in paragraphs (2) and (3), as the case may be, and any indebtedness to the department. (5) Notwithstanding any other law to the contrary, if upon transfer, assignment of lease, or agreement of sale, the department determines that the cost to remedy, renovate, or to restore the premises to a safe and reasonably comfortable condition is unwarranted due to the age, condition, or the estimated remaining economic life of the improvements, the department shall assign no value to the improvements. The homestead general lessee or legal representative may be authorized by the department to dispose of improvements under terms and conditions prescribed by the department.(b) For the purposes of this section, the appraisal of improvements or crops to be purchased by the department shall be performed by either of the following methods: (1) By one appraiser mutually agreeable to both the department and the homestead general lessee and the cost of the appraisal shall be borne equally; or (2)By not more than three disinterested appraisers of which the first shall be contracted for by the department; provided that should the homestead general lessee fail to agree upon the values, the homestead general lessee may appoint the homestead general lessee's own appraiser. If the appraisal values are different and a settlement between the department and homestead general lessee is not possible, a third appraisal shall be performed by a disinterested appraiser appointed by the department's appraiser and the homestead general lessee's appraiser; provided that the third appraiser shall act as an arbitrator and determine the final value which shall be between the values of the first and second appraisals. The department shall pay for its own appraiser, the homestead

general lessee or legal representative shall pay for the homestead general lessee's own appraiser, and the cost of the third appraiser shall be borne equally. (c) The restrictions in subsection (a) may be waived by the department if the homestead general lessee wishes to transfer title to the homestead general lease by devise or through the laws of descent. SEC. 513. APPROVAL BY DEPARTMENT REQUIRED. Any subdivision of land covered by a homestead general lease and any purchase or sale of improvements erected or installed on lots covered by a homestead general lease shall be subject to the approval of the department. SEC. 514. RECEIPTS FROM HOMESTEAD GENERAL LEASING AND OTHER SOURCES. All receipts from homestead general leasing, from fees and charges, from the sale of improvements authorized by this title, rental of units, and any appropriation made for homestead general leasing purposes shall be deposited into the Hawaiian home receipts fund and shall be available for purposes authorized by this title. SEC. 515 ADMINISTRATION. The department shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to carry out the purposes of this title. SEC. 516. REPEAL DATE. This title is repealed five years after consent to this Act by the United States or December 31, 1995, whichever shall first occur {Act 75, 1986, Haw. Sess. Laws}

Background

As discussed in the Introduction to this Reference Guide, Congress, through the Admission Act, vested the State of Hawaii with day-to-day administration of the Hawaiian Home Lands Trust (Trust). Congress established the Trust in 1921 under the Hawaiian Homes Commission Act (HHCA) for the benefit of the Native Hawaiian people. The Trust consists of approximately two hundred thousand acres of land and several trust funds. Congress reserved the right to amend or repeal the HHCA and gave the Secretary the responsibility to determine whether a change to the HHCA proposed by the State requires the consent of the United States.³ The State may make changes to a limited number of administrative provisions of the HHCA without the consent of the United States; such changes become effective after review by the Secretary. Substantive changes to the HHCA must be approved by Congress. The HHCA is best described as a cooperative federalism statute, and administration of the Trust relies on interdependent Federal and State law. Federal law³ establishes the framework and provides for State implementation.

This section of the Reference Guide highlights:

- Sections of the HHCA identified as administrative in section 4 of the State of Hawaii Admission Act (Admission Act);
- Select provisions of the Hawaii Revised Statutes (State Law) that Congress authorized the State to apply to the Trust;
- The requirement that application of State Law to the Trust be consistent with the HHCA, Admission Act, and Hawaiian Home Lands Recovery Act (HHLRA); and
- The requirement that any provision of State Law that purports to amend the HHCA must be submitted to the U.S. Department of the Interior for review to determine whether the consent of the United States is required.

HHCA Sections Excepted from Requiring United States Consent

In section 4 of the Admission Act, Congress provided an explicit list of HHCA sections it deemed administrative, which the State could amend without United States consent. Section 4 provides, in part –

“That [] sections 202, 213, 219, 220, 222, 224, and 225 and other provisions relating to administration . . . may be amended in the constitution, or in the manner required for State legislation”

In addition to the above listed sections, Congress included a catch-all phrase covering “other provisions relating to administration” thereby allowing the State to make a limited number of administrative changes to other sections of the HHCA.

³ The main federal laws governing the Trust are the HHCA, the State of Hawai‘i Admission Act (Admission Act), and the Hawaiian Home Lands Recovery Act.

If the State wishes to amend the HHCA under any circumstance, however, whether directly through a State proposed amendment to the HHCA or indirectly through a change to State Law, the Secretary of the Interior must review the proposed change to determine whether it fits within the authority of the State or requires Congressional approval. Congress assigned the Secretary the substantive duty to review State proposed amendments to the HHCA and determine whether congressional approval is required before such amendments may become effective.⁴

Incorporation of Hawai‘i Revised Statutes Sections Into the HHCA

The Hawai‘i Revised Statutes (State Law)⁵ contain the consolidated, revised, and annotated laws of the State of Hawaii. Congress authorized the State to apply specific State Law provisions to the Hawaiian Home Lands Trust (Trust). For example, the State enacted laws governing the nomination and appointment of members of the Hawaiian Homes Commission, as well as the staffing of the Chairman and the Department of Hawaiian Home Lands (DHHL). Congress approved these changes, and they were incorporated into the HHCA, authorizing the application of State Law for these specific purposes.

With congressional approval, additional State Law provisions have been incorporated into the HHCA, including the following HRS provisions:

- HRS chapter 103(D) concerning public procurement;
- HRS chapter 91 related to the adoption of administrative rules by DHHL;
- HRS chapter 88 regarding investment and reinvestment in securities and investments;
- HRS chapter 39 regarding revenue bonds; and
- HRS chapter 101 pertaining to eminent domain proceedings.
- HRS chapter 171 pertaining to management and disposition of public lands.

These State Law provisions, along with the corresponding congressional amendments to the HHCA, are detailed in the relevant table in Appendix B.

⁴ HHLRA, §§ 204 (b), (c). The Secretary makes a determination whether the consent of the United States is required. If so, the Secretary submits the proposed amendment to Congress along with a draft joint resolution approving the amendment, a description of the change, and a recommendation on the advisability of approving the proposed amendment. If not, the Secretary informs the State and Congress that the consent of the United States is not required.

⁵ Congress also incorporated into the HHCA section 73 of the Hawaiian Organic Act, see HHCA sections 201(a) and 204(a), and sections 347 and 351 of the Revised Laws of Hawaii of 1915, “Comprising the Statutes of the Territory, consolidated, revised, and annotated” when the HHCA was enacted, see HHCA section 201(b). These six references remain in HHCA sections 201 and 204 while other references have been replaced or deleted. This section focuses on the twenty-three references to the Hawaii Revised States included across nine sections of the HHCA.

Application of HRS Chapter 171 to the Federal Laws Governing the Trust

Congress authorized the State to apply certain provisions of HRS chapter 171 to the disposition of Trust lands to the public and native Hawaiians by DHHL, provided that those provisions are consistent with the HHCA, Admission Act, and HHLRA and do not violate any laws such as the Fair Housing Act. Chapter 171 provisions may be applied to Trust lands *only* when they are compatible with these federal laws. Provisions that are incompatible may not be applied. For example, HRS § 171-13 permits the Board of Land and Natural Resources (BLNR) to sell public lands under certain conditions. However, because Hawaiian home lands may not be sold, this provision is incompatible with, and therefore inapplicable to, Trust lands.

Permissible Incorporation

Those sections of HRS chapter 171 that:

- define the terms, conditions, restrictions, and uses related to the disposition of public lands;
- outline procedures for the disposal of public lands; and
- do NOT pertain to the sale or fee simple disposal of public lands⁶

may be applied to Hawaiian home lands but only when they are also consistent with federal law relating to the Trust.

Required Interpretive Modifications

When a provision of HRS chapter 171 can be applied to Trust lands consistent with the HHCA, the Admission Act, and the HHLRA, it must be read with certain modifications for purposes of clarity:

1. Substitute –
 - (a) “Hawaiian homes commission” for “board of land and natural resources”;
 - (b) “department of Hawaiian home lands” for “department of land and natural resources”;
 - (c) “chairman” of the Hawaiian homes commission for “chairperson” of the board of land and natural resources;
 - (d) “Hawaiian home lands” for “public lands”;
 - (e) “interests of the HHCA beneficiaries” and/or “interests of the Hawaiian Home Lands Trust” for “public interest” or “interests of the State”;
 - (f) “purposes of the HHCA” for “public purposes”; and
 - (g) benefits or results accruing “to the Trust” for those accruing “to the State.”
2. Strike –
 - (a) Any reference to “in fee simple”; and
 - (b) Any provision offering “lease with option to purchase.”

⁶ See HHCA § 204(a)(2), as amended.

Department Review of State Amendments to Incorporated HRS Provisions

While the State has authority to amend the HRS for a variety of purposes, if the State wants to amend the HRS in a way that would apply to the Hawaiian Home Lands Trust, including amendments to HRS chapter 171 that affect the management or disposition of Trust lands, then it must comply with the requirements of the HHLRA. The process outlined in 43 CFR part 48 provides the steps the State must follow when seeking to change State Law for application to the Trust. At a minimum, all amendments made to the HRS after November 2, 1995, the date of enactment of the HHLRA, must:

1. Specifically state that they amend the HHCA;
2. Be submitted for Secretarial review; and
3. If required, receive congressional approval prior to being applied to the Trust.

APPENDICES

Appendix A - INVENTORY OF PROPOSED AND PASSED HHCA AMENDMENTS.

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
2/3/1923 (Federal Passage)	N/A	Yes	67-403	42 Stat. 1221	Establishes the Hawaiian Homes Commission and amends sections 207, 213, and 215 of the HHCA to establish the Hawaiian Home Loan Fund, to permit native Hawaiians to take up small (residential) tracts of a half-acre or more, and to limit the amount of the loan to holders of residence lots to \$1,000.	Green
3/7/1928 (Federal Passage)	N/A	Yes	70-105	45 Stat. 246	Amends sections 204 and 213 of the HHCA to extend the Act so it will apply to all islands (Original Act applied only to islands of Hawaii and Molokai), to enable the native Hawaiian to return to the land by enumerating the requirements set by Congress in the original Act, and to increases funding cap on the Hawaiian Home Loan Fund to \$2,000,000.	Green
5/16/1934 (Federal Passage)	N/A	Yes	73-227	48 Stat. 777	Amends sections 203 and 207 of the HHCA, conferring upon certain lands of Auwaiolimu, Kewalo and Kalawahine, the status of Hawaiian Home Lands, and providing for the leasing thereof for residence purposes.	Green
7/26/1935 (Federal Passage)	N/A	Yes	74-223	49 Stat. 504	Amends section 202 and 224 of the HHCA to specify membership and organizational requirements of the Hawaiian Homes Commission and supporting staff.	Green
8/29/1935 (Federal Passage)	N/A	Yes	74-397	49 Stat. 966	Amends section 203 to withdraw and restore to its previous status under the control of the Territory of Hawaii, certain Hawaiian Home Lands used as airplane landing fields.	Green

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
7/10/1937 (Federal Passage)	N/A	Yes	75-200	50 Stat. 497	Amends sections 203, 207, 208, 209, 215, 216, and 220.	Green
11/26/1941 (Federal Passage)	N/A	Yes	77-325	55 Stat. 782	Amends the HHCA by amending sections 203(4), 208(3), 209, 213, 215, 220, and 222, thereof and by adding thereto a new section to be numbered 225, all relating to the powers, duties, and functions of the Hawaiian Homes Commission. The main provisions restore the revolving fund from which loans are made to Hawaiian Homesteaders to \$2,000,000.	Green
5/31/1944 (Federal Passage)	N/A	Yes	78-320	58 Stat. 260	Withdraws and restores to their previous status under the control of the Territory of Hawaii certain Hawaiian home lands required for use as airplane landing fields, and to amend sections 202, 203, and 207 of title 2 of the Hawaiian Homes Commission Act, 1920, and for other purposes.	Green
6/3/1948 (Federal Passage)	N/A	Yes	80-581	62 Stat. 295	Amends section 203 to designate certain public lands (approximately 12 acres) on the island of Maui as available for home lands.	Green
6/3/1948 (Federal Passage)	N/A	Yes	80-594	62 Stat. 303	Amends section 203 by withdrawing from the public lands on the Island of Kauai approximately 400 acres of land now under sugar cultivation and placing it under the jurisdiction of the Hawaiian Homes Commission for use as home lands.	Green

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
6/12/1948 (Federal Passage)	N/A	Yes	80-634	62 Stat. 387	Restores approximately 50 acres of land on the Island of Hawaii, now under jurisdiction of the Hawaiian Homes Commission to its previous status as public land under the control of the Territory of Hawai'i.	Green
6/14/1948 (Federal Passage)	N/A	Yes	80-638	62 Stat. 390	Amends sections 207, 213, 215, 220,222, and 225 of title 2 of HHCA in order to afford more realistic administration of the Act, liberalize the granting of leases, create a Hawaiian Home Operating Fund to be used for revenue producing improvements, and increase the amount of loans that can be made to homesteaders.	Green
7/9/1952 (Federal Passage)	N/A	Yes	82-481	66 Stat. 511	Amends section 203 to transfer a 31.60 acre parcel of land under jurisdiction of the Hawaiian Homes Commission to the Territory of Hawaii for use by the Honolulu Board of Water Supply, in exchange for two parcels of land in the same area held by the Territory of Hawai'i. Also amends section 209 by allowing certain non-beneficiary persons to retain their leasehold on lands of Auwaiolimu, Kewalo-Uka, and Kalawahine, on the island of O'ahu.	Green
7/9/1952 (Federal Passage)	N/A	Yes	82-482	66 Stat. 514	Amends sections 213 and 215 to increase funding requirements.	Green
7/9/1952 (Federal Passage)	N/A	Yes	82-485	66 Stat. 515	Amends section 202 of the HHCA relating to membership on the Hawaiian Homes Commission.	Green

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
2/20/1954 (Federal Passage)	N/A	Yes	83-297	68 Stat. 16	Amends section 204 by adding a new subparagraph to authorize the HHC to exchange title to lands under its jurisdiction at Waimanalo for similarly located publicly owned lands of an equal value.	Green
6/18/1954 (Federal Passage)	N/A	Yes	83-415	68 Stat. 262	Amends section 204 by adding a new subparagraph to authorize the HHC to exchange title to lands under its jurisdiction at Waimanalo for similarly located publicly owned lands of an equal value.	Green
6/18/1954 (Federal Passage)	N/A	Yes	83-417	68 Stat. 263	Amends section 204 to require approval of land exchanges by the Commissioner of Public Lands and by two-thirds of the members of the Board of Public Lands.	Green
8/1/1956 (Federal Passage)	N/A	Yes	84-899	70 Stat. 915	Amends sections 220 and 221 to permit the implementation of the Hawaiian Irrigation Act of 1953 with respect to Territorial lands covered by the HHCA.	Green
8/21/1958 (Federal Passage)	N/A	Yes	85-708	72 Stat. 705	Amends section 213 to provide for the periodic transfer to the Hawaiian Home Development Fund of certain excess funds in the Hawaiian Home Administration Account.	Green
8/21/1958 (Federal Passage)	N/A	Yes	85-710	72 Stat. 706	Amends section 208 to increase the numerated funds from "five" to "seven".	Green
8/23/1958 (Federal Passage)	N/A	Yes	85-733	72 Stat. 822	Amends section 207 to permit the HHC to grant licenses for lots under its jurisdiction on which US post offices and other public improvements may be operated.	Green

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
11/13/1959	Act 13	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213 and replaces "biennial," "two years' and "biennium" with "annual," "one year," and "fiscal period," conforming all relevant and related sections of the Revised Laws of Hawaii 1955 to the annual budgetary requirements, the annual appropriations and the regular sessions of the legislature as provided in Section 11, Article III and sections 4 and 5, Article VI of the Constitution.	Green
7/11/1961	Act 183	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213(c) of the HHCA in removing the \$800,000 ceiling to be transferred into the development fund and provided instead only that 25 percent of the moneys made into the Hawaiian Home Loan Fund annually shall be transferred into the Hawaiian Home Development Fund and reduces the amount of funds appropriated from general state revenues to the Department of Hawaiian Home Lands (DHHL) from \$250,000 to \$1.	Green
5/16/1962	Act 14	Yes	99-557 (1986)	100 Stat. 3143	Amends section 214, section 215, and section 216 to permit the HHC to make loans for general farming and ranching. Adds section 219.1 to provide general assistance for land development and utilization.	Green
5/16/1962	Act 18	Yes	99-557 (1986)	100 Stat. 3143	Amends section 215(1) to increase the residential loan ceiling from \$6,000 to \$10,000.	Green

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
6/20/1963	Act 207	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 201, 204, 205, 207, 209, 211, 212, 213, 214, 215, 216, 217, 219, 220, 221, 222 of the HHCA by (1) deleting the word "Territory" and replacing with the word "state" or words of like import, "as context requires" (2) deleting the word "Commission" and substituting the word "Department," (3) deleting certain phrasing in section 215, (4) replacing section 222, and (5) revising the leadership structure of the Hawaiian Homes Commission.	Green
5/3/1965	Act 4	Yes	99-557 (1986)	100 Stat. 3143	Amends the HHCA section 213(b) by providing additional receipts for deposit in a special revolving account with the Hawaiian Home Loan Fund until the aggregate equaled \$2,500,000 with any additional receipts to be repaid to the State's Legislative directive. Also amends section 213 (c) requiring 15 percent of the Additional Receipts be used to fund nonrevenue-producing improvements such as sewage facilities and roads.	Green
5/5/1965	Act 30	Yes	99-557 (1986)	100 Stat. 3143	Amends section 225 to authorize the DHHL to invest moneys not immediately needed from any of its accounts and credit and deposit any interest or other earnings arising out of such investment in the Hawaiian Homes Operating Fund.	Green
6/30/1965	Act 223	Yes	99-557 (1986)	100 Stat. 3143	Amends section 202 implementing changes to civil service positions.	Green
7/12/1965	Act 271	Yes	99-557 (1986)	100 Stat. 3143	Amends section 204 and provides the DHHL with additional flexibility in the area of land management.	Green

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
5/29/1967	Act 146	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 208, 213, and 216 and makes available to lessees, upon approval from the DHHL, loans from other governmental agencies. The amendment to section 216 makes it clear that the DHHL shall have a first lien on any machinery and equipment purchased with money loaned by the DHHL or loans from governmental agencies payment of which is assured by the DHHL. Repeals section 218.	Green
5/7/1968	Act 29	Yes	99-557 (1986)	100 Stat. 3143	Amends section 215(l) to increase the maximum loan amounts then allowed, loans to residential lessees increased from \$10,000 to \$20,000 and agricultural and pastoral lessees from \$15,000 to \$25,000.	Green
6/24/1969	Act 114	Yes	99-557 (1986)	100 Stat. 3143	Deletes the words, "and interest of all outstanding loans" from section 213(b).	Green
7/16/1969	Act 259	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 213 and 214 to authorize the DHHL to use the Hawaiian Home Loan Fund to make loans to qualified lessees for repair and maintenance of their homes on Hawaiian home lands or native Hawaiians who own non-Hawaiian home lands.	Green
5/19/1972	Act 76	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 213, 214, and 215 to add four new funds for the originally established two revolving funds and to accommodate the mercantile purposes permitted under the newly-created commercial loan fund.	Green

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6/22/1972	Act 173	Yes	99-557 (1986)	100 Stat. 3143	Amends section 222 of the HHCA to require an annual report by the DHHL to the legislature and authorizes the DHHL to adopt rules and regulations and policies in accordance with Chapter 91, Hawai'i Revised Statutes.	Green
5/8/1973	Act 66	Yes	99-557 (1986)	100 Stat. 3143	Amends section 208 by increasing the guarantee ceiling set in 1967 from \$500,000 to \$2,000,000.	Green
5/18/1973	Act 130	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213 by adding four new revolving funds to the home loan and home operating fund and the two special funds. Adds an additional special fund known as the Hawaiian Loan Guarantee fund which authorized the DHHL to create a fund to guarantee the payment of loans made by governmental agencies or lending institutions.	Green
6/20/1973	Act 220	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213 (b)(2) by establishing a realistic home loan amount in view of rising home construction cost by authorizing the DHHL to loan or guarantee the repayment or otherwise underwrite any authorized loan up to a maximum of \$25,000 instead of the \$20,000 established in 1968 by Act 29, SLH 1968.	Green
6/7/1974	Act 170	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213 to establish a new revolving fund of \$200,000 to be known as the Papakolea Home-Replacement Loan Fund.	Green

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6/7/1974	Act 172	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213(h) relating to the Hawaiian home-commercial loan fund. The amendment deletes the term "lease" and replaces it with the term "license" to conform to provisions which provide for granting of licenses, instead of leases to theaters, garages, service stations and other mercantile establishments.	Green
6/7/1974	Act 173	Yes	99-557 (1986)	100 Stat. 3143	Further amends section 215 of the HHCA, clarifying the provisions relating to conditions of loans made under the HHCA by restating the maximum loan limits allowable for different loan purposes.	Green
6/7/1974	Act 174	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213(j) relating to the Anahola-Kekaha fund to provide that loans from this fund shall not exceed the loan amount specified for a residence lot in section 215.	Green
6/7/1974	Act 175	Yes	99-557 (1986)	100 Stat. 3143	Amends section 208(8), 213(b), and 213(k) to enable guarantee of loans made by private lending institutions. Authorizes DHHL to guarantee repayment of loans made by governmental agencies or private lending institutions to those holding leases or licenses issued under section 207 of the HHCA. This amendment also defines private lending institutions to include banks, buildings or savings and loan associations, trustees, guardians, trust companies, insurance companies, fiduciaries, and other persons having money to invest. Increases the aggregate of loans the DHHL can guarantee from \$2,000,000 to \$8,000,000.	Green

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6/7/1974	Act 176	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213 to add two additional loan funds-- the Keaukaha-Waiakea Home Replacement Loan Fund and the Keaukaha-Waiakea Home Construction Fund.	Green
4/8/1976	Act 24	Yes	99-557 (1986)	100 Stat. 3143	Amends section 204 by authorizing the HHC to manage the idle lands in accord with Chapter 171, HRS as does the Board of Land and Natural Resources. Grants the DHHL full authority to manage Hawaiian Home Lands not required for homestead leasing, to establish a single management system to coordinate authorized use of the lands and facilitates land exchanges.	Green
4/28/1976	Act 23	Yes	99-557 (1986)	100 Stat. 3143	Amends section 207 by enabling the DHHL to designate the location of home sites on residential lots, because of exorbitant cost to the state for site development, water, roads, and utility access.	Green
5/10/1976	Act 72	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213 creating two new funds and increasing the loan ceiling for existing funds.	Green
5/17/1976	Act 120	Yes	99-557 (1986)	100 Stat. 3143	Amends section 224 to delete the salary limitation of \$6,000 per year to the official representing the Department of the Interior.	Green
6/4/1977	Act 174	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 202 and 222 to provide for an HHC member from the Island of Molokai, authorize the DHHL to hire exempt staff for special needs, and clarifies the personal liability coverage for members of the HHC.	Green
6/3/1978	Act 204	Yes	99-557 (1986)	100 Stat. 3143	Adds section 226 to qualify the DHHL to participate in relevant federal programs.	Green

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6/5/1978	Act 229	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 208, 213, 214, 216, and 225 to: 1) consolidate funds by functions and source; 2) standardize terms; 3) add a new fund as a depository for interest charges; 4) provide for money and gifts/bequeathed to the DHHL and defines parameters of use; and 5) increase the loan guarantee amount.	Green
11/8/1978	Constitutional Convention Amendments	Yes	99-557 (1986)	100 Stat. 3143	Amends section 204, 212, 213, and 221. Amends section 213 to create eight special funds.	Green
6/9/1979	Act 209	Yes	99-557 (1986)	100 Stat. 3143	Amends section 214 by increasing the amount which the DHHL was authorized to borrow or guarantee on loans to \$21,000,000 to cover the DHHL's projected guarantee requirements for its housing program up to 1981.	Green
6/2/1981	Act 90	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 207, 208, 209, 213, 214, 215, 216, 219, 219.1, and 221 to include aquaculture as a permitted use of leased Hawaiian Home Lands and changes acreage.	Green
6/8/1981	Act 112	No. Repealed			<i>Repealed by 1987 Haw. Sess. Laws, Act 36, Section 2.</i> Amended sections 209 and 215 and added a new section.	Red
6/16/1981	Act 158	Yes	99-557 (1986)	100 Stat. 3143	Amended section 213(a)(4) by deleting the word "residence" so as to allow loans to lessees for the construction of replacement homes located, not strictly on residence lots, but also on agricultural, aquacultural, and pastoral lands.	Green

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6/18/1981	Act 192	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 213 and 225 to enable the DHHL to effectively administer the Native Hawaiian Rehabilitation Fund (NHRF) by: 1) authorizing the DHHL to adopt necessary rules to administer NHRF and programs financed by the fund; 2) allowing the DHHL to administer NHRF and its related programs separate and apart from the requirements contained in other sections of the Act which apply to loans; and 3) requiring the crediting and deposition of any interest and earnings of the fund back into NHRF so that its particular intent may be furthered.	Green
6/18/1981	Act 203	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 213, 214, and 215 by increasing the ceiling on loans to homestead lessees for the construction of homes and related improvements from \$35,000 to \$50,000, and for the repair of existing homes from \$10,000 to \$15,000.	Green
6/18/1982	Act 272	Yes	99-557 (1986)	100 Stat. 3143	Amends section 209 by reducing the blood quantum for a spouse or children of lessees to qualify to succeed to a lessee's homestead lease, to eliminate the requirement that a homestead lessee designate a successor at the time of the homestead award, and to limit the DHHL's ability to select a successor to a lease when a lessee fails to designate a successor.	Green
6/18/1982	Act 273	Yes	99-557 (1986)	100 Stat. 3143	Correct an inconsistency between HRS 26-17 and section 202(a) of the HHCA. Changes the composition of the Commission from seven to eight members.	Green

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6/18/1982	Act 274	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 213 and 215 to improve the DHHL's agricultural programs by increasing the ceiling on farm loans to lessees and by offering a wider variety of services and loans to homestead farmers and ranchers.	Green
6/18/1982	Act 275	Yes	99-557 (1986)	100 Stat. 3143	Amends section 219 of the HHCA to eliminate the ceiling of \$6,000 for employment of agricultural and aquacultural experts.	Green
5/25/1983	Act 125	Yes	99-557 (1986)	100 Stat. 3143	Amends section 207 to allow the DHHL greater flexibility in the administration of its lands through the disposition of licenses.	Green
5/28/1983	Act 143	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 213 and 225 by correcting inconsistencies relating to how the deposit location of interest and other earnings arising out of investments are to be deposited.	Green
5/28/1983	Act 147	Yes	99-557 (1986)	100 Stat. 3143	Amends section 202(a) to correct the inconsistencies resulting from the reapportionment of the state voting districts by the 1981 Reapportionment Commission.	Green
4/4/1984	Act 27	Yes	99-557 (1986)	100 Stat. 3143	Amends section 207(a) of the HHCA by deleting the proviso permitting the DHHL to designate the location of the home site on residence lots less than 10,000 square feet and added two new sentences authorizing the DHHL to develop and construct multi-family units for housing native Hawaiians and authorizing the DHHL to develop rules prescribing the method of disposition as well as the terms, conditions, covenants, and restricting as to the use and occupancy of such multi-family units.	Green

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4/16/1984	Act 36	Yes	99-557 (1986)	100 Stat. 3143	Amends section 221(f) of the HHCA to permit the DHHL to negotiate agreements for the maintenance of the DHHL's water systems and the billing and collection of user fees.	Green
4/16/1984	Act 37	Yes	99-557 (1986)	100 Stat. 3143	Amends section 207(c)(1)(B) to expand on who could obtain mercantile licenses to native Hawaiians or organizations formed and controlled by native Hawaiians instead of the more limited category of homestead lessees.	Green
5/30/1984	Act 199	Yes	99-557 (1986)	100 Stat. 3143	Amends section 202(b) to extend the term of employment of contract individuals.	Green
6/5/1984	Act 260	Yes	99-557 (1986)	100 Stat. 3143	Amends section 213 relating to the Hawaiian home interest fund, to expressly permit moneys therein be transferred to the Hawaiian home administration account which moneys, if transferred, could only be used to fund salaries and other administrative expenses related to loan services and delinquent collection activities.	Green
5/1/1985	Act 60	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 204 and 208 of the HHCA to expressly require that any Hawaiian Home Lands general lease issued by the DHHL after June 30, 1985 contain a withdrawal clause allowing the DHHL to withdraw the land leased at any time during the term of the lease for the purposes of the HHCA and reduces the age requirements of an original lessee from 21 to 18 years of age. Also makes clarifying amendments.	Green
5/4/1985	Act 69	Yes	99-557 (1986)	100 Stat. 3143	Amends section 207(a) to adjust the minimum acreage restrictions of agricultural, aquacultural, or pastoral lots.	Green

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5/29/1985	Act 137	Yes	99-557 (1986)	100 Stat. 3143	Amends section 209(l) of the HHCA to permit a lessee to designate a nonqualified surviving spouse or nonqualified child to receive a value equal to the net proceeds and authorizes the DHHL to make such payment upon the lessee's death.	Green
5/31/1985	Act 159	Yes	99-557 (1986)	100 Stat. 3143	Amends section 207(c)(2) relating to licenses as easements for railroads, telephone lines, electric power, light lines, gas mains and the like to the United States. Removing restrictions allowing greater flexibility to the DHHL in granting licenses to the United States and removing the governor approval requirement.	Green
6/8/1985	Act 284	Yes	99-557 (1986)	100 Stat. 3143	Amends sections 208 and 213(b) of the HHCA in order to enable the DHHL to be able to meet federal requirements imposed as conditions for participation to insured loan programs such as established by the Federal Housing Administration (HUD) and the Veterans Administration.	Green
6/12/1985	Act 295	Yes	99-557 (1986)	100 Stat. 3143	Amends section 202(b) of the HHCA to hire temporary staff on a contractual basis and not subject to civil service constraints when the services to be performed will assist in carrying out the purposes of the HHCA and permits such position to be funded through various funds including the native Hawaiian rehabilitation fund.	Green
4/10/1986	Act 16	Yes	102-398 (1992)	73 Stat. 4	Adds section 227 authorizing the DHHL to participate in any federal/state program to establish one or more enterprise zones	Green

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4/22/1986	Act 75	Yes. However, repealed pursuant to its own sunset provision.	Not enacted/repealed from State law.	Not enacted/repealed from State law.	<i>Repealed effective December 31, 1995.</i> Added title 5 to provide DHHL an alternative to its homestead program by distributing land to native Hawaiians through the homestead general leasing program thereby allowing greater flexibility in obtaining financing for improvements on lands, infrastructure improvements and passing leasehold interests on to survivors.	Red
4/22/1986	Act 84	Yes. Determination by Counselor to the Secretary and Designated Officer (2/17/1995). However, there appears to be an unresolved issue. See State letter of 3/3/1995 to DOI	Not enacted.	Not enacted.	Adds section 220.5 providing for development by contract and requirements for project developer agreements.	Red
4/22/1986	Act 85	Yes	102-398 (1992)	73 Stat. 4	Amends HHCA section 214 to allow DHHL to use moneys pledged to its loan accounts as collateral to secure additional "new" loans and authorize it to transfer certain loan funds into the Hawaiian Home Trust Fund to serve as cash guarantees or reserves for federal loan programs.	Green

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5/29/1986	Act 249	Yes	102-398 (1992)	73 Stat. 4	Amends HHCA sections 202, 213, 214, 220, and 222 to abolish certain funds, merging existing funds, and renaming an existing fund to serve as a holding account to simplify DHHL's funding structure (reduces the number of special funds and accounts from 15 to 7).	Green
10/27/1986 (Federal Passage)	N/A	N/A	99-557 (1986)	100 Stat. 3143	The United States consents to all amendments made by the State of Hawai'i between August 21, 1959, and June 30, 1985, except for Act 112 of 1981.	N/A
5/11/1987	Act 36	Yes	102-398 (1992)	73 Stat. 4	Amends HHCA sections 209 and 213 to add clarification.	Green
6/25/1987	Act 283	No. Determination by Solicitor (5/31/1989).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends HHCA section 214 (b) (5) to correct a reference to "section" to "subsection."	Blue
4/21/1989	Act 28	Yes	102-398 (1992)	73 Stat. 4	Amends sections 214 and 215 by removing the loan ceiling in 214(b)(2) and revising the loan ceiling for single residence loan amounts in 215(1).	Green
6/8/1989	Act 265	Yes	102-398 (1992)	73 Stat. 4	Amends HHCA, section 202 (a) to add an additional member of the HHC from Hawai'i county and to change the number of people on the HHC from 8 to 9.	Green

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6/9/1989	Act 283	Yes. Determination by Counselor to the Secretary and Designated Officer (2/17/1995). However, there appears to be an unresolved issue. See State letter of 3/3/1995 to DOI.	Not enacted.	Not enacted.	Adds sections 204.5 and 213.5 providing for additional powers of the DHHL and establishing a special revenue bond fund.	Red
4/17/1990	Act 14	Yes	102-398 (1992)	73 Stat. 4	Amends HHCA section 204 to section (3)(b) to add a clarifying statement regarding the management and disposal of lands by the department.	Green
4/17/1990	Act 24	Yes	102-398 (1992)	73 Stat. 4	Amends section 221(2)(b) and (c) to add the words, "agricultural operations" and amends HHCA sections 221 (2)(e) to add, "or" for clarification.	Green
6/15/1990	Act 150	Yes	102-398 (1992)	73 Stat. 4	Amends HHCA sections 203 and 209(a)(2) to set aside a portion of land of Kalawahine makai of Tantalus Drive consisting of twelve acres and to include the words, " or under Section __ of the Act of _____ (__ Stat. ___, ___)." after the words "as amended."	Green

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7/3/1990	Act 305	Yes	102-398 (1992)	73 Stat. 4	Amends HHCA section 208 to clarify subsection (2) by adding the following statement, "except that the DHHL may extend the term of any lease provided that the approval of any extension granted shall not be more than 199 years"; also amends subsection (3) by substituting, "lease is made with, "commencement of the term of the lease."	Green
7/11/1990	Act 349	Yes. State Act requires U.S. approval as per the specific language of the Act	Not enacted.	Not enacted.	Adds section 101 declaring Federal and State policy, the purpose of the act, and identifying the principle purposes of the Act as follows: (1) "to establish a permanent land base set aside by this Act for the native Hawaiians" (2) "place them in a prompt/efficient manner" (3) "prevent alienation of fee title" and (4) "provide adequate amounts of water" and (5) "financial/technical assistance."	Plum
7/2/1991	Act 325	No. Determination by Counselor to the Secretary and Designated Officer (11/10/1992).	N/A	N/A	Amends section 220 to assure that (1) adequate amounts of water are reserved for the future development and use of Hawaiian homesteaders, (2) any lease of water rights or renewal shall be subject to the rights of the DHHL.	Blue

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5/27/1992	Act 92	No. Determination by Counselor to the Secretary and Designated Officer (11/10/1992).	N/A	N/A	Technical correction providing the full federal Statutes at Large cite in section 209, filling in the blanks of the amendment made by Act 150 (1990) to read " or under section 3 of the Act of July 9, 1952 (66 Stat. 511, 513)."	Green
10/6/1992 (Federal Passage)	N/A	N/A	102-398 (1992)	73 Stat. 4	The United States consents to Act 16 (1986), Act 85 (1986), Act 249 (1986), Act 36 (1987), Act 28 (1989), Act 265 (1989), Act 14 (1990), Act 24 (1990), Act 150 (1990) and Act 305 (1990) made by the State of Hawai'i.	N/A
5/21/1993	Act 145	Yes. Determination by Counselor to the Secretary and Designated Officer (2/17/1995). However, there appears to be an unresolved issue. See State letter of 3/3/1995 to DOI.	Not enacted.	Not enacted.	Amends section 213 to renumber subsections; remove \$15,000 ceiling from loans from the Hawaiian Home General Loan Fund, and to clarify that the DHHL is authorized to adopt rules under Chapter 91 to administer the Native Hawaiian rehabilitation fund.	Red

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5/21/1993	Act 146	No. Determination by Counselor to the Secretary and Designated Officer (2/17/1995).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 220.5(d)(3) to add the following statement, "with the value of the permanent improvements determined on the basis of fair market value or depreciated value, whichever is less."	Blue
5/21/1993	Act 147	No. Determination by Counselor to the Secretary and Designated Officer (2/17/1995).	105-21 (1997)	111 Stat. 235	Amends HHCA section 209 (a)(2) to add the words, "father and mother" and amends section 209 (a)(3) to clarify that should a lessee die without naming a successor approved by the DHHL and there is not spouse or child, then a Native Hawaiian relative may be appointed as successor.	Green
6/30/1993	Act 339	Yes	105-21 (1997)	111 Stat. 235	Under the purpose of the Act, to establish a hurricane relief fund, amends section 219.1(a) to outline activities the DHHL may undertake either alone or with any other government agency (i.e. form and insurance company/association, acquire an existing insurance company, enter into arrangements with one or more insurance companies, or undertake a combination of the previously state functions).	Green
4/28/1994	Act 37	Yes	105-21 (1997)	111 Stat. 235	Amends section 209 by adding a new section (3) under qualified relatives of decedent and changing (3) to (4).	Green

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6/9/1994	Act 109	No. Determination by Counselor to the Secretary and Designated Officer (2/17/1995).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 209 by adding sections (b) outlining the method of appraisals of growing crops, and stocks; and (c) outlining the procedure to notify previous lessee and cancel abandoned tracts(s) and changing (b) to (d) and (c) to (e).	Blue
6/9/1994	Act 152	No. Determination by Counselor to the Secretary and Designated Officer (2/17/1995).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 213 to reflect that any funds recovered from the Panaewa residential lots, units 3 and 4, will be credited/deposited into the Hawaiian Home Administration Account, and any excess cash in that account from 7/1/94 to 7/1/95 be transferred to the Hawaiian Home Operating fund to be used for repair, removal, replacement or restoration of homes in direct settlement with the homeowners.	Blue
6/29/1995	Act 14	No. Determination by ASPMB (11/09/2009).	Department of the Interior (DOI) deemed approval by Congress. unnecessary.	DOI deemed approval by Congress unnecessary.	Adds section 213.6 to resolve controversies regarding the Hawaiian Home Lands Trust between 8/21/59 and 7/1/88; to resolve all claims during that time period pertaining to the validity of patents issued. Also appropriates funds and provides additional means to accomplish the intent and purpose of the Act; establishes a trust fund; furthers public interest and precludes forever any derivative or other federal claims attempted to be tethered to the State.	Blue

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6/18/1996	Act 232	No. Determination by ASPMB (11/09/2009).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 214 by replacing "21,000,000" with "\$50,000,000" as the total ceiling for subsections 2, 3, and 4.	Blue
6/16/1997	Act 196	No. Determination by ASPMB (11/09/2009).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Adds section 207.5 authorizing the DHHL to develop/construct single and multi-family units per rules under Chapter 91 and also amends section 207 and 208 for clarification.	Blue
6/16/1997	Act 197	No. Determination by ASPMB (11/09/2009).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 201, 204.5, 205, 206, 210, 211, 213.5, 215, 217, and 227 for minor grammatical clarifications (capitalization, removal of brackets, etc.).	Blue
6/27/1997 (Federal Passage)	N/A	N/A	105-21 (1997)	111 Stat. 235	The United States consents to Act 339 (1993) and Act 37 (1994) made by the State of Hawai'i.	N/A
4/23/1998	Act 27	No. Determination by ASPMB (11/09/2009).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 213 to change the number of trust fund accounts from 5 to 4: (1) Hawaiian Home Operating Fund, (2) Hawaiian Home Receipts Fund, (3) Hawaiian Home Trust Fund, and (4) native Hawaiian Rehabilitation Fund which is subject to the conditions outlines in subsection (i) (1)-(5). Also adds a Hawaiian Homes Administration Account as a special fund instead of a trust fund.	Blue

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4/15/1999	Act 17	No. Determination by the Solicitor General (2/27/2003).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 208 to clarify that lessees may, with the approval of the DHHL, transfer interest to qualified relatives who are at least 1/4 Hawaiian (i.e. husband, wife, child or grandchild).	Blue
5/22/2000	Act 119	No. Determination by ASPMB (11/09/2009).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 204 for minor clarifications.	Blue
7/24/2000	Act 107	Yes. Determination by ASPMB (11/09/2009).	Not Enacted	Not Enacted	Amends section 215 authorizing the DHHL to establish, by administrative rule, the interest rate on loans from the Hawaiian Home Loan Fund and other loan sources. Lowers the interest rate on such loans from two and one-half percent to zero %.	Red
5/22/2001	Act 110	No. Determination by ASPMB (11/09/2009).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 222 clarifying that the annual reporting requirement to the legislature on lands leased or subleased apply only to those lands leased in accordance with chapter 171 and clarifies the department's responsibility to adopt rules in accordance with chapter 91.	Blue

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
5/22/2001	Act 122	No. Determination by ASPMB (11/09/2009).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 209 authorizing the DHHL to require a successor (or successors) who receives a homestead lease due to the death of a lessee leaving no qualified successor, the cancellation of a lease by the DHHL, or the surrender of a lease by the lessee, to secure private financing to repay any advances made from the Hawaiian Home Loan Fund or Hawaiian Home General Loan Fund.	Blue
6/28/2001	Act 302	Yes. State Act requires U.S. approval as per the specific language of the Act. Determination by ASPMB (11/09/2009).	Not Enacted	Not Enacted	Adds sections 201.4 and 201.6 providing federal reaffirmation and authorizing community-based governance on Hawaiian home lands.	Plum
4/10/2002	Act 12	Yes. Determination by ASPMB (11/09/2009).	Not Enacted	Not Enacted	Amends section 208 to allow a homestead lessee who received leasehold interest via transfer or succession who is at least one-quarter Hawaiian to transfer the leasehold interest in the tract to a brother or sister who is at least one-quarter Hawaiian.	Red

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
6/6/2002	Act 117	No. Determination by ASPMB (11/09/2009).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 213 to broaden the use of the Native Hawaiian Rehabilitation Fund (NHRF) to allow the provision of the NHRF-supported programs and services to be extended to native Hawaiian families and Hawaiian Homestead communities.	Blue
7/1/2002	Act 148	State submission required.	State submission required.	State submission required.	Amends section 202(b) with regards to the provisions of the Hawai'i Revised Statutes applicable to the hiring of staff.	Gray
4/20/2005	Act 16	Yes. Determination by ASPMB (11/22/06).	Not Enacted	Not Enacted	Amends section 209 to permit a homestead lessee to designate a brother or sister who is at least one-quarter native Hawaiian to succeed to the leasehold interest in the tract.	Red
5/17/2005	Act 53	No. Determination by ASPMB (11/22/2006).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 208 to permit the use of private mortgage insurance acceptable to the Commission.	Blue

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
6/7/2006	Act 177	No. Determination by ASPMB (11/09/2009).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 213.6 to allow the Hawaiian Home Commission to deposit moneys in depositories other than the state treasury. Authorizes the Hawaiian Homes Commission to manage, invest, and reinvest moneys in the trust fund. Authorizes the commission to hold, purchase, sell, assign, transfer, or dispose of any securities and investments and any proceeds from investments in which trust fund moneys have been invested. Amends section 213.6 to allow the Commission to deposit and invest moneys from the trust fund outside of the state treasury.	Blue
5/21/2008	Act 85	Awaiting full submission of the proposed amendment and accompanying information to the Department.			Amends section 215 increasing the loan ceiling from \$50,000 to \$200,000.	Gray
7/2/2010	Act 187	Currently under review.			Amends section 213 to deposit 15 per cent of all lease agreements granted lease extensions into the Native Hawaiian rehabilitation fund and requires that an annual report be submitted for the fund. Adds section 228 regulating commercial use of Hawaiian home lands.	Gray

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
7/1/2011	Act 114	No. Determination by Principal Deputy Assistant Secretary for Policy, Management, and Budget (09/27/2016).	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Amends section 214 increasing the State's liability ceiling from \$50,000 to \$100,000,000. If at a future date the State seeks to increase the debt ceiling again, the State should provide evidence of how this increase in debt ceiling actually benefited the HHCA lessees as anticipated. Without such evidence, there will be little if any basis to find that a future increase would advance the interests of the HHCA lessees.	Blue
06/28/2012	Act 174	No. Determination by ASPMB (08/13/2013)	DOI deemed approval by Congress unnecessary.	DOI deemed approval by Congress unnecessary.	Act 174 seeks to amend the Hawaiian Homes Commission Act (HHCA) of 1920, by exempting DHHL expenditures of less than \$100,000 from the Hawai'i Public Procurement Code. <i>Self-repealed on June 30, 2015.</i>	Blue
06/28/2012	Act 175	Currently under review.			Seeks to repeal certain sections of Act 187 (2010).	Gray

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
07/01/2014	Act 173	Yes. Determination by ASPMB (01/24/2018). Presumed withdrawn if State does not respond to DOI decision letter by 03/29/2018. This option provided to State because it may amend chapter 171 as to its public lands avoiding conflict created between Act 173 and HHCA section 204.			State of Hawai'i Act 173 (2014) proposes to amend the Hawaiian Homes Commission Act, 1920, 42 Stat. 108 (HHCA), Section 204(a)(2), by adding an additional proviso to permit the State of Hawai'i Department of Hawaiian Home Lands (DHHL) to "lease by direct negotiation and at fair market rents, and for a term not to exceed five years, any improvements on Hawaiian home lands, or portions thereof, that are owned or controlled by the [DHHL]" not required for homestead leasing under section 207(a) of the HHCA.	Red
07/05/2017	Act 80	Yes. Determination by DOI Solicitor (12/02/2022)			Seeks to reduce the minimum blood quantum requirement from one-quarter to one thirty-second for certain relatives of a homestead lessee to succeed to a lessee's homestead lease upon death. Act requires U.S. approval as per the specific language of the Act.	Red

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
07/6/2021	Act 236	State submission required if Act is to be applied to lands held by the Hawaiian Home Lands Trust.	State submission required	State submission required	If applied to Hawaiian home lands, Act 236 would allow for the extension of lease terms in excess of the previous lease duration limitation as previously provided for in Chapter 171 of the Hawai'i Revised Statutes. These potential lease extensions would constitute an additional encumbrance on Hawaiian home lands as articulated by 43 C.F.R. § 48.20. Must be approved by Congress to apply to the HHCA and the Trust.	Brown
07/03/2023	Act 187	State submission required if Act is to be applied to lands held by the Hawaiian Home Lands Trust.	State submission required	State submission required	Proposed amendment seeks to allow that an "adopted person shall be considered as a child of both the adopted and natural parents for the sole purpose of determining familial relationships, including the identification of successors to lessees and conditions of leases under sections 208 and 209 of the Hawaiian Homes Commission Act, 1920, as amended." Must be approved by Congress to apply to the HHCA and the Trust.	Brown
06/28/2024	Act 130	State submission required	State submission required	State submission required	The purpose of the proposed amendment is to increase the loan limit for direct loans provided by the Department of Hawaiian Home Lands from 50% to 75% of the maximum single residence loan amount allowed in Hawai'i by the U.S. Dept. of Housing and Urban Development's Federal Housing Administration.	Gray

DATE OF STATE LEGISLATION'S PASSAGE (UNLESS OTHERWISE NOTED)	STATE ACT NO.	WAS CONGRESS' APPROVAL REQUIRED?	U.S. PUBLIC LAW NO.	STATUTES AT LARGE CITATION	DESCRIPTION	COLOR CODE
05/19/2025	Act 74	State submission required	State submission required	State submission required	The purpose of the proposed amendment is to amend Act 130, 2024, Haw. Sess. Laws, to change the effective date of Act 130 to the earlier of the date of the Secretary's letter to the Congressional Committee Chairpersons that Act 130 does not trigger regulatory provisions requiring the approval of Congress or the date that Congressional approval becomes law.	Gray (Companion to Act 130, 2024, Haw. Sess. Laws)

Appendix B - INVENTORY OF RELATED STATE ACTS AND STATUTORY REFERENCES. (LIMITED SELECTION)

“HHCA” AND “HAWAIIAN HOME LANDS” REFERENCED IN HAWAI‘I STATE LAWS		
DATE OF LEGISLATION	STATE ACT NO.	DESCRIPTION
7/8/1961	Act 166	Amends the Revised Laws of Hawaii 1955 with regards to water and land development. Section 84-7 entitles the Hawaiian homes commission and the lessees of the Hawaiian homes commission to two-thirds of the water developed for irrigation and water utilization by the tunnel development extending into the Waikolu valley and ground water developed west of Waikolu.
5/31/1963	Act 114	Amends Chapter 14A, RLH 1955, renaming the State department of budget and review as the department of budget and finance. By this amendment, then section 213(f) relating to the Hawaiian Home Administration Account was implicitly amended to reflect such change in the budget submittal process required thereunder.
4/27/2000	Act 77	Amends section 201G-195(b), Hawai‘i Revised Statutes, to allow project loans for housing projects on Hawaiian home lands in accordance with the HHCA.
6/5/2006	Act 169	Amends the Hawai‘i Revised Statutes and references the HHCA in section 88-119(F).
6/9/2006	Act 707	Adds a new chapter to the Hawai‘i Revised Statutes concerning Hawai‘i Public Housing Authority and references the HHCA.
7/1/2007	Act 260	Amends the Hawai‘i Revised Statutes concerning economic investments and references the HHCA.
7/3/2007	Act 249	Amends the Hawai‘i Revised Statutes concerning Hawaiian public lands and housing programs.
7/13/2009	Act 176	Amends the Hawai‘i Revised Statutes (sec. 171) to establish a more comprehensive process for the sale of state-owned land. Hawaiian home lands remain exempt.
6/24/2010	Act 175	Amends the Hawai‘i Revised Statutes (sec. 171) to establish a more comprehensive process for the sale of state-owned land. Hawaiian home lands remain exempt.
7/2/2010	Act 187	Amends the Hawai‘i Revised Statutes (sec. 37-40 and 103D-309(a)) to allow obligations in excess of the amount standing to the credit of the trust funds under the HHCA.
7/6/2010	Act 209	Amends the Hawai‘i Revised Statutes (sec. 171) with regards to the special land and development fund to expand use for environmental purposes such as control and mitigation of invasive species and to promote reforestation and sediment run-off mitigation.
2/23/2011	Act 1	Amends the Hawai‘i Revised Statutes by recognizing civil unions in Hawai‘i.
7/6/2011	Act 646	Amends the Hawai‘i Revised Statutes by adding a new chapter on native Hawaiian recognition.

HHCA SECTIONS INCORPORATING HAWAI‘I REVISED STATUTES AND OTHER LAWS, WITH CONGRESSIONAL APPROVAL*

HHCA SECTION	HAWAI‘I REVISED STATUTES (HRS) OR OTHER LAWS INCORPORATED	STATE ACT NO.	STATUTES AT LARGE CITATION	EFFECTIVE DATE
201(a): Definitions	Hawaiian Organic Act, paragraph (3) of subdivision (a) of section 73	N/A	42 Stat. 108	Jul. 9, 1921
201(b): Definitions	Revised Laws of Hawai‘i of 1915, sections 347 and 351	N/A	42 Stat. 108	Jul. 9, 1921
202(a): Department Officers, Staff, Commission, Members, Compensation	HRS § 26-34, Executive and Administrative Departments	Act 174, 1977	100 Stat. 3143	Oct. 27, 1986
202(b): Department Officers, Staff, Commission, Members, Compensation	HRS chapter 76, §§ 76-16(o), 76-23, and 76-31	Act 174, 1977	100 Stat. 3143	Oct. 27, 1986
Ditto	HRS chapter 78, Public Service	Act 174, 1977	100 Stat. 3143	Oct. 27, 1986
204(a): Control by Department of “available lands,” Return to Board of Land and Natural Resources, When; Other lands, use of	Hawaiian Organic Act, section 73	N/A	45 Stat. 246	Mar. 7, 1928
Ditto	HRS Chapter 171 (replacing Hawaiian Organic Act, section 73 with chapter 103A, Revised Laws of Hawaii 1955; subsequently replaced by HRS Chapter 171)	Act 271, 1965 Act 24, 1976	100 Stat. 3143	Oct. 27, 1986
207.5: Housing Development	HRS Chapter 91, Administrative Procedure	Act 196, 1997	*Administrative	Aug. 7, 2009
213(i):	HRS Chapter 88, Pension and Retirement Systems HRS Chapter 91, Administrative Procedure	Act 27, 1998 Act 145, 1993	*Administrative NOT ENACTED	Aug. 7, 2009 NOT EFFECTIVE
219.1(c)(1)	HRS Chapter 39, State Bonds	Act 339, 1993	111 Stat. 235	Jun. 27, 1997
221(c)(2):	HRS Chapter 101 pertaining to eminent domain proceedings (replacing original reference to sections of the Revised Laws of Hawaii of 1915)	Act 90, 1981	100 Stat. 3143	Oct. 27, 1986

HHCA SECTION	HAWAI‘I REVISED STATUTES (HRS) OR OTHER LAWS INCORPORATED	STATE ACT NO.	STATUTES AT LARGE CITATION	EFFECTIVE DATE
222: Administration	HRS Chapter 91, Administrative Procedure HRS Chapter 171, Disposition of Public Lands	Act 110, 2001	*Administrative	Aug. 7, 2009

Appendix C - AN ACT TO PROVIDE FOR THE ADMISSION OF THE STATE OF HAWAI'I INTO THE UNION, ACT OF MARCH 18, 1959, PUBLIC LAW 86-3, 73 STAT 4.

The Admission Act

§1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the provisions of this Act, and upon issuance of the proclamation required by section 7(c) of this Act, the State of Hawaii is hereby declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, and the constitution formed pursuant to the provisions of the Act of the Territorial Legislature of Hawaii entitled "An Act to provide for a constitutional convention, the adoption of a State constitution, and the forwarding of the same to the Congress of the United States, and appropriating money therefore", approved May 20, 1949 (Act 334, Session Laws of Hawaii, 1949), and adopted by a vote of the people of Hawaii in the election held on November 7, 1950, is hereby found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is hereby accepted, ratified, and confirmed.

§2. The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial waters, included in the Territory of Hawaii on the date of enactment of this Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters, but said State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (off-shore from Johnston Island), or Kingman Reef, together with their appurtenant reefs and territorial waters.

[73 Stat. 5]

§3. The constitution of the State of Hawaii shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

§4. As a compact with the United States relating to the management and disposition of the Hawaiian home lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the Constitution of said State, as provided in section 7, subsection (b) of this Act, subject to amendment or repeal only with the consent of the United States, and in no other manner: Provided, That (1) sections 202, 213, 219, 220, 222, 224, and 225 and other provisions relating to administration, and paragraph (2) of section 204, sections 206 and 212, and other provisions relating to the powers and duties of officers other than those charged with the administration of said Act, may be amended in the constitution, or in the manner required for State legislation, but the Hawaiian home-loan fund, the Hawaiian home-operating fund, and the Hawaiian home-development fund shall not be reduced or impaired by any such amendment, whether made in the constitution or in the manner required for State legislation, and the encumbrances authorized to be placed on Hawaiian home lands by officers other than those charged with the administration of said Act, shall not be increased, except with the consent of the United States; (2) that any amendment to increase the benefits to lessees of Hawaiian home lands may be made in the constitution, or in the manner required for State legislation, but the qualifications of lessees shall not be changed except with the consent of the United States; and (3) that all proceeds and income from the "available lands", as defined by said Act, shall be used only in carrying out the provisions of said Act.

§5. (a) Except as provided in subsection (c) of this section, the State of Hawaii and its political subdivisions, as the case may be, shall succeed to the title of the Territory of Hawaii and its subdivisions in those lands and other properties in which the Territory and its subdivisions now hold title.

(b) Except as provided in subsection (c) and (d) of this section, the United States grants to the State of Hawaii, effective upon its admission into the Union, the United States' title to all the public lands and other public property, and to all lands defined as "available lands" by section 203 of the Hawaiian Homes Commission Act, 1920, as amended, within the boundaries of the State of Hawaii, title to which is held by the United States immediately prior to its admission into the Union. The grant hereby made shall be in lieu of any and all grants provided for new States by provisions of law other than this Act, and such grants shall not extend to the State of Hawaii.

(c) Any lands and other properties that, on the date Hawaii is admitted into the Union, are set aside pursuant to law for the use of the United States under any (1) Act of Congress, (2) Executive order, (3) proclamation of the President, or (4) proclamation of the Governor of Hawaii shall remain the property of the United States subject only to the limitations, if any, imposed under (1), (2), (3), or (4), as the case may be.

(d) Any public lands or other public property that is conveyed to the State of Hawaii by subsection (b) of this section but that, immediately prior to the admission of said State into the Union, is controlled by the United States pursuant to permit, license, or permission, written or verbal, from the Territory of Hawaii or any department thereof may, at any time during the five years following the admission of Hawaii into the Union, be set aside by Act of Congress or by Executive order of the President, made pursuant to law, for the use of the United States, and the lands or property so set aside shall, subject only to valid rights then existing, be the property of the United States. [Am July 12, 1960, Pub L 86-624, 74 Stat 422]

[73 Stat. 6]

(e) Within five years from the date Hawaii is admitted into the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to subsections (c) and (d) of this section shall report to the President the facts regarding its continued need for such land or property, and if the President determines that the land or property is no longer needed by the United States it shall be conveyed to the State of Hawaii.

(f) The lands granted to the State of Hawaii by subsection (b) of this section and public lands retained by the United States under subsections (c) and (d) and later conveyed to the State under subsection (e), together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States. The schools and other educational institutions supported, in whole or in part out of such public trust shall forever remain under the exclusive control of said State; and no part of the proceeds or income

from the lands granted under this Act shall be used for the support of any sectarian or denominational school, college, or university.

(g) As used in this Act, the term "lands and other properties" includes public lands and other public property, and the term "public lands and other public property" means, and is limited to, the lands and properties that were ceded to the United States by the Republic of Hawaii under the joint resolution of annexation approved July 7, 1898 (30 Stat. 750), or that have been acquired in exchange for lands or properties so ceded.

(h) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the State of Hawaii or its political subdivisions pursuant to subsection (a), (b), or (e) of this section or reserving the right to alter, amend, or repeal laws relating thereto shall cease to be effective upon the admission of the State of Hawaii into the Union.

(i) The Submerged Lands Act of 1953 (Public Law 31, Eighty-third Congress, first session; 67 Stat. 29) and the Outer Continental Shelf Lands Act of 1953 (Public Law 212, Eighty-third Congress, first session, 67 Stat. 462) shall be applicable to the State of Hawaii, and the said State shall have the same rights as do existing States thereunder.

Revised conveyance procedures. Act of December 23, 1963, Pub L 88-233, 77 Stat 472, provides:

(a)(i) whenever after August 21, 1964, any of the public lands and other public property as defined in section 5(g) of Public Law 86-3 (73 Stat. 4, 6), or any lands acquired by the Territory of Hawaii and its subdivisions, which are the property of the United States pursuant to section 5(c) or become the property of the United States pursuant to section 5(d) of Public Law 86-3, except the lands administered pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended, and (ii) whenever any of the lands of the United States on Sand Island, including the reef lands in connection therewith, in the city and county of Honolulu, are determined to be surplus property by the Administrator of General Services (hereinafter referred to as the "Administrator") with the concurrence of the head of the department or agency exercising administration or control over such lands and property, they shall be conveyed to the State of Hawaii by the Administrator subject to the provisions of this Act.

(b) Such lands and property shall be conveyed without monetary consideration, but subject to such other terms and conditions as the Administrator may prescribe: Provided, That, as a condition precedent to the conveyance of such lands, the Administrator shall require payment by the State of Hawaii of the estimated fair market value, as determined by the Administrator, of any buildings, structures, and other improvements erected and made on such lands after they were set aside. In the event that the State of Hawaii does not agree to any payment prescribed by the Administrator, he may remove, relocate, and otherwise dispose of any such buildings, structures, and other improvements under other applicable laws, or if the Administrator determines that they cannot be removed without substantial damage to them or the lands containing them, he may dispose of them and the lands involved under other applicable laws, but, in such cases he shall pay to the State of Hawaii that portion of any proceeds from such disposal which he estimates to be equal to the value of the lands involved. Nothing in this section shall prevent the disposal by

the Administrator under other applicable laws of the lands subject to conveyance to the State of Hawaii under this section if the State of Hawaii so chooses.

Sec. 2. Any lands, property, improvements, and proceeds conveyed or paid to the State of Hawaii under section 1 of this Act shall be considered a part of public trust established by section 5(f) of Public Law 86-3, and shall be subject to the terms and conditions of that trust.

§6. As soon as possible after the enactment of this Act, it shall be the duty of the President of the United States to certify such fact to the Governor of the Territory of Hawaii. Thereupon the Governor of the Territory shall, within thirty days after receipt of the official notification of such approval, issue his proclamation for the elections, as hereinafter provided, for officers of all State elective offices provided for by the constitution of the proposed State of Hawaii, and for two Senators and one Representative in Congress. In the first election of Senators from said State the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No identification or designation of either of [73 Stat. 7] the two senatorial offices, however, shall refer to or be taken to refer to the term of that office, nor shall any such identification or designation in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

§7. (a) The proclamation of the Governor of Hawaii required by section 6 shall provide for the holding of a primary election and a general election and at such elections the officers required to be elected as provided in section 6 shall be chosen by the people. Such elections shall be held, and the qualifications of voters thereat shall be, as prescribed by the constitution of the proposed State of Hawaii for the election of members of the proposed State legislature. The returns thereof shall be made and certified in such manner as the constitution of the proposed State of Hawaii may prescribe. The Governor of Hawaii shall certify the results of said elections, as so ascertained, to the President of the United States.

(b) At an election designated by proclamation of the Governor of Hawaii, which may be either the primary or the general election held pursuant to subsection (a) of this section, or a territorial general election, or a special election, there shall be submitted to the electors qualified to vote in said election, for adoption or rejection, the following propositions:

(1) Shall Hawaii immediately be admitted into the Union as a State?

(2) The boundaries of the State of Hawaii shall be as prescribed in the Act of Congress approved.....

(Date of approval of this Act)

and all claims of this State to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

(3) All provisions of the Act of Congress approved.....

(Date of approval of this Act)

reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Hawaii are consented to fully by said State and its people."

In the event the foregoing propositions are adopted at said election by a majority of the legal votes cast on said submission, the proposed constitution of the proposed State of Hawaii, ratified by the people at the election held on November 7, 1950, shall be deemed amended as follows: Section 1 of article XIII of said proposed constitution shall be deemed amended so as to contain the language of section 2 of this Act in lieu of any other language; article XI shall be deemed to include the provisions of section 4 of this Act; and section 8 of article XIV shall be deemed amended so as to contain the language of the third proposition above stated in lieu of any other language, and section 10 of article XVI shall be deemed amended by inserting the words "at which officers for all state elective offices provided for by this constitution and two Senators and one Representative in Congress shall be nominated and elected" in lieu of the words "at which officers for all state elective offices provided for by this constitution shall be nominated and elected; but the officers so to be elected shall in any event include two Senators and two Representatives to the Congress, and unless and until otherwise required by law, said Representatives shall be elected at large".

In the event the foregoing propositions are not adopted at said election by a majority of the legal votes cast on said submission, the provisions of this Act shall cease to be effective.

The Governor of Hawaii is hereby authorized and directed to take such action as may be necessary or appropriate to insure the submission of said propositions to the people. The return of the votes cast **[73 Stat. 8]** on said propositions shall be made by the election officers directly to the Secretary of Hawaii, who shall certify the results of the submission to the Governor. The Governor shall certify the results of said submission, as so ascertained, to the President of the United States.

(c) If the President shall find that the propositions set forth in the preceding subsection have been duly adopted by the people of Hawaii, the President, upon certification of the returns of the election of the officers required to be elected as provided in section 6 of this Act, shall thereupon issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation by the President, the State of Hawaii shall be deemed admitted into the Union as provided in section 1 of this Act.

Until the said State is so admitted into the Union, the persons holding legislative, executive, and judicial office in, under, or by authority of the government of said Territory, and the Delegate in Congress thereof, shall continue to discharge the duties of their respective offices. Upon the issuance of said proclamation by the President of the United States and the admission of the State of Hawaii into the Union, the officers elected at said election, and qualified under the provisions of the constitution and laws of said State, shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of said State, and officers not required to be elected at said initial election shall be selected or continued in office as provided by the constitution and laws of said State. The Governor of said State shall certify the election of the Senators and Representative in the manner required by law, and the said Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

§8. The State of Hawaii upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law: Provided, That such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of

the House of Representatives as prescribed in the Act of August 8, 1911 (37 Stat. 13), nor shall such temporary increase affect the basis of apportionment established by the Act of November 15, 1941 (55 Stat. 761; 2 U.S.C., sec. 2a), for the Eighty-third Congress and each Congress thereafter.

§9. Effective upon the admission of the State of Hawaii into the Union--

(a) the United States District Court for the District of Hawaii established by and existing under title 28 of the United States Code shall henceforth be a court of the United States with judicial power derived from article III, section 1, of the Constitution of the United States; Provided, however, That the terms of office of the district judges for the district of Hawaii then in office shall terminate upon the effective date of this section and the President, pursuant to sections 133 and 134 of title 28, United States Code, as amended by this Act, shall appoint, by and with the advice and consent of the Senate, two district judges for the said district who shall hold office during good behavior;

(b) the last paragraph of section 133 of title 28, United States Code, is repealed; and

(c) subsection (a) of section 134 of title 28, United States Code, is amended by striking out the words "Hawaii and". The second sentence of the same section is amended by striking out the words "Hawaii and", "six and", and "respectively".

[73 Stat. 9]

§10. Effective upon the admission of the State of Hawaii into the Union the second paragraph of section 451 of title 28, United States Code, is amended by striking out the words "including the district courts of the United States for the districts of Hawaii and Puerto Rico," and inserting in lieu thereof the words "including the United States District for the District of Puerto Rico,".

§11. Effective upon the admission of the State of Hawaii into the Union--

(a) the last paragraph of section 501 of title 28, United States Code, is repealed;

(b) the first sentence of subsection (a) of section 504 of title 28, United States Code, is amended by striking out at the end thereof the words ", except in the district of Hawaii, where the term shall be six years";

(c) the first sentence of subsection (c) of section 541 of title 28, United States Code, is amended by striking out at the end thereof the words ", except in the district of Hawaii where the term shall be six years"; and

(d) subsection (d) of section 541 of title 28, United States Code is repealed.

§12. No writ, action, indictment, cause, or proceeding pending in any court of the Territory of Hawaii or in the United States District Court for the District of Hawaii shall abate by reason of the admission of said State into the Union, but the same shall be transferred to and proceeded with in such appropriate State courts as shall be established under the constitution of said State, or shall continue in the United States District Court for the District of Hawaii, as the nature of the case may require. And no writ, action, indictment, cause or proceeding shall abate by reason of any change in the courts, but shall be proceeded with in the State or United States courts according to the laws thereof, respectively. And the appropriate

State courts shall be the successors of the courts of the Territory as to all cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein, and all the files, records, indictments, and proceedings relating to any such writ, action, indictment, cause or proceeding shall be transferred to such appropriate State courts and the same shall be proceeded with therein in due course of law.

All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of said State, but as to which no writ, action, indictment or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Hawaii in like manner, to the same extent, and with like right of appellate review, as if said State had been created and said State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of said State shall effect no change in the substantive or criminal law governing such causes of action and criminal offenses which shall have arisen or been committed; and such of said criminal offenses as shall have been committed against the laws of the Territory shall be tried and punished by the appropriate courts of said State, and such as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Hawaii.

[73 Stat. 10]

§13. Parties shall have the same rights of appeal from and appellate review of final decisions of the United States District Court for the District of Hawaii or the Supreme Court of the Territory of Hawaii in any case finally decided prior to admission of said State into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission, and the United States Court of Appeals for the Ninth Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided prior to admission of said State into the Union, and any mandate issued subsequent to the admission of said State shall be to the United States District Court for the District of Hawaii or a court of the State, as may be appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Hawaii and of the Supreme Court of the State of Hawaii as successor to the Supreme Court of the Territory of Hawaii, in any case pending at the time of admission of said State into the Union, and the United States Court of Appeals for the Ninth Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of said State into the Union.

§14. Effective upon the admission of the State of Hawaii into the Union--

(a) title 28, United States Code, section 1252, is amended by striking out "Hawaii and" from the clause relating to courts of record;

(b) title 28, United States Code, section 1293, is amended by striking out the words "First and Ninth Circuits" and by inserting in lieu thereof "First Circuit", and by striking out the words, "supreme courts of Puerto Rico and Hawaii, respectively" and inserting in lieu thereof, "supreme court of Puerto Rico";

(c) title 28, United States Code, section 1294, as amended, is further amended by striking out paragraph (4) thereof and by renumbering paragraphs (5) and (6) accordingly;

(d) the first paragraph of section 373 of title 28, United States Code, as amended, is further amended by striking out the words "United States District Courts for the districts of Hawaii or Puerto Rico," and inserting in lieu thereof the words "United States District Court for the District of Puerto Rico,"; and by striking out the words "and any justice of the Supreme Court of the Territory of Hawaii": Provided, That the amendments made by this subsection shall not affect the rights of any judge or justice who may have retired before the effective date of this subsection: And provided further, That service as a judge of the District Court for the Territory of Hawaii or as a judge of the United States District Court for the District of Hawaii or as a justice of the Supreme Court of the Territory of Hawaii or as a judge of the circuit courts of the Territory of Hawaii shall be included in computing under section 371, 372, or 373 of title 28, United States Code, the aggregate years of judicial service of any person who is in office as a district judge for the District of Hawaii on the date of enactment of this Act;

(e) section 92 of the Act of April 30, 1900 (ch. 339, 31 Stat. 159), as amended, and the Act of May 29, 1928 (ch. 904, 45 Stat. 997), as amended, are repealed;

(f) section 86 of the Act approved April 30, 1900 (ch. 339, 31 Stat. 158), as amended, is repealed;

[73 Stat. 11]

(g) section 3771 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words "Supreme Courts of Hawaii and Puerto Rico" and inserting in lieu thereof the words "Supreme Court of Puerto Rico";

(h) section 3772 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words "Supreme Courts of Hawaii and Puerto Rico" and inserting in lieu thereof the words "Supreme Court of Puerto Rico";

(i) section 91 of title 28, United States Code, as heretofore amended, is further amended by inserting after "Kure Island" and before "Baker Island" the words "Palmyra Island,"; and

(j) the Act of June 15, 1950 (64 Stat. 217; 48 U.S.C., §644a), is amended by inserting after "Kure Island" and before "Baker Island" the words "Palmyra Island,".

§15. All Territorial laws in force in the Territory of Hawaii at the time of its admission into the Union shall continue in force in the State of Hawaii, except as modified or changed by this Act or by the constitution of the State, and shall be subject to repeal or amendment by the Legislature of the State of Hawaii, except as provided in section 4 of this Act with respect to the Hawaiian Homes Commission Act, 1920, as amended; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States: Provided, That, except as herein otherwise provided, a Territorial law enacted by the Congress shall be terminated two years after the date of admission of the State of Hawaii into the Union or upon the effective date of any law enacted by the State of Hawaii which amends or repeals it, whichever may occur first. As used in this section, the term "Territorial laws" includes (in addition to laws enacted by the Territorial Legislature of Hawaii) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Hawaii prior to its admission into the Union, and the term "laws of the United States" includes all laws or parts thereof enacted by the Congress that (1) apply to or within

Hawaii at the time of its admission into the Union, (2) are not "Territorial laws" as defined in this paragraph, (3) are not in conflict with any other provision of this Act.

§16. (a) Notwithstanding the admission of the State of Hawaii into the Union, the United States shall continue to have sole and exclusive jurisdiction over the area which may then or thereafter be included in Hawaii National Park, saving, however, to the State of Hawaii the same rights as are reserved to the Territory of Hawaii by section 1 of the Act of April 19, 1930 (46 Stat. 227), and saving, further, to persons then or thereafter residing within such area the right to vote at all elections held within the political subdivisions where they respectively reside. Upon the admission of said State all references to the Territory of Hawaii in said Act or in other laws relating to Hawaii National Park shall be deemed to refer to the State of Hawaii. Nothing contained in this Act shall be construed to affect the ownership and control by the United States of any lands or other property within Hawaii National Park which may now belong to, or which may hereafter be acquired by, the United States.

(b) Notwithstanding the admission of the State of Hawaii into the Union, authority is reserved in the United States, subject to the proviso hereinafter set forth, for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by [73 Stat. 12] article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of said State, are controlled or owned by the United States and held for Defense or Coast Guard purposes, whether such lands were acquired by cession and transfer to the United States by the Republic of Hawaii and set aside by Act of Congress or by Executive order or proclamation of the President or the Governor of Hawaii for the use of the United States, or were acquired by the United States by purchase, condemnation, donation, exchange, or otherwise: Provided, (i) That the State of Hawaii shall always have the right to serve civil or criminal process within the said tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the said State but outside of the said tracts or parcels of land; (ii) that the reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over the lands aforesaid shall not operate to prevent such lands from being a part of the State of Hawaii, or to prevent the said State from exercising over or upon such lands, concurrently with the United States, any jurisdiction whatsoever which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority; and (iii) that such power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for Defense or Coast Guard purposes: Provided, however, That the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been heretofore or hereafter determined to be critical areas as delineated by the President of the United States and/or the Secretary of Defense.

§17. The next to last sentence of the first paragraph of section 2 of the Federal Reserve Act (38 Stat. 251) as amended by section 19 of the Act of July 7, 1958, (72 Stat. 339, 350) is amended by inserting after the word "Alaska" the words "or Hawaii."

§18. (a) Nothing contained in this Act shall be construed as depriving the Federal Maritime Board of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Hawaii and other ports in the United States, or possessions, or as

conferring on the Interstate Commerce Commission jurisdiction over transportation by water between any such ports.

(b) Effective on the admission of the State of Hawaii into the Union--

(1) The first sentence of section 506 of the Merchant Marine Act, 1936, as amended (46 U.S.C., §1156), is amended by inserting before the words "an island possession or island territory," the words "the State of Hawaii, or";

(2) Section 605(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C., §1175), is amended by inserting before the words "an island possession or island territory", the words "the State of Hawaii, or"; and

(3) The second paragraph of section 714 of the Merchant Marine Act, 1936, as amended (46 U.S.C., §1204), is amended by inserting before the words "an island possession or island territory" the words "the State of Hawaii, or". [Am July 12, 1960, Pub L 86-624, 74 Stat 423]

§19. Nothing contained in this Act shall operate to confer United States nationality, nor to terminate nationality heretofore lawfully acquired, or restore nationality heretofore lost under any law of the United States or under any treaty to which the United States is or was a party.

[73 Stat. 13]

§20. (a) Section 101 (a)(36) of the Immigration and Nationality Act (66 Stat. 170, 8 U.S.C., §1101 (a)(36), is amended by deleting the word "Hawaii,".

(b) Section 212 (d)(7) of the Immigration and Nationality Act (66 Stat. 188, 8 U.S.C. §1182 (d)(7), is amended by deleting from the first sentence thereof the word "Hawaii" and by deleting the proviso to said first sentence.

(c) The first sentence of section 310(a) of the Immigration and Nationality Act, as amended (66 Stat. 239, 8 U.S.C. §1421(a), 72 Stat. 351) is further amended by deleting the words "for the Territory of Hawaii, and".

(d) Nothing contained in this Act shall be held to repeal, amend, or modify the provisions of section 305 of the Immigration and Nationality Act (66 Stat. 237, 8 U.S.C. §1405).

§21. Effective upon the admission of the State of Hawaii into the Union, section 3, subsection (b), of the Act of September 7, 1957 (71 Stat. 629), is amended by substituting the words "State of Hawaii" for the words "Territory of Hawaii".

§22. If any provision of this Act, or any section, subsection, sentence, clause, phrase, or individual word, or the application thereof in any circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase, or individual word in other circumstances shall not be affected thereby.

§23. All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the legislature of said Territory or by Congress are hereby repealed.

**Appendix D - THE HAWAIIAN HOME LANDS RECOVERY ACT, PUBLIC LAW 104-42, 109 STAT. 357
(TITLE II OF THE OMNIBUS INDIAN ADVANCEMENT ACT).**

TITLE II--HAWAIIAN HOME LANDS

SEC. 201. SHORT TITLE

This title may be cited as the 'Hawaiian Home Lands Recovery Act'.

SEC. 202. DEFINITIONS.

As used in this title:

- (1) AGENCY- The term 'agency' includes--
 - (A) any instrumentality of the United States;
 - (B) any element of an agency; and
 - (C) any wholly owned or mixed-owned corporation of the United States Government.
- (2) BENEFICIARY- The term 'beneficiary' has the same meaning as is given the term 'native Hawaiian' under section 201(7) of the Hawaiian Homes Commission Act.
- (3) CHAIRMAN- The term 'Chairman' means the Chairman of the Hawaiian Homes Commission of the State of Hawaii.
- (4) COMMISSION- The term 'Commission' means the Hawaiian Homes Commission established by section 202 of the Hawaiian Homes Commission Act.
- (5) HAWAIIAN HOMES COMMISSION ACT- The term 'Hawaiian Homes Commission Act' means the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et. seq., chapter 42).
- (6) HAWAII STATE ADMISSION ACT- The term 'Hawaii State Admission Act' means the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4, chapter 339; 48 U.S.C. note prec. 491).
- (7) LOST USE- The term 'lost use' means the value of the use of the land during the period when beneficiaries or the Hawaiian Homes Commission have been unable to use lands as authorized by the Hawaiian Homes Commission Act because of the use of such lands by the Federal Government after August 21, 1959.
- (8) SECRETARY- The term 'Secretary' means the Secretary of the Interior.

SEC. 203. SETTLEMENT OF FEDERAL CLAIMS.

(a) DETERMINATION-

- (1) The Secretary shall determine the value of the following:

[109 Stat. 358]

- (A) Lands under the control of the Federal Government that--
 - (i) were initially designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act); and
 - (ii) were nevertheless transferred to or otherwise acquired by the Federal Government.
 - (B) The lost use of lands described in subparagraph (A).
- (2)(A) Except as provided in subparagraph (B), the determinations of value made under this subsection shall be made not later than 1 year after the date of enactment of this Act. In carrying out this subsection, the Secretary shall use a method of determining value that--

- (i) is acceptable to the Chairman; and
 - (ii) is in the best interest of the beneficiaries.
 - (B) The Secretary and the Chairman may mutually agree to extend the deadline for making determinations under this subparagraph beyond the date specified in subparagraph (A).
 - (3) The Secretary and the Chairman may mutually agree, with respect to the determinations of value described in subparagraphs (A) and (B) of paragraph (1), to provide--
 - (A) for making any portion of the determinations of value pursuant to subparagraphs (A) and (B) of paragraph (1); and
 - (B) for making the remainder of the determinations with respect to which the Secretary and the Chairman do not exercise the option described in subparagraph (A), pursuant to an appraisal conducted under paragraph (4).
 - (4)(A) Except as provided in subparagraph (C), if the Secretary and the Chairman do not agree on the determinations of value made by the Secretary under subparagraphs (A) and (B) of paragraph (1), or, pursuant to paragraph (3), mutually agree to determine the value of certain lands pursuant to this subparagraph, such values shall be determined by an appraisal. An appraisal conducted under this subparagraph shall be conducted in accordance with appraisal standards that are mutually agreeable to the Secretary and the Chairman.
 - (B) If an appraisal is conducted pursuant to this subparagraph, during the appraisal process--
 - (i) the Chairman shall have the opportunity to present evidence of value to the Secretary;
 - (ii) the Secretary shall provide the Chairman a preliminary copy of the appraisal;
 - (iii) the Chairman shall have a reasonable and sufficient opportunity to comment on the preliminary copy of the appraisal; and
 - (iv) the Secretary shall give consideration to the comments and evidence of value submitted by the Chairman under this subparagraph.
 - (C) The Chairman shall have the right to dispute the determinations of values made by an appraisal conducted under this subparagraph. If the Chairman disputes the appraisal, the Secretary and the Chairman may mutually agree to employ a process of bargaining, mediation, or other means of dispute [109 Stat. 359] resolution to make the determinations of values described in subparagraphs (A) and (B) of paragraph (1).
- (b) AUTHORIZATION-
- (1) EXCHANGE- Subject to paragraphs (2) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands in exchange for the continued retention by the Federal Government of lands described in subsection (a)(1)(A).
 - (2) VALUE OF LANDS- (A) The value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government in accordance with an exchange made under paragraph (1) may not be less than the value of the lands retained by the Federal Government pursuant to such exchange.
 - (B) For the purposes of this subsection, the value of any lands exchanged pursuant to paragraph (1) shall be determined as of the date the exchange is carried out, or any other date determined by the Secretary, with the concurrence of the Chairman.
 - (3) LOST USE- Subject to paragraphs (4) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands as compensation for the lost use of lands determined under subsection (a)(1)(B).
 - (4) VALUE OF LOST USE- (A) the value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government as compensation under paragraph (3)

may not be less than the value of the lost use of lands determined under subsection (a)(1)(B).

(B) For the purposes of this subparagraph, the value of any lands conveyed pursuant to paragraph (3) shall be determined as of the date that the conveyance occurs, or any other date determined by the Secretary, with the concurrence of the Chairman.

(5) FEDERAL LANDS FOR EXCHANGE- (A) Subject to subparagraphs (B) and (C), Federal lands located in Hawaii that are under the control of an agency (other than lands within the National Park System or the National Wildlife Refuge System) may be conveyed to the Department of Hawaiian Home Lands under paragraphs (1) and (3). To assist the Secretary in carrying out this Act, the head of an agency may transfer to the Department of the Interior, without reimbursement, jurisdiction and control over any lands and any structures that the Secretary determines to be suitable for conveyance to the Department of Hawaiian Home Lands pursuant to an exchange conducted under this section.

(B) No Federal lands that the Federal Government is required to convey to the State of Hawaii under section 5 of the Hawaii State Admission Act may be conveyed under paragraph (1) or (3).

(C) No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to an exchange made under this paragraph to the Department of Hawaiian Home Lands.

(c) AVAILABLE LANDS-

(1) IN GENERAL- Subject to paragraphs (2) and (3), the Secretary shall require that lands conveyed to the Department of Hawaiian Home Lands under this Act shall have the status of available lands under the Hawaiian Homes Commission Act.

[109 Stat. 360]

(2) SUBSEQUENT EXCHANGE OF LANDS- Notwithstanding any other provision of law, lands conveyed to the Department of Hawaiian Home Lands under this paragraph may subsequently be exchanged pursuant to section 204(3) of the Hawaiian Home Commission Act.

(3) SALE OF CERTAIN LANDS- Notwithstanding any other provision of law, the Chairman may, at the time that lands are conveyed to the Department of Hawaiian Home Lands as compensation for lost use under this Act, designate lands to be sold. The Chairman is authorized to sell such land under terms and conditions that are in the best interest of the beneficiaries. The proceeds of such a sale may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act.

(d) CONSULTATION- In carrying out their respective responsibilities under this section, the Secretary and the Chairman shall--

- (1) consult with the beneficiaries and organizations representing the beneficiaries; and
- (2) report to such organizations on a regular basis concerning the progress made to meet the requirements of this section.

(e) HOLD HARMLESS- Notwithstanding any other provision of law, the United States shall defend and hold harmless the Department of Hawaiian Home Lands, the employees of the Department, and the beneficiaries with respect to any claim arising from the ownership of any land or structure that is conveyed to the Department pursuant to an exchange made under this section prior to the conveyance to the Department of such land or structure.

(f) SCREENING-

(1) IN GENERAL- Notwithstanding any other provision of law, the Secretary of Defense and the Administrator of General Services shall, at the same time as notice is provided to Federal agencies that excess real property is being screened pursuant to applicable Federal laws (including regulations) for possible transfer to such agencies, notify the

Chairman of any such screening of real property that is located within the State of Hawaii.

(2) RESPONSE TO NOTIFICATION- Notwithstanding any other provision of law, not later than 90 days after receiving a notice under paragraph (1), the Chairman may select for appraisal real property, or at the election of the Chairman, portions of real property, that is the subject of a screening.

(3) SELECTION- Notwithstanding any other provision of law, with respect to any real property located in the State of Hawaii that, as of the date of enactment of this Act, is being screened pursuant to applicable Federal laws for possible transfer (as described in paragraph (1)) or has been screened for such purpose, but has not been transferred or declared to be surplus real property, the Chairman may select all, or any portion of, such real property to be appraised pursuant to paragraph (4).

(4) APPRAISAL- Notwithstanding any other provision of law, the Secretary of Defense or the Administrator of General Services shall appraise the real property or portions of real property selected by the Chairman using the Uniform Standards for Federal Land Acquisition developed by the Interagency Land Acquisition Conference, or such other standard as the Chairman agrees to.

[109 Stat. 361]

(5) REQUEST FOR CONVEYANCE- Notwithstanding any other provision of law, not later than 30 days after the date of completion of such appraisal, the Chairman may request the conveyance to the Department of Hawaiian Home Lands of--

(A) the appraised property; or

(B) a portion of the appraised property, to the Department of Hawaiian Home Lands.

(6) CONVEYANCE- Notwithstanding any other provision of law, upon receipt of a request from the Chairman, the Secretary of Defense or the Administrator of the General Services Administration shall convey, without reimbursement, the real property that is the subject of the request to the Department of Hawaiian Home Lands as compensation for lands identified under subsection (a)(1)(A) or lost use identified under subsection (a)(1)(B).

(7) REAL PROPERTY NOT SUBJECT TO RECOUPMENT- Notwithstanding any other provision of law, any real property conveyed pursuant to paragraph (6) shall not be subject to recoupment based upon the sale or lease of the land by the Chairman.

(8) VALUATION- Notwithstanding any other provision of law, the Secretary shall reduce the value identified under subparagraph (A) or (B) of subsection (a)(1), as determined pursuant to such subsection, by an amount equal to the appraised value of any excess lands conveyed pursuant to paragraph (6).

(9) LIMITATION- No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

SEC. 204. PROCEDURE FOR APPROVAL OF AMENDMENTS TO HAWAIIAN HOMES COMMISSION ACT.

(a) NOTICE TO THE SECRETARY- Not later than 120 days after a proposed amendment to the Hawaiian Homes Commission Act is approved in the manner provided in section 4 of the Hawaii State Admission Act, the Chairman shall submit to the Secretary--

(1) a copy of the proposed amendment;

(2) the nature of the change proposed to be made by the amendment; and

- (3) an opinion regarding whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act.
- (b) DETERMINATION BY SECRETARY- Not later than 60 days after receiving the materials required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall determine whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act, and shall notify the Chairman and Congress of the determination of the Secretary.
- (c) CONGRESSIONAL APPROVAL REQUIRED- If, pursuant to subsection (b), the Secretary determines that the proposed amendment requires the approval of Congress, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives--
 - (1) a draft joint resolution approving the amendment;**[109 Stat. 362]**
 - (2) a description of the change made by the proposed amendment and an explanation of how the amendment advances the interests of the beneficiaries;
 - (3) a comparison of the existing law (as of the date of submission of the proposed amendment) that is the subject of the amendment with the proposed amendment;
 - (4) a recommendation concerning the advisability of approving the proposed amendment; and
 - (5) any documentation concerning the amendments received from the Chairman.

SEC. 205. LAND EXCHANGES.

- (a) NOTICE TO THE SECRETARY- If the Chairman recommends for approval an exchange of Hawaiian Home Lands, the Chairman shall submit a report to the Secretary on the proposed exchange. The report shall contain--
 - (1) a description of the acreage and fair market value of the lands involved in the exchange;
 - (2) surveys and appraisals prepared by the Department of Hawaiian Home Lands, if any; and
 - (3) an identification of the benefits to the parties of the proposed exchange.
- (b) APPROVAL OR DISAPPROVAL-
 - (1) IN GENERAL- Not later than 120 days after receiving the information required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall approve or disapprove the proposed exchange.
 - (2) NOTIFICATION- The Secretary shall notify the Chairman, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of the reasons for the approval or disapproval of the proposed exchange.
- (c) EXCHANGES INITIATED BY SECRETARY-
 - (1) IN GENERAL- The Secretary may recommend to the Chairman an exchange of Hawaiian Home Lands for Federal lands described in section 203(b)(5), other than lands described in subparagraphs (B) and (C) of such section. If the Secretary initiates a recommendation for such an exchange, the Secretary shall submit a report to the Chairman on the proposed exchange that meets the requirements of a report described in subsection (a).
 - (2) APPROVAL BY CHAIRMAN- Not later than 120 days after receiving a recommendation for an exchange from the Secretary under paragraph (1), the Chairman shall provide written notification to the Secretary of the approval or disapproval of a proposed exchange. If the Chairman approves the proposed exchange, upon receipt of the written notification, the Secretary shall notify the Committee on Energy and Natural

Resources of the Senate, and the Committee on Resources of the House of Representatives of the approval of the Chairman of the proposed exchange.

(3) EXCHANGE- Upon providing notification pursuant to paragraph (2) of a proposed exchange that has been approved by the Chairman pursuant to this section, the Secretary may carry out the exchange.

(d) SELECTION AND EXCHANGE-

[109 Stat. 363]

(1) IN GENERAL- Notwithstanding any other provision of law, the Secretary may--

(A) select real property that is the subject of screening activities conducted by the Secretary of Defense or the Administrator of General Services pursuant to applicable Federal laws (including regulations) for possible transfer to Federal agencies; and

(B) make recommendations to the Chairman concerning making an exchange under subsection (c) that includes such real property.

(2) TRANSFER- Notwithstanding any other provision of law, if the Chairman approves an exchange proposed by the Secretary under paragraph (1)--

(A) the Secretary of Defense or the Administrator of General Services shall transfer the real property described in paragraph (1)(A) that is the subject of the exchange to the Secretary without reimbursement; and

(B) the Secretary shall carry out the exchange.

(3) LIMITATION- No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

(e) SURVEYS AND APPRAISALS-

(1) REQUIREMENT- The Secretary shall conduct a survey of all Hawaiian Home Lands based on the report entitled 'Survey Needs for the Hawaiian Home Lands', issued by the Bureau of Land Management of the Department of the Interior, and dated July 1991.

(2) OTHER SURVEYS- The Secretary is authorized to conduct such other surveys and appraisals as may be necessary to make an informed decision regarding approval or disapproval of a proposed exchange.

SEC. 206. ADMINISTRATION OF ACTS BY UNITED STATES.

(a) DESIGNATION-

(1) IN GENERAL- Not later than 120 days after the date of enactment of this Act, the Secretary shall designate an individual from within the Department of the Interior to administer the responsibilities of the United States under this title and the Hawaiian Homes Commission Act.

(2) DEFAULT- If the Secretary fails to make an appointment by the date specified in paragraph (1), or if the position is vacant at any time thereafter, the Assistant Secretary for Policy, Budget, and Administration of the Department of the Interior shall exercise the responsibilities for the Department in accordance with subsection (b).

(b) RESPONSIBILITIES- The individual designated pursuant to subsection (a) shall, in administering the laws referred to in such subsection--

(1) advance the interests of the beneficiaries; and

(2) assist the beneficiaries and the Department of Hawaiian Home Lands in obtaining assistance from programs of the Department of the Interior and other Federal agencies that will promote homesteading opportunities, economic self-sufficiency, and social well-being of the beneficiaries.

[109 Stat. 364]

SEC. 207. ADJUSTMENT.

The Act of July 1, 1932 (47 Stat. 564, chapter 369; 25 U.S.C. 386a) is amended by striking the period at the end and adding the following: `: *Provided further*, That the Secretary shall adjust or eliminate charges, defer collection of construction costs, and make no assessment on behalf of such charges for beneficiaries that hold leases on Hawaiian home lands, to the same extent as is permitted for individual Indians or tribes of Indians under this section.'.

SEC. 208. REPORT.

(a) IN GENERAL- Not later than 180 days after the date of enactment of this Act, the Chairman shall report to the Secretary concerning any claims that--

(1) involve the transfer of lands designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act); and

(2) are not otherwise covered under this title.

(b) REVIEW- Not later than 180 days after receiving the report submitted under subsection (a), the Secretary shall make a determination with respect to each claim referred to in subsection (a), whether, on the basis of legal and equitable considerations, compensation should be granted to the Department of Hawaiian Home Lands.

(c) COMPENSATION- If the Secretary makes a determination under subsection (b) that compensation should be granted to the Department of Hawaiian Home Lands, the Secretary shall determine the value of the lands and lost use in accordance with the process established under section 203(a), and increase the determination of value made under subparagraphs (A) and (B) of section 203(a)(1) by the value determined under this subsection.

SEC. 209. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for compensation to the Department of Hawaiian Home Lands for the value of the lost use of lands determined under section 203. Compensation received by the Department of Hawaiian Home Lands from funds made available pursuant to this section may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act. To the extent **[109 Stat. 365]** that amounts are made available by appropriations pursuant to this section for compensation paid to the Department of Hawaiian Home Lands for lost use, the Secretary shall reduce the determination of value established under section 203(a)(1)(B) by such amount.

NOTES

Appendix E - “APOLOGY” RESOLUTION, PUBLIC LAW 103-150, 107 STAT 1510.

Joint Resolution

To acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.

Whereas, prior to the arrival of the first Europeans in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistent social system based on communal land tenure with a sophisticated language, culture, and religion;

Whereas a unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii;

Whereas, from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full and complete diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

Whereas the Congregational Church (now known as the United Church of Christ), through its American Board of Commissioners for Foreign Missions, sponsored and sent more than 100 missionaries to the Kingdom of Hawaii between 1820 and 1850;

Whereas, on January 14, 1893, John L. Stevens (hereafter referred to in this Resolution as the “United States Minister”), the United States Minister assigned to the sovereign and independent Kingdom of Hawaii conspired with a small group of non-Hawaiian residents of the Kingdom of Hawaii, including citizens of the United States, to overthrow the indigenous and lawful Government of Hawaii;

Whereas, in pursuance of the conspiracy to overthrow the Government of Hawaii, the United States Minister and the naval representatives of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian nation on January 16, 1893, and to position themselves near the Hawaiian Government buildings and the Iolani Palace to intimidate Queen Liliuokalani and her Government;

Whereas, on the afternoon of January 17, 1893, a Committee of Safety that represented the American and European sugar planters, descendants of missionaries, and financiers deposed the Hawaiian monarchy and proclaimed the establishment of a Provisional Government;

Whereas the United States Minister thereupon extended diplomatic recognition to the Provisional Government that was formed by the conspirators without the consent of the Native Hawaiian [107 Stat. 1511] people or the lawful Government of Hawaii and in violation of treaties between the two nations and of international law;

Whereas, soon thereafter, when informed of the risk of bloodshed with resistance, Queen Liliuokalani issued the following statement yielding her authority to the United States Government rather than to the Provisional Government:

“I Liliuokalani, by the Grace of God and under the Constitution of the Hawaiian Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the Constitutional Government of the Hawaiian Kingdom by certain persons claiming to have established a Provisional Government of and for this Kingdom.

“That I yield to the superior force of the United States of America whose Minister Plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the Provisional Government.

“Now to avoid any collision of armed forces, and perhaps the loss of life, I do this under protest and impelled by said force yield my authority until such time as the Government of the United States shall, upon facts being presented to it, undo the action of its representatives and reinstate me in the authority which I claim as the Constitutional Sovereign of the Hawaiian Islands.”.

Done at Honolulu this 17th day of January, A.D. 1893.;

Whereas, without the active support and intervention by the United States diplomatic and military representatives, the insurrection against the Government of Queen Liliuokalani would have failed for lack of popular support and insufficient arms;

Whereas, on February 1, 1893, the United States Minister raised the American flag and proclaimed Hawaii to be a protectorate of the United States;

Whereas the report of a Presidentially established investigation conducted by former Congressman James Blount into the events surrounding the insurrection and overthrow of January 17, 1893, concluded that the United States diplomatic and military representatives had abused their authority and were responsible for the change in government;

Whereas, as a result of this investigation, the United States Minister to Hawaii was recalled from his diplomatic post and the military commander of the United States armed forces stationed in Hawaii was disciplined and forced to resign his commission;

Whereas, in a message to Congress on December 18, 1893, President Grover Cleveland reported fully and accurately on the illegal acts of the conspirators, described such acts as an “act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress”, and acknowledged that by such acts the government of a peaceful and friendly people was overthrown;

Whereas President Cleveland further concluded that a “substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair” and called for the restoration of the Hawaiian monarchy;

Whereas the Provisional Government protested President Cleveland’s call for the restoration of the monarchy and continued to hold state power and pursue annexation to the United States;

Whereas the Provisional Government successfully lobbied the Committee on Foreign Relations of the Senate (hereafter referred **[107 Stat. 1512]** to in this Resolution as the “Committee”) to conduct a new investigation into the events surrounding the overthrow of the monarchy; Whereas the Committee and its chairman, Senator John Morgan, conducted hearings in Washington, D.C., from December 27, 1893, through February 26, 1894, in which members of the Provisional Government justified and condoned the actions of the United States Minister and recommended annexation of Hawaii;

Whereas, although the Provisional Government was able to obscure the role of the United States in the illegal overthrow of the Hawaiian monarchy, it was unable to rally the support from two-thirds of the Senate needed to ratify a treaty of annexation;

Whereas, on July 4, 1894, the Provisional Government declared itself to be the Republic of Hawaii;

Whereas, on January 24, 1895, while imprisoned in Iolani Palace, Queen Liliuokalani was forced by representatives of the Republic of Hawaii to officially abdicate her throne;

Whereas, in the 1896 United States Presidential election, William McKinley replaced Grover Cleveland;

Whereas, on July 7, 1898, as a consequence of the Spanish-American War, President McKinley signed the Newlands Joint Resolution that provided for the annexation of Hawaii;

Whereas, through the Newlands Resolution, the self-declared Republic of Hawaii ceded sovereignty over the Hawaiian Islands to the United States;

Whereas the Republic of Hawaii also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government;

Whereas the Congress, through the Newlands Resolution, ratified the cession, annexed Hawaii as part of the United States, and vested title to the lands in Hawaii in the United States;

Whereas the Newlands Resolution also specified that treaties existing between Hawaii and foreign nations were to immediately cease and be replaced by United States treaties with such nations;

Whereas the Newlands Resolution effected the transaction between the Republic of Hawaii and the United States Government;

Whereas the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum;

Whereas, on April 30, 1900, President McKinley signed the Organic Act that provided a government for the territory of Hawaii and defined the political structure and powers of the newly established Territorial Government and its relationship to the United States;

Whereas, on August 21, 1959, Hawaii became the 50th State of the United States;

Whereas the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land;

Whereas the long-range economic and social changes in Hawaii over the nineteenth and early twentieth centuries have been devastating to the population and to the health and well-being of the Hawaiian people;

Whereas the Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own **[107 Stat. 1513]** spiritual and traditional beliefs, customs, practices, language, and social institutions;

Whereas, in order to promote racial harmony and cultural understanding, the Legislature of the State of Hawaii has determined that the year 1993 should serve Hawaii as a year of special reflection on the rights and dignities of the Native Hawaiians in the Hawaiian and the American societies;

Whereas the Eighteenth General Synod of the United Church of Christ in recognition of the denomination's historical complicity in the illegal overthrow of the Kingdom of Hawaii in 1893 directed the Office of the President of the United Church of Christ to offer a public apology to the Native Hawaiian people and to initiate the process of reconciliation between the United Church of Christ and the Native Hawaiians; and

Whereas it is proper and timely for the Congress on the occasion of the impending one hundredth anniversary of the event, to acknowledge the historic significance of the illegal overthrow of the Kingdom of Hawaii, to express its deep regret to the Native Hawaiian people, and to support the reconciliation efforts of the State of Hawaii and the United Church of Christ with Native Hawaiians:
Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACKNOWLEDGMENT AND APOLOGY.

The Congress—

(1) on the occasion of the 100th anniversary of the illegal overthrow of the Kingdom of Hawaii on January 17, 1893, acknowledges the historical significance of this event which resulted in the suppression of the inherent sovereignty of the Native Hawaiian people;

(2) recognizes and commends efforts of reconciliation initiated by the State of Hawaii and the United Church of Christ with Native Hawaiians;

(3) apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893 with the participation of agents and citizens of the United States, and the deprivation of the rights of Native Hawaiians to self-determination;

(4) expresses its commitment to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii, in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people; and

(5) urges the President of the United States to also acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and the Native Hawaiian people.

SEC. 2. DEFINITIONS.

As used in this Joint Resolution, the term “Native Hawaiian” means any individual who is a descendent of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

[107 Stat. 1514]

SEC. 3. DISCLAIMER.

Nothing in this Joint Resolution is intended to serve as a settlement of any claims against the United States.

Appendix F - HAWAIIAN HOME LANDS RULE - 43 CFR PARTS 47 & 48.

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Parts 47 and 48

[167D0102DM; DLSN00000.000000;

DS61400000; DX61401]

RIN 1090-AA98

Land Exchange Procedures and Procedures to Amend the Hawaiian Homes Commission Act, 1920

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This rule provides clarity in how the Department of the Interior administers certain provisions of the Hawaiian Homes Commission Act and the Hawaiian Home Lands Recovery Act. It facilitates the goal of the rehabilitation of the Native Hawaiian community, including the return of native Hawaiians to the land, consistent with the Hawaiian Homes Commission Act, the State of Hawai'i Admission Act, and the Hawaiian Home Lands Recovery Act. The rule clarifies the land exchange process for Hawaiian home lands, the documents required for land exchanges, and the respective responsibilities of the Department of the Interior, the Department of Hawaiian Home Lands, the Hawaiian Homes Commission, and other entities engaged in land exchanges of Hawaiian home lands. It also identifies the documentation requirements and the responsibilities of the Secretary of the Interior in the approval process for State of Hawai'i proposed amendments to the Hawaiian Homes Commission Act, 1920.

DATES: This rule is effective July 12, 2016.

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ADDRESSES: The final rule is available on the internet at: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Ka'i'ini Kimo Kaloi, Director, Office of Native Hawaiian Relations, telephone (202) 208-7462.

SUPPLEMENTARY INFORMATION:

I. Background

In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 (HHCA), 42 Stat. 108, to provide a homesteading program for native Hawaiians by placing approximately 200,000 acres of land (known as Hawaiian home lands) into the Hawaiian Home Lands Trust. The day-to-day administration of Hawaiian Home Lands Trust is by the Department of Hawaiian Home Lands (DHHL), an agency of the State of Hawai'i, headed by an executive board known as the Hawaiian Homes Commission (HHC). The HHCA provides the Chairman of the HHC the authority to propose to the Secretary of the Interior (Secretary) the exchange of Hawaiian home lands for land privately or publicly owned in furtherance of the purposes of the HHCA.

The HHCA also created a series of funds (the Hawaiian Home Lands Trust Funds, or “trust funds”) *See, HHCA section 213 as amended*. The purpose of one of these trust funds is the “rehabilitation of native Hawaiians, native Hawaiian families, and Hawaiian homestead communities,” which shall include “the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.” *Id.* Another in this series of trust funds seeks, for instance, to enhance construction of replacement homes, repairs or additions, and enhance development of farms, ranches or aquaculture, and to provide farm loans, including for soil and water conservation. Still another trust fund provides money for construction, reconstruction operations and maintenance of revenue-producing improvements intended to benefit occupants of Hawaiian home lands; for investments in water and other utilities, supplies, equipment, and goods; and for professional services needed to plan, implement, develop or operate such projects that will improve the value of Hawaiian home lands for their current and future occupants. Other money is provided to establish and maintain an account to serve as a reserve for loans issued or backed by the Federal Government, to further the purpose of the HHCA. The purposes and goals of these funds reflect congressionally identified purposes and goals of the HHCA.

In 1959, Congress enacted the Hawai‘i Admission Act, 73 Stat. 4 (Admission Act), to admit the Territory of Hawai‘i (Hawai‘i or State) into the United States as a state. In compliance with the Admission Act, and as a compact between the State and the United States relating to the management and disposition of the Hawaiian home lands, the State adopted the HHCA, as amended, as a law of the State through Article XII of its Constitution. In section 223 of the HHCA, Congress reserved to itself the right to alter, amend, or repeal the HHCA. Consistent with this provision, section 4 of the Admission Act provides limitations on the State’s administration of the Hawaiian Home Lands Trust and the Hawaiian Home Lands Trust Funds (hereafter referred to together as the Trust) and also provides that the HHCA is subject to amendment or repeal by the State only with the consent of the United States. Recognizing, however, that it was vesting the State with day-to-day administrative authority, Congress in section 4 of the Admission Act also provided exceptions within which the State could amend certain administrative provisions of the HHCA without the consent of the United States. The HHCA is a cooperative federalism statute, a compound of interdependent Federal and State law that establishes a Federal law framework but also provides for implementation through State law.

Consistent with the provisions of the HHCA and the Admission Act, Congress enacted the Hawaiian Home Lands Recovery Act in 1995 (HHLRA), 109 Stat. 357, which provides that the Secretary shall determine whether a State-proposed amendment to the HHCA requires the consent of the United States under section 4 of the Admission Act. It is appropriately the function of the United States to ensure conformance with the limitations in the Admissions Act and protect the integrity of this statutory framework.

The HHLRA also clarified the Secretary’s role in the oversight of the Hawaiian Home Lands Trust. Section 204(a)(3) of the HHCA, in conjunction with Section 205 of the HHLRA, requires the approval or disapproval of the Secretary for the exchange of Hawaiian home lands. The HHLRA details the Secretary’s responsibilities to ensure that Hawaiian home lands are administered in a manner that advances the interests of the beneficiaries.

While the Secretary has broad responsibilities under the HHCA and the Admissions Act, the HHLRA clarifies the scope of the continuing responsibilities of the Federal Government with regard to the HHCA. Two of these responsibilities are addressed in the final rule. First, it clarifies the role of the Secretary in

land exchanges and, second, clarifies the process for the Secretary's review of State-proposed amendments to the HHCA. As to HHC Chairman-proposed land exchanges, the HHLRA provides that the HHC Chairman submit a report to the Secretary, including identification of the benefits to the parties of the proposed exchange. The Secretary shall approve or disapprove the proposed exchange depending on whether it advances the interests of the beneficiaries. As to State-proposed amendments to the HHCA, the HHLRA requires the State to notify the Secretary of any amendment it proposes to the HHCA and then requires the Secretary to determine whether it impacts Federal responsibilities under the HHCA or infringes on Federal interests or those of the HHCA beneficiaries. If the Secretary determines the State's proposed amendment of the HHCA impacts the Federal responsibilities or infringes on either the Federal or beneficiaries' interests, the Secretary must submit the amendment to Congress for approval.

Since Hawai'i's admission to the Union, both Secretarial reviews occurred on an *ad hoc* basis using procedures accepted by the State and the Department. *See, letter dated August 21, 1987 to Chairman Morris Udall of the House Committee on Interior and Insular Affairs.* This rule establishes a clear process for Secretarial review and approval of land exchanges proposed by the HHC Chairman under the HHCA and HHLRA (Part 47), and of State proposed amendments to the HHCA (Part 48).

II. Responses to Comments on the May 12, 2015 Notice of Proposed Rulemaking

On May 12, 2015, the Secretary issued a Notice of Proposed Rulemaking (NPRM), entitled "Land Exchange Procedures and Procedures to Amend the Hawaiian Homes Commission Act." 80 FR 27134–27141 (May 12, 2015). The NPRM sought input from leaders and members of the Native Hawaiian community, HHCA beneficiaries, and the public about how the Secretary reviews land exchanges involving Hawaiian home lands proposed by the HHC Chairman and State-proposed amendments to the HHCA.

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The NPRM set an initial 60-day comment period that ended on July 13, 2015. In response to requests from commenters, including the HHC on behalf of itself and HHCA beneficiaries, the Secretary extended the comment deadline another 30 days, ending on August 12, 2015. 80 FR 39991 (July 13, 2015).

The Secretary received over 500 written comments by the August 12, 2015 deadline. All comments received on the NPRM are available in the NPRM docket at <http://www.regulations.gov/#!documentDetail;D=DOI-2015-0002-0001>. Most of the comments revolved around a limited number of issues. The issues discussed below encompass the range of substantive issues presented in comments on the NPRM.

After careful review and analysis of the comments on the NPRM, the Department concludes that it is appropriate to publish a final rule that would set forth the administrative procedures for the review of land exchanges involving Hawaiian home lands proposed by the HHC Chairman and amendments to the HHCA proposed by the State.

Overview of Comments

The Department received comments from the Native Hawaiian community, the State, HHCA beneficiaries, and others. One fundamental question raised in the comments was whether the rule expands the Secretary's authority beyond the HHCA, Admission Act, and HHLRA. We conclude that the rule is

within the Secretary's authority and consistent with long-standing practice under the HHCA, Admission Act, and HHLRA.

State-proposed amendments. On August 21, 1987, the Secretary forwarded to the House Committee on Interior and Insular Affairs, a proposed procedure, agreed upon by the State and Secretary, for obtaining the consent of the United States to State-proposed amendments to the HHCA. That procedure provided for the HHC Chairman forwarding the proposed amendment to the Secretary with an opinion from an appropriate legal officer of the State, followed by the Secretary examining the material transmitted and then submitting to Congress a proposed report and bill. The parties anticipated that most State proposed amendments would be free of controversy and national implications and would be submitted to Congress once every one to two years. The Department endeavored to follow these procedures subsequently embodied in the HHLRA and in this rule.

Land exchanges. In the late 1970's, the State and the DHHL were resolving claims between themselves over lands that the State had allegedly withdrawn illegally from the Hawaiian Home Lands Trust, while also addressing claims against the United States for lands allegedly withdrawn illegally from the Hawaiian Home Lands Trust or used by the United States during the territorial period. Congress considered addressing these claims and implementing some recommendations of the Federal-State Task Force Report from 1983, such as the existing informal process of Secretarial review of land exchanges proposed by the HHC Chairman. Accordingly, Congress passed the HHLRA which provides procedures for settlement of federal claims (section 203); approval of amendments to the HHCA (section 204); and approval of exchanges involving Hawaiian home lands (section 205). The HHLRA also designated a federal official within the Department "to administer the responsibilities of the United States" under the HHCA and the HHLRA, and to protect and advance HHCA beneficiaries' rights and interests, including promoting homesteading opportunities, economic self-sufficiency, and social well-being (section 206). *See, Hawaiian Home Lands Recovery Act: Hearing before the Senate Committee on Energy and Natural Resources on S. 2174, 103d Cong., 9-10, 19 (1994). See, response to questions 3 and 40.*

HHCA beneficiaries. The HHLRA defines "beneficiary" in the same terms as "native Hawaiian" is defined in the HHCA, which was adopted as a provision of the constitution of the State as a compact with the United States. In 1959, when section 4 of the Admission Act referred to amendments that "increase the benefits to lessees of Hawaiian home lands," all lessees met the definition of "native Hawaiian" and had a blood quantum of at least 50 percent. Beginning in 1986, however, certain persons with a lesser blood quantum could obtain lessees through succession or transfer. *See, 100 Stat. 3143 (1986).* The HHLRA, nevertheless, defined beneficiary in terms of the HHCA definition, not in terms of lessees. Therefore, the rule evaluates and advances the interests of the beneficiaries as distinguished from all lessees.

Responses to Specific Issues Raised in the NPRM Comments

1. How do claims concerning the United States occupation of the Hawaiian Islands impact the rule?

Issue: Multiple commenters who objected to Federal rulemaking based their objections on the assertion that the United States violated and continues to violate international law by illegally occupying the Hawaiian Islands and thus is without jurisdiction on the Islands.

Response: The Department is an agency of the United States. The Secretary's authority to issue this rule derives from the United States Constitution and from Acts of Congress, and the Secretary's authority is

confined within that structure. The Secretary is bound by Congressional enactments concerning the status of Hawai‘i. Under those enactments and under the United States Constitution, Hawai‘i is a State of the United States of America.

In 1893, a United States officer, acting without authorization of the U.S. government, conspired with residents of Hawai‘i to overthrow the Kingdom of Hawaii. In the years following the 1893 overthrow, Congress annexed the Territory of Hawai‘i and established a government for the Territory of Hawai‘i. *See, Joint Resolution to Provide for Annexing the Hawaiian Islands to the United States, 30 Stat. 750 (1898); Act of Apr. 30, 1900, 31 Stat. 141. In 1959, Congress admitted Hawai‘i to the Union as the 50th State. In 1993, Congress, through a joint resolution, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination, and expressed its support for reconciliation efforts with Native Hawaiians. Joint Resolution of November 23, 1993, 107 Stat. 1510, 1513 (commonly known as the “Apology Resolution”).*

The Apology Resolution, however, did not effectuate any changes to existing law. *See, Hawai‘i v. Office of Hawaiian Affairs, 556 U.S. 163, 175 (2009).* Thus, the Admission Act established the current status of the State of Hawai‘i. The Admission Act proclaimed in section 1 that “the State of Hawai‘i is hereby declared to be a State of the United States of America, [and] is declared admitted into the Union on an equal footing with the other States in all respects whatever.” The Admission Act was consented to by the people of Hawai‘i through an election held on June 27, 1959. The comments in response to the NPRM that call into question the legitimacy of the State of Hawai‘i are inconsistent with

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the express determination of Congress, which is binding on the Department.

2. Is the definition of a beneficiary of the HHCA consistent with the requirements of Federal law?

Issue: Commenters questioned the Secretary’s constitutional authority to promulgate rules for the Hawaiian Home Lands Trust, arguing that Congress’s definition of a Native Hawaiian beneficiary is race-based because its use of a “blood quantum” violates the Constitution’s guarantee of equal protection.

Response: The Federal Government has broad authority to regulate with respect to Native American communities. *See, U.S. Const. art. I, sec. 8, cl. 3 (Commerce Clause); U.S. Const. art. II, sec. 2, cl. 2 (Treaty Clause); Morton v. Mancari, 417 U.S. at 551–52 (“The plenary power of Congress to deal with the special problems of Indians is drawn both explicitly and implicitly from the Constitution itself.”).* In the case of the Hawaiian Home Lands Trust, Congress specifically chose to use a 50 percent blood quantum requirement for all beneficiaries of the HHCA rather than a 1/32 blood quantum in order to make the bill more distinctly a Hawaiian rehabilitation scheme. *Proposed Amendments to the Organic Act of the Territory of Hawai‘i: Hearings on H.R. 7257 Before the House Comm. On the Territories, 66th Cong. 15 (1921).* Acknowledging that the United States implemented similar rehabilitation programs for Indians because the government took away their lands without payment and violated treaties, Congressman Charles Curry, Chairman of the Committee on the Territories, said that it should be constitutional to do the same for the Hawaiians whose land had been taken away from them and noted that the Committee received opinions supporting the constitutionality of the proposed legislation from the Attorney General of Hawai‘i and the Solicitor of the Department of the Interior. *Id.* At 141–142. Blood quantum reflects ties to the Native Hawaiian political community, as individuals marry within it. *Id.* at 140. And, as Congress explained, Congress “does not extend services to Native Hawaiians because of

their race, but because of their unique status as the indigenous peoples of a once sovereign nation as to whom the United States has established a trust relationship.” 114 Stat. 2968 (2000) (Hawaiian Homelands Homeownership Act).

3. Is the Hawaiian Homes Commission Act still Federal Law?

Issue: Commenters questioned whether the HHCA remains a Federal law, presuming that the passage of the Admission Act repealed it.

Response: Yes, the HHCA remains a Federal law. As explained in more detail above under “Background,” in compliance with the Admission Act, and as a compact between the State and the United States relating to the management and disposition of the Hawaiian home lands, the State adopted the HHCA, as amended, as a law of the State through Article XII of its Constitution as a condition of its admission in 1959. The HHCA is a cooperative federalism statute, a compound of interdependent Federal and State law that establishes a Federal law framework but also provides for implementation through State law.

Furthermore, consistent with the provisions of the HHCA and the Admission Act, the HHLRA provides that the Secretary shall determine whether a proposed amendment to the HHCA requires the consent of the United States under section 4 of the Admission Act. It is appropriately the function of the United States to ensure conformance with the limitations in the Admission Act and protect the integrity of this statutory framework.

The HHLRA also clarified the role of the Secretary in the oversight of the Hawaiian Home Lands Trust. Section 204(a)(3) of the HHCA, in conjunction with section 205 of the HHLRA, requires the approval or disapproval of the Secretary for the exchange of Hawaiian home lands. The HHLRA details the Secretary’s responsibilities to ensure that the administration of Hawaiian Home Lands Trust advances the interests of the beneficiaries.

The HHLRA thus confirms the continuing role of the Secretary in implementing the HHCA and defines the scope of the continuing responsibilities of the Federal Government related to approval of land exchanges of Hawaiian home lands and state-proposed amendments to the HHCA.

4. Is the Secretary’s interpretation of the term “rehabilitation” as including political, cultural and social reorganization correct?

Response: The meaning of the term “rehabilitation” under the HHCA was provided for background purposes in the proposed rule, and resulted in a number of comments. We now clarify the Department’s position.

The Secretary’s interpretation of the term “rehabilitation” to include political, cultural, and social reorganization is consistent with both the statutory text and legislative history of HHCA. The term “rehabilitation” was added to the HHCA through the 1978 amendments to the Hawaiian Constitution. Section 213(i) of the HHCA, as amended, creates a “rehabilitation fund” that can be used for “the rehabilitation of native Hawaiians” including “educational, economic, political, social, and cultural processes.” Congress consented to this language through a joint resolution approved October 27, 1986, thereby amending the HHCA. 100 Stat. 3143. The purposes and goals of the rehabilitation fund are congressionally identified as some of the purposes and goals of the HHCA.

Furthermore, the legislative history of the HHCA indicates that the bill's purpose was to protect the welfare of the Native Hawaiian people. *See, 67 Cong. Rec. 3263 (1921) (statement of Rep. Almon). Methods to achieve that purpose included revitalizing the "mode of living" of Native Hawaiians from prior generations. See, Rehabilitation and Colonization of Hawaiians and Other Proposed Amendments to the Organic Act of the Territory of Hawai'i: Before the House Comm. on the Territories, 66th Cong 4 (1920) (quoting Sen. John H. Wise's testimony before the Territorial Legislature that: "[t]he Hawaiian people are a farming people and fishermen, out-of-door people, and [being] frozen out of their lands. . . . is one of the reasons why the Hawaiian people are dying. Now, the only way to save them, I contend, is to take them back to the lands and give them the mode of living that their ancestors were accustomed to and in that way rehabilitate them."').*

In 1982 the Secretary and the Governor of Hawai'i created a task force whose purpose was to consider how to better effectuate the purposes of the HHCA. Federal-State Task Force on the Hawaiian Homes Commission Act Report to the Secretary of the Interior and the Governor of the State of Hawai'i, Honolulu, Hawai'i, August 1983, pp. 4, 8. That task force found that the term "rehabilitation" "implies that traditional and cultural practices of native beneficiaries, to the extent not precluded by law, should be respected and acknowledged by the DHHL in order to enable native beneficiaries to return to their lands and to provide for their self-sufficiency and initiative and for the preservation of their culture." *Id.* at 55. Thus, the term "rehabilitation" has been consistently interpreted in ways that support the development of the Hawaiian community itself. The

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Secretary's interpretation of the term "rehabilitation" to include political, cultural, and social reorganization is consistent with the statutory language, congressional intent, and longstanding interpretation of the HHCA.

The funds Congress provided for in the HHCA represent factors that Congress identified as some of the purposes and goals of the HHCA. These purposes and goals guide the Secretary's review in determining whether a proposal advances the interests of the beneficiaries. Section 48.25 has been modified in response to these comments.

5. Should leaseholds to beneficiaries be converted to fee simple allocations of land?

Issue: Commenters recommend a path that would convert HHCA leaseholders into the outright owners of their leasehold property.

Response: Allowing for the conversion of leaseholds into fee simple ownership of Hawaiian home lands properties, which resembles the allotment process that was repudiated by Congress in 1934, is prohibited by current Federal law and is not within the scope of the rule.

6. Does the State of Hawai'i have the ability to amend the HHCA?

Issue: Commenters allege that the State has no ability to amend the HHCA through the process outlined in the Admission Act because it remains a Federal law.

Response: The HHCA is a cooperative federalism statute, a compound of interdependent Federal and State law that establishes a Federal law framework but also provides for implementation through State law. The Admission Act provided that the State could amend certain provisions of the HHCA but expressly limited the State's authority. The HHLRA provides further clarification, providing that the

Secretary shall determine whether a State-proposed amendment to the HHCA requires the consent or approval of Congress under section 4 of the Admission Act. If the State-proposed amendment is found not to require the approval of the United States, the rule provides that the effective date of the State-proposed amendment is the date of the Secretary's notification letter to the Congressional Committee Chairmen that Congressional approval was not required. It is appropriately the function of the United States to ensure conformity with the limitations in the Admission Act and protect the integrity of this Federal statutory framework.

7. Do parts 47 and 48 create an administrative burden that would make it more difficult for the State to move forward with land exchanges or amendments to the HHCA that would benefit the Hawaiian home lands program?

Issue: Commenters stated that while it may be lawful for the Secretary to engage in rulemaking, administrative requirements and criteria may constrain state officials and make it more difficult for them to proceed with land exchanges or amendments to the HHCA that they consider beneficial to the program.

Response: The three main Hawaiian Home Lands Trust statutes (the HHCA, the Admission Act, and the HHLRA) establish a trust relationship and grant the Secretary authority to protect and advance the interests of the beneficiaries. Section 206 of the HHLRA charges the Secretary with advancing the interests of the beneficiaries in administering the HHCA. Parts 47 and 48 will assist the Secretary in carrying out this responsibility and make the Secretary's actions more transparent to the public. Similarly, the rule will assist the State in understanding what information the Secretary considers necessary in order to evaluate the proposed actions. As evidenced by the fact that the HHLRA requires the Secretary to approve or disapprove all land exchanges involving Hawaiian home lands and to review all proposed amendments to the HHCA proposed by the State, Congress not only recognized the benefit of an independent Federal determination that the proposal advances the interests of the beneficiaries, but also recognized that the interests of the Hawaiian Home Lands Trust and its beneficiaries may not always coincide with the interests of the State and their overall program. Congress prioritized the interests of the beneficiaries and in doing so circumscribed the day-to-day administration of the Trust by the State, notwithstanding benefits to other State goals.

8. Should a federalism assessment be performed for this rule?

Issue: One commenter suggests that the rule has sufficient federalism implications to warrant the preparation of a federalism assessment in accordance with Executive Order 13132.

Response: No. While the HHCA, the Admission Act, and the HHLRA, limit what the State can do in administering the Trust, 43 CFR parts 47 and 48 merely provide a path for administering those Federal laws within the original limited delegation to the State in the Admission Act; thus, no federalism assessment needs to be performed. Recognizing the direct effect the three statutes have on the State and the benefits of working with the State to protect the beneficiaries and the Hawaiian Home Lands Trust, the Department held high level discussions with State officials as early as 2011 that resulted in this rulemaking to formalize the process for review of land exchanges and State proposed amendments to the HHCA.

As discussed above, the statutory framework of the HHCA, the Admission Act, and the HHLRA result in a compound of interdependent Federal and State law. Those laws undoubtedly have federalism implications. This rule, however, does not. In accordance with E.O. 13132, rules or policies have

federalism implications if they “have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Parts 47 and 48 have none of those effects. The rule merely formalizes the process the Secretary will use in reviewing and approving land exchanges and in reviewing proposed amendments to the HHCA under existing law, and clarifies the documentation that the HHC Chairman, an officer of the State of Hawai‘i, must submit to implement existing law. The relationship between the State and the Secretary is unchanged by this rule. We expect the HHC Chairman will continue to submit proposed land exchanges and proposed amendments to the Secretary as it has since passage of the HHRLA. The distribution of power and responsibilities remains unchanged; the respective decision making authority of the Secretary and State are limited by section 4 of the Admission Act and sections 205 and 206 of the HHLRA. The only “direct effect” imposed on the State by this rule is the requirement to submit some additional documentation, which, given the level of documentation required and the frequency of submissions, does not rise to a “substantial direct effect.” We therefore conclude that no federalism analysis is necessary.

9. Do parts 47 and 48 allow the Secretary to amend the HHCA?

Issue: Commenters suggest that parts 47 and 48 amend or allow the Secretary to amend the HHCA.

Response: The rule does not amend the HHCA. Parts 47 and 48 merely assist in the administration of the HHCA. One

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of the purposes of part 48 is, however, to provide clarity, consistent with Federal law, on what subjects under the HHCA the State may amend on its own and which subjects Congress must approve. Similarly, part 47 adds clarity to Federal review of land exchanges. This rulemaking process provided the public and all interested parties an opportunity to review and comment on the Department’s existing process before it is replaced with a formalized one under this rule.

10. Should the Secretary monitor State legislation that poses a threat to the HHCA?

Issue: Commenters recommend that under part 48 the Secretary adequately monitor any legislation that would pose a threat to the HHCA.

Response: Section 204 of the HHLRA requires that the Chairman of the HHC submit for review by the Secretary and if required, congressional approval, all State enactments proposing to amend the HHCA. Any proposed amendments to any terms or provisions of the HHCA by the State should also specify that the proposed amendment seeks to amend the HHCA, which puts all persons on notice that the amendment needs review by the Secretary. Consistent with the Admission Act and HHCA, if Federal review finds that any State enactment impacts any of the factors in § 48.20 of this rule, Congressional action is required before it has any effect on the provisions of the HHCA or administration of the Trust. It is the responsibility of the HHC Chairman to monitor the State’s legislative activities and to obtain the required review by the Secretary if it is the State’s intent to amend the HHCA.

Once the Department determines that Congress must approve a proposed amendment to the HHCA and the Department transmits the proposed amendment to Congress, there is no requirement that the Administration monitor or advocate its passage. The Administration may oppose an amendment that does not advance the interests of the HHCA beneficiaries.

11. Do State-proposed amendments to the HHCA require Congressional approval or consent?

Issue: A commenter suggests that Congressional consent and not approval is required for certain proposed amendments to the HHCA.

Response: Congress provided in section 4 of the Admission Act that certain amendments to the HHCA would require the consent of the United States. Congress also clarified in section 204 of the HHLRA that the consent of the United States is provided through the approval by Congress. Thus, approval is required.

Section 204(c)(1) also requires the Secretary to submit to Congress a draft joint resolution approving the proposed amendment. Section 397, Joint Resolutions, of Jefferson's Manual of the House of Representatives of the United States Congress, provides, with the exception of joint resolutions proposing amendments to the Constitution, all resolutions are sent to the President for approval and have the full force of law.

12. Does § 47.50(a)(8)(i) authorize the State of Hawai'i to evict tenants from property being considered for a land exchange?

Issue: Multiple commenters expressed concern that § 47.50(a)(8)(i) authorizes the State to evict tenants from property being considered for a land exchange.

Response: Section 47.50(a)(8)(i) does not authorize the State or any other entity to evict tenants from property being considered for a land exchange. This provision asks that *if* a party to the exchange will evict a tenant from land being exchanged under separate legal authority, the party should provide the Secretary details of arrangements for the relocation of the tenants. The provision in § 47.50(a)(8)(i) does not expand or grant such authority. The provision in § 47.50(a)(8)(i) is almost identical to section 43 CFR 2201.1(c)(11) which applies to other Federal land exchanges. The purpose of both 43 CFR 2201.1(c)(11) and final rule 43 CFR 47.50(a)(8)(i) is to assist the Secretary in identifying all costs, both economic and social, to all persons directly affected by an exchange.

13. Should the definition of consultation in both parts 47 and 48 of this rule require face-to-face meetings with beneficiaries to be valid?

Issue: Commenters question whether consultation with beneficiaries without face-to-face meetings will allow for a sufficient opportunity to engage in dialogue with the beneficiaries, consider their views, and, where feasible, seek agreement with them.

Response: The definition of consultation in this rule provides a minimum requirement and is intended to give the Secretary, the HHC Chairman, as well as beneficiaries and interested parties, flexibility in the consultation process in order to efficiently and effectively engage beneficiaries and interested parties in informed consideration of proposed actions. Such actions may involve a wide spectrum of issues ranging from those that are singular, simple, and straight forward to those that are multifaceted and complicated or complex. Such actions may also vary from those that are mandatory to others that allow greater discretion. Face-to-face meetings may be necessary under certain circumstances while other means of communications, including but not limited to letters delivered by the postal service, email, teleconferences, etc., may be just as effective in other circumstances.

One commenter suggested requiring face-to-face consultations with beneficiaries and lessees who live within a 50-mile radius of the existing Hawaiian home lands to be exchanged or received into the Trust. While the rationale for not requiring face-to-face consultations presented in the previous paragraph still

holds true, the Secretary encourages the State to engage in face-to-face consultations, at a minimum, within a 50-mile radius. The beneficiaries who live within a 50-mile radius of a proposed exchange will likely have a great deal of information important in making a decision about an exchange that would assist the Department in its review.

The final rule modified the definition of consultation in response to these comments.

14. Does § 47.45(a) impede the State's ability to engage in land exchanges involving Hawaiian home lands?

Issue: Commenters raised the question whether § 47.45(a), which recommends the HHC Chairman and the other party seeking the exchange meet with the Department prior to finalizing an exchange, would hamper the progress of land exchanges involving Hawaiian home lands.

Response: Section 47.45(a) is a suggested course of action and does not require pre-land exchange meetings. The Department finds, however, that getting all parties who are interested in a particular land exchange talking to one another can be extremely useful and time-saving. It is especially useful to have this type of pre-meeting to avoid the submission of a presumed final document that cannot be approved by the Department. The language of § 47.45(a) would leave it to the discretion of the HHC Chairman as to whether to engage in the pre-land exchange meeting. The meeting may be conducted via teleconferencing or webconferencing rather than in-person.

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15. Should § 47.65(b) clarify the circumstances under which the Secretary will consult with the beneficiaries when making a determination if a land exchange advances the interests of the beneficiaries?

Issue: Commenters suggest that it is unclear when and under what circumstances consultation might occur by the Secretary when reviewing a HHC Chairman-proposed land exchange.

Response: When reviewing a land exchange proposal submitted by the HHC Chairman, it is essential to the Secretary's decision-making process to have input from the beneficiary community about the effect the land exchange may have on the beneficiaries and the Hawaiian Home Lands Trust. The reason for making consultation under § 47.65(b) permissive is that if the HHC Chairman has already consulted with the beneficiaries on the land exchange proposal that is before the

Secretary, and records of this consultation provide the input that the Secretary seeks, then no further consultation by the Secretary may be necessary. If the HHC Chairman forgoes consultation on a land exchange or a proposed amendment to the HHCA, the Secretary may be required to consult directly with the beneficiaries in order to approve the exchange or to find that an amendment does not require Congressional approval.

Upon consideration of the comments, language similar to that in § 47.65(b) was inserted into § 48.20.

16. Should the term "consultation" be better defined?

Issue: Commenters suggested that there be greater clarity and formalization as to when the Secretary would seek such consultation, what such consultation would entail, and how beneficiary input will be taken into account in any decision making process.

Response: The Department agrees with this point and modified the definition of consultation in both parts 47 and 48 so that they are consistent with the definition used by Federal agencies when consulting with the Native Hawaiian community under section 106 of the National Historic Preservation Act.

17. Are the standards for the review of land exchanges sufficiently clear to protect the interests of the beneficiaries?

Issue: Commenters suggest the standards for review of land exchanges is not sufficient to guarantee the Hawaiian Home Lands Trust will be preserved.

Response: The definition of land exchanges in section 47.10 is based upon section 204 of the HHCA and the Secretary's experience with reviewing land exchanges involving Hawaiian home lands and other properties throughout the United States. Exchanges can be a valuable tool for the HHCA Chairman in managing the Hawaiian Home Lands Trust and advancing the interests of the beneficiaries. Part 47 seeks to clarify the section 205 of HHLRA to ensure it is carried out in compliance with section 206 of the HHLRA that requires the Secretary, in administering the HHCA, to advance the interests of the beneficiaries. The protections provided by the HHCA, Admission Act, and HHLRA, along with the details laid out in part 47, allow the HHC Chairman to engage in land exchanges involving Hawaiian home lands without endangering the Trust.

18. Should the definition of "market value" be amended to take into consideration such things as utility and cultural significance of the properties?

Issue: Commenters suggest that when there are multiple reasons for a land exchange to occur that the appraisals of the properties should take those reasons into account.

Response: The Secretary is authorized to approve a land exchange under section 204 of the HHCA if the property to be added to the Hawaiian Home Lands Trust is of "equal value" to the property leaving the Hawaiian Home Lands Trust. The Secretary interprets this requirement to be referring to market value, similarly to the BLM land exchange regulations included in 43 CFR part 2200 that only consider the economic uses of the subject property. In order to approve the exchange, however, the Secretary must determine whether the proposed exchange advances the interests of the beneficiaries as required by section 206 of the HHLRA and as implemented in section 47.20 of this rule. At that point, the Secretary may take into account things such as the utility and cultural significance of the properties.

19. Should the Secretary ensure that the appreciation rate of any new property being proposed for inclusion in the Hawaiian Home Lands Trust be at least equal to the rate of return for the property proposed to leave the Hawaiian Home Lands Trust?

Issue: A commenter suggests that an appreciation rate of any new property being proposed for inclusion in the Hawaiian Home Lands Trust be at least equal to the rate of return for the trust property proposed to leave the Hawaiian Home Lands Trust. The example given by the commenter is that the return on the generation of electricity on a current trust property and the revenue it can potentially generate is more important than its present cash value of the property.

Response: The definition of market value used in this rule requires that the estimate of value be made in terms of cash or its equivalent. The appreciation rate and rate of return reflect future income potential, of the properties being considered in an exchange and will be considered in the appraisal of a property if the highest and best use of the property is for generating income. Properties considered for exchange will be

valued at their highest and best use as required by UASFLA for market value appraisals. The income capitalization approach, which is required to be completed on income producing properties under UASFLA, requires the appraiser to analyze a property's ability to generate future benefits and capitalizes the income into an indication of present cash value. The result is that the market value of the property as of the date of appraisal takes into account future income and any appreciation by converting future benefits into a present cash value. If the two exchange properties have similar highest and best uses, similar capitalization rates would likely be used ensuring equal treatment of the properties under appraisal.

20. Should only Federal employees licensed in the State of Hawai'i be allowed to conduct appraisals of properties involved in an exchange involving Hawaiian home lands?

Issue: A commenter suggests only Federal employees licensed in the State of Hawai'i be allowed to conduct appraisals of properties involved in an exchange of Hawaiian home lands.

Response: The vast majority of Department's appraisals are completed by private contract appraisers under the direction of the Department. The review of those reports is done, however, exclusively by Federal employees. Requiring that appraisals be conducted by only Federal employees would place an unnecessary obstacle in the path of completing these land exchanges.

21. Should the Secretary include in 43 CFR part 47 a process that addresses section 205(c) of the HHLRA which authorizes the Secretary to initiate a land exchange involving Hawaiian home lands?

Issue: Commenters suggest 43 CFR part 47 include a process that addresses section 205(c) of the HHLRA which

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authorizes the Secretary to initiate a land exchange involving Hawaiian home lands.

Response: In this rule, the Department did not include procedures governing land exchanges involving Hawaiian home lands initiated by the Secretary, but chose to address the primary way in which land exchanges are currently initiated. The Department is unaware of any land exchange involving Hawaiian home lands being initiated or proposed to be initiated by the Secretary. Thus, the need to address such an exchange through rulemaking is not necessary. Should the Secretary decide to engage in a land exchange involving Hawaiian home lands under the authority of section 205(c) and (d), we will consider then what process is required and if a rule is warranted.

22. Should the factors listed in section 47.20 include "reduce the diversion of staff resources dedicated to deriving revenues from land dispositions to fund the DHHL's administrative and operating expenses"?

Response: It is unnecessary to specifically insert the suggested language as it is encompassed within section 47.20(i).

23. After approving or disapproving a proposed amendment to the HHCA, should the Secretary provide an email notice to the Native Hawaiian Organization List maintained by the Secretary and post on the Department of the Interior's Web site?

Response: The Secretary does not approve or disapprove proposed amendments to the HHCA but merely reviews proposed amendments to determine if Congressional approval is required. Following the required review, the Secretary will post notice of the determination on the Department of the Interior Web site.

24. Should the Secretary review and provide rulings to Congress and the HHC Chairman on State-proposed amendments to the HHCA that in accordance with their own provisions require Congressional approval to become effective?

Issue: The State will sometimes pass legislation that proposes to amend the HHCA but is expressly contingent on approval by Congress.

Response: When the State passes legislation that proposes to amend the HHCA but includes a provision that the effectiveness of the proposed amendment is contingent on approval by Congress, no proposal to amend the HHCA was made for purposes of section 206 of the HHLRA. In circumstances such as these, the State is merely taking on a general advisory role and providing advice to Congress on what Federal laws they should pass. Congress may consider the proposed amendment offered by the State of Hawai‘i and this does not require a review under section 206 of HHLRA.

25. Is it the responsibility of DHHL and the HHC to determine whether proposed land exchanges are appropriate for the Hawaiian people?

Response: In accordance with section 205(b) of the HHLRA, “the Secretary shall approve or disapprove the proposed exchange” submitted by the HHC Chairman. While the Chairman may propose an exchange, the ultimate responsibility for determining the appropriateness of the proposed exchange remains with the Secretary.

26. Are the factors the Secretary will consider in analyzing a land exchange listed in section 47.20 too restrictive to allow for the proper use of the land exchange tool by the HHC Chairman?

Issue: A commenter suggests that the rule relies solely on the language listed in section 204(3) of the HHCA, which provides for an exchange of equal value “to consolidate its holdings or to better effectuate the purposes of the HHCA.”

Response: Section 206 of the HHLRA requires that the Secretary “advance the interest of the beneficiaries” in administering the HHCA. Implementation of this provision is consistent with the purposes of section 204(a)(3) of the HHCA, which is to advance the interest of its beneficiaries when managing the Hawaiian Home Lands Trust. Section 47.20 articulates factors that are consistent with the purposes of the HHCA and with advancing the interest of the beneficiaries to provide transparency in the Secretary’s decision making process. Section 47.20 of the rule implements both statutes in a consistent manner and utilizes the Secretary’s expertise in reviewing land exchanges involving trust lands held for other U.S. indigenous communities.

27. Should the factors the Secretary will consider in analyzing a land exchange listed in section 47.20 be expanded to include such things as the development of Hawaiian home lands for mercantile use and to protect ecological and cultural resources?

Response: Section 47.20 specifies that the main purpose of engaging in a land exchange must be to advance the interests of the beneficiaries as provided in section 206 of the HHLRA. Accordingly, it lists the factors the Secretary will consider in analyzing a land exchange. These factors themselves are purposefully broad to allow flexibility in the analysis.

Moreover, in order for the exchange to be approved, the purpose of the land exchange must be well documented and demonstrate how the land exchange advances the interests of the beneficiaries. For instance, it would be insufficient under the rule for the party proposing the exchange to make only a

conclusory statement that the exchange advances the interests of the beneficiaries without further explanation. Sections 47.20 and 47.30 provide the necessary information for the Secretary to make a reasoned decision to approve or disapprove a proposed land exchange.

28. Should there be a requirement that land exchanges not increase or decrease the acreage in the Trust in order to keep it whole?

Response: While acreage is an important aspect of determining the market value of properties involved in a land exchange, it is not the exclusive determining factor. For example, 50 acres of heavily sloped rocky land will likely not be as valuable as a smaller number of acres of usable farm land or other more readily developable acres. Therefore, the HHCA requires that the exchange be of equal value, not that the acreage be the same. The Secretary needs to ensure the market value of the property coming into the Hawaiian Home Lands Trust is equal to or greater than the property leaving the trust as required by section 204(c) of the HHCA, rather than rely on identical acreages.

29. Should the rule provide a more defined role for the Hawaiian Homes Commission in the review of land exchanges and amendments to the HHCA?

Issue: Commenters suggest that the rule specifically recognize the role of the HHC because of its fiduciary duty to the beneficiaries of the HHCA.

Response: Section 202 of the HHCA provides that the DHHL be headed by an executive board known as the HHC. The HHC and its Chairman are appointed by the Governor of the State of Hawai‘i. The Chairman of the HHC is also the Director of DHHL and an Officer of the State of Hawai‘i. As officers of the State who are placed in their positions as Hawaiian Homes Commissioners to oversee the day-to-day management of the Hawaiian Home Lands Trust, the Secretary values their input. In response to comments, section 47.60(a)(1) now requires a statement of approval for a land exchange from the HHC, including

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the Commissioners’ recorded vote on the exchange, and § 48.15(b)(2) requires that all testimony and correspondence from the HHC and its Commissioners related to proposed amendments be submitted to the Secretary in order to better inform the Secretary’s review of proposed amendments to the HHCA. In addition, the rule now specifically references the Chairman of the HHC as submitting the State-proposed amendments to the HHCA and Chairman-proposed land exchanges to the Secretary to conform to the language in sections 204(a) and 205(a) of the HHLRA.

30. In addition to requiring the submission of homestead association testimony and correspondence regarding proposed amendments to the HHCA, should § 48.15 also require the same documents from beneficiary associations whose membership is composed of persons who have submitted applications to the State for homesteads but are currently awaiting the assignment of a lot?

Response: The Department appreciates the question. It is important for the Secretary to obtain the input of beneficiaries who are on the State’s homestead waiting list as their priorities may diverge from the priorities of those beneficiaries who hold a homestead lease. Therefore, new definitions of HHCA Beneficiary Association and of Homestead Association are included in the rule and are referenced in § 48.15(b)(2), and beneficiaries are added to § 48.15(b)(2).

31. Should the definition of “beneficiary” include those Native Hawaiians with a blood quantum of more than 25 percent but less than 50 percent who qualify to receive a homestead through transfer or succession?

Response: Section 202 of the HHLRA states “the term ‘beneficiary’ has the same meaning as given the term ‘native Hawaiian’ under section 201(7) of the Hawaiian Homes Commission Act.” Section 201(7) of the HHCA states, “Native Hawaiian means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.” Changing the definition of “beneficiary” to include those Native Hawaiians with a blood quantum of at least 25 percent but less than 50 percent who received a homestead through transfer or succession is not consistent with the HHLRA and HHCA and would require Congressional action.

32. Will the rule assist in meeting the Congressional deadlines for the review of State- proposed amendments to the HHCA and HHC Chairman-proposed land exchanges involving Hawaiian home lands?

Response: In order to provide a rational basis for decisions regarding land exchanges involving Hawaiian home lands and proposed amendments to the HHCA, the Secretary requires sufficient information on which to base those decisions. This rule details what information the Department requires to make an informed decision. The intention of the rule is to reduce the amount of time the Department takes to make an informed decision by providing clarity on the information necessary from the State about proposed land exchanges involving Hawaiian home lands or proposed amendments to the HHCA.

33. Should the purpose of the rule regarding land exchange procedures be for the benefit of the beneficiaries of the HHCA?

Response: While each part in the rule has a specific purpose, the overall purpose of the Secretary’s oversight of the Hawaiian Home Lands Trust is to advance the interests of the beneficiaries of the HHCA in accordance with section 206(b) of the HHLRA. Advancement of these interests in both parts 47 and 48 must be specific to the interests of the beneficiaries, not others, and documented. For the purposes of an HHCA review, the interests of parties other than the beneficiaries are not relevant to the Secretary’s decision making process; rather, the Secretary’s approval is contingent upon a determination that the proposal does not decrease benefits to the beneficiaries. In response to comment, § 48.25 was modified to require that the Secretary consider the goals and purposes of the Trust when determining whether a proposed amendment to the HHCA decreases the benefits to the HHCA beneficiaries.

It is important to note that there are other factors the Secretary must find to approve a proposed land exchange in addition to finding that the proposed exchange advances the interest of the beneficiaries. *See, HHCA Section 204(a)(3) and final rule § 47.35 requiring the Department to ensure the market value of the property coming into the Trust is equal or greater than the property departing the Trust.* Similarly, a finding that a proposed amendment to the HHCA advances the interests of the beneficiaries does not obviate the need for Congressional approval. *See, Admission Act Section 4 (detailing circumstances in which Congress reserved its own authority over the Trust).* Consideration of whether a land exchange advances the interests of the beneficiaries or a proposed amendment decreases the benefits to beneficiaries are separate steps in the Secretary’s review processes in both parts 47 and 48.

34. Should the rule require public input or a public vote when determining if a State-proposed amendment to the HHCA or HHC Chairman-proposed land exchange involving Hawaiian home lands is reviewed by the Secretary?

Response: When reviewing land exchanges involving Hawaiian home lands proposed by the Chairman of the HHC or State-proposed amendments to the HHCA, the Secretary will consider all information provided by the State, including any public input it received. For purposes of land exchanges, it is the Chairman's decision as to whether to include public input, including any vote results from the public, in a land exchange proposal submitted to the Secretary. Section 47.60 sets forth the documentation that the Chairman must submit to the Secretary in a land exchange packet, which, in response to this comment, now includes the recorded vote of the Commissioners. The rule requires in § 48.15 that the final vote totals for votes taken by the HHC and the State of Hawai'i Legislature on a proposed HHCA amendment be forwarded to the Secretary when it is submitted for review. These vote totals help to provide the Secretary with a full picture of the State's position on a proposed amendment and whether that amendment decreases the benefits to the beneficiaries. This requirement is retained in the final rule.

35. Should the rule require that the HHC Chairman engage in consultation with the beneficiaries before any land exchange involving Hawaiian home lands is approved or the Secretary makes a final determination regarding a proposed amendment to the HHCA?

Response: The HHCA, Admission Act, and the HHLRA define the three parties involved in reviewing land exchanges involving Hawaiian home lands and proposed amendments to the HHCA. These parties are the State of Hawai'i (represented by the DHHL and HHC), the HHCA beneficiary community, and the Federal Government (represented by the Secretary of the Interior). The beneficiary community obtains much of this voice through consultation with either the State or the Department.

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Thus, while the HHC Chairman is not required to engage in consultation with the beneficiary community, without it the Department may not have sufficient information to evaluate whether a Chairman-proposed land exchange or a State-proposed amendment advances the interests of the HHCA beneficiaries.

36. Should the rule provide a definition of a homestead association?

Response: The Department agrees that the rule should provide a definition of a homestead association to provide clarity to the definition in the HHCA. The Secretary added a definition of homestead association in § 48.6 of this rule based on the language provided in sections 204(a)(2), 213, and 214(a) of the HHCA. This definition is also based on the definition of a Native Hawaiian organization listed in the National Historic Preservation Act and Native American Graves Protection and Repatriation Act (NAGPRA). The Secretary will maintain a list of the homestead associations that meet this definition and file a statement, signed by the association's governing body, of governing procedures and a description of the territory it represents.

37. Should the purpose of consultation be only to engage in good faith efforts to educate the beneficiaries, discuss and solicit their comments, and not to seek agreement?

Response: As the National Historic Preservation Act provides Federal agencies with guidance on how to work with the Native Hawaiian community, the Department chose to use the Act's definition of consultation for working with the Native Hawaiian beneficiary community. The National Historic

Preservation Act defines consultation as the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement.

38. Do the rules already in place that deal with the treatment of land exchanges involving indigenous lands held in trust for Federally recognized tribes with whom the United States has a formal government-to-government relationship provide sufficient guidance to the Secretary when reviewing land exchanges involving Hawaiian home lands?

Response: No. The rules related to exchanges to lands held in trust are located in 25 CFR part 151 that do not apply to Hawaiian home lands. Congress enacted the HHCA and HHLRA to govern land exchanges involving Hawaiian home lands. 39. Is the rule necessary to provide HHCA beneficiaries with options to hold the DHHL and the State accountable when proposing land exchanges involving Hawaiian home lands and amendments to the HHCA?

Issue: A commenter questions the need for parts 47 and 48 and states “Beneficiaries have held DHHL as well as the State accountable through the judicial process, both federal and state; special legislative hearings; legislative audits; and media reports (including traditional print and TV media as well as social and internet based media resources). Statutorily, beneficiaries can pursue action for breaches of trust under Hawaii Revised Statutes Chapter 673 (Native Hawaiian Trusts Judicial Relief Act; aka Right to Sue).”

Response: Parts 47 and 48 seek to provide clarity and transparency in the Federal administration of the Hawaiian Home Lands Trust statutes. By providing this clarity, the Secretary can better implement section 206(b) of the HHLRA that requires the Secretary to administer these statutes in a way that advances the interests of the beneficiaries. This rule also seeks to provide transparency about what information is necessary to make decisions regarding HHC Chairman proposed land exchanges involving Hawaiian home lands and State proposed amendments to the HHCA. Such transparency should increase confidence of the beneficiary community in the decisions of the Secretary and State, thus minimizing any risk and need for litigation.

The rule incorporates consultation with the HHCA beneficiaries and consideration of the interests of the HHCA beneficiaries as provided by Congress in the HHLRA during the proposal and review processes. Such provisions address HHCA beneficiary concerns that they are often the last to be informed about proposed actions affecting their interests and are often informed after-the-fact when decisions have already been made. Such consultation should result in better informed decision-making and lessen the need of beneficiaries to seek recourse after decisions have already been made.

40. Does the rule expand the Secretary’s authority beyond the HHLRA?

Response: No. The rule simply provides uniform processes for implementing the authorities and responsibilities Congress granted the Secretary in the HHCA and HHLRA, consistent with the standards and requirements established by Congress in these and other applicable Federal laws, including those listed in § 47.15. It is important to note that Congress did not exempt the Secretary’s actions under the HHLRA from other applicable Federal laws, such as Native American Graves Protection and Repatriation Act that directly apply to Hawaiian home lands.

The information delineated in this rule provides clarity in the Department’s decisions regarding land exchanges involving Hawaiian home lands and amendments to the HHCA proposed by the State. While the Secretary will give weight to the State in its findings and analysis, the rule seeks to make certain the

information gathered is substantive and reasonably verifiable in order to ensure the Hawaiian Home Lands Trust statutes are administered in a way that advances the interests of the beneficiaries as required by section 206 of the HHLRA.

41. Should the rule provide for recourse if the Secretary fails to follow the rule or act within specific timeframes?

Response: No. Congress provides for uniform and consistent systems of recourse and judicial review through other statutes, such as the administrative Procedure Act, and has not provided any other specific recourse with regard to the Secretary's responsibilities under the HHCA or HHLRA.

42. Should the rule provide for automatic approval of a HHC Chairman proposed land exchange or State proposed amendments to the HHCA if the Secretary fails to follow the rule or act within specific timeframes?

Response: Automatic approval of HHC Chairman proposed land exchanges or State-proposed amendments to the HHCA is inconsistent with sections 204 and 205 of the HHLRA, section 4 of the Admission Act, and potentially section 206 of the HHLRA, which requires that these Hawaiian Home Lands Trust statutes be administered to advance the interests of the beneficiaries. Moreover, such automatic approvals would deprive the beneficiary community of the reasoned analysis and considered judgment of the Department in its exercise of these statutory responsibilities.

43. Should part 47 include a fast-track process for approval of land exchanges involving emergency situations, smaller acreages, less intense uses, or already developed land where the use will remain the same?

By following the provisions of sections 47.50–47.60, the HHC

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Chairman and DHHL can dramatically reduce the amount of time necessary to complete a land exchange and increase the likelihood the exchange will be acted on by the Secretary without the delay necessitated by requests for additional information. In cases where a proposed land exchange is between the DHHL and another agency of the State or a Federal agency, where no change in land use is planned, a categorical exclusion under NEPA may be applicable as listed under Chapter 7.5 of the Department of the Interior Departmental Manual, which reduces the time required in preparation and review.

If the HHC Chairman chooses not to seek the assistance of the Secretary in developing an exchange proposal, the HHC Chairman may merely submit the documentation listed in § 47.60. In accordance with section 205 of the HHLRA, the Secretary will approve or disapprove the proposed exchange not later than 120 days after receiving the information required in § 47.60.

44. Does an assessment of beneficiary interests by the Secretary undermine the State's subject matter expertise and usurp the executive power of the HHC by re-evaluating the Commission's determination?

Response: No. While the Hawaiian Home Lands Trust statutes provide the State and its subdivisions, including the HHHC and its Chairman, certain responsibilities, nowhere do they relieve the Secretary of the requirement in section 206(b) of the HHLRA to administer the Hawaiian Home Lands Trust statutes in a way that advances the interests of the beneficiaries. For proper care of the Trust to take place, all three parties, the State, the Secretary, and the beneficiary community, must work together and fulfill their respective duties assigned by Congress. It is because the Federal government has an independent interest

in implementing the Trust and because Congress understood that the State and its subdivisions might have interests that conflict with the interests of the beneficiaries, that Congress required Secretarial approval or disapproval of the HHC Chairman-proposed land exchange or State proposed amendment to the HHCA in section 205 of the HHLRA and section 204 of the HHCA. In addition, the Secretary has an interest in enforcing Federal law within her responsibility.

45. Does the language “benefits to the parties of the proposed exchange” in section 205(a)(3) of the HHLRA require the Secretary to look at the benefits to the DHHL because the parties to an exchange will always be DHHL and another?

Response: No. Such language requires the Secretary to look at the benefits to the beneficiaries of the Hawaiian Home Lands Trust. This provision must be read to be consistent with section 206, which requires the Secretary to advance the interests of the beneficiaries. Such a reading is also consistent with the purposes of the HHCA. The Hawaiian Home Lands Trust was established for the benefit of the HHCA beneficiaries. Section 206(b)(1) of the HHLRA specifically directs the Department to “(1) advance the interests of the beneficiaries.” To read the language in section 205(a)(3) as suggested by the commenter, gives no weight to this provision of section 206 and ignores the responsibilities of the State to the beneficiaries. In response to this comment, the language in § 47.30(a) was edited to remove the reference of “administration.”

46. Does the rule limit the amount of consultation that the HHC Chairman or the Secretary may engage in with beneficiaries when reviewing Chairman proposed land exchanges involving Hawaiian home lands or State-proposed amendments to the HHCA?

Response: The definition of consultation provided in both parts 47 and 48 outline the minimum requirements for consultation. If the HHC Chairman chooses to engage in additional consultation efforts or decides to require a higher standard, such as holding face-to-face consultation with beneficiaries on all proposed land exchanges and amendments to the HHCA, the Department supports such efforts as beneficial to the beneficiaries, the Chairman, and the Secretary.

47. If the factors from § 47.20 refer to the non-Hawaiian home lands that would be received, how are the benefits in retaining Hawaiian home lands determined in order to apply the balancing test in § 47.30(b)?

Response: The factors listed in § 47.20 are utilized by the Secretary to review both the non-Hawaiian home lands proposed to be received into the Hawaiian Home Lands Trust and the Hawaiian home lands the HHC Chairman proposes to remove from the Hawaiian Home Lands Trust. Section 47.30(b) provides explicit instruction on how the § 47.20 factors are to be weighed.

48. The Factors Listed in § 47.30(a) and (c) Are Ambiguous

Response: The language in § 47.30(a) is not ambiguous. It requires the exercise of judgment when reviewing land exchanges covering a wide range of circumstances. Section 47.30(a) emphasizes the need for the Secretary to consider the long term effects a land exchange will have on the lands in the Hawaiian Home Lands Trust. These trust lands are being held in order to advance the interests of the HHCA beneficiaries. Section 47.30(b) is intended to ensure that beneficiaries benefit from every exchange. Section 47.30(c) emphasizes the need for the Secretary to consider whether a proposed exchange will significantly conflict with the beneficiaries’ interests in adjacent Hawaiian home lands.

49. Is the analysis presented in §§ 47.20 and 47.30 highly discretionary and provide for circumstances where the various factors may conflict?

Response: Section 204(a)(3) of the HHCA and section 205(b) of the HHLRA make clear that a land exchange is not valid until it has been approved by the Secretary, but does not suggest that the Secretary is required to approve every proposed land exchange. Indeed, Congress provided expressly in section 205(b) of the HHLRA that “the Secretary shall approve or disapprove the proposed exchange.” The Secretary must also, at a minimum, be satisfied that the purposes of the Hawaiian Home Land Trust statutes are met. Each of these factors requires the exercise of judgment. Thus, the discharge of the responsibility placed on the Secretary is not ministerial. Nor is it “discretionary” as the factors to be considered are enumerated. There is, nonetheless, some subjectivity in the evaluation. Sections 47.20 and 47.30 provide factors to clarify the weighing process the Secretary must engage in when determining if a land exchange advances the interests of the beneficiaries. The factors in § 47.20, however, are not exhaustive.

It is possible certain proposed exchanges will present situations where certain factors listed in § 47.20 may conflict with each other. In those circumstances the Department will be required to exercise expertise and judgment within these limits in weighing the factors in order to determine whether a proposed land exchange advances the interests of the beneficiaries. If the factors listed in § 47.20 conflict with § 47.30 (a) and (c),

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however, the Secretary will be required to disapprove the proposed land exchange.

III. Summary of Impacts

1. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs will review all significant rules. The Office of Information and Regulatory Affairs determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that rules must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. This final rule is consistent with these requirements.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this final rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) as the final rule merely describes agency procedures and practices when reviewing HHC Chairman-proposed land exchanges involving Hawaiian home lands and State-proposed amendments to the HHCA. These procedures and practices are not agency activities that will have a significant economic effect on a

substantial number of small entities. This rule neither imposes burdens on small entities nor requires actions by them. As such, the Regulatory Flexibility Act does not apply.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This final rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates Reform Act

This final rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The final rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630 as the taking of private property is not a subject covered or even contemplated under this rule. A takings implication assessment is not required.

6. Federalism (E.O. 13132)

In accordance with Executive Order 13132, the final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. Based on research and the deliberations outlined in the response to questions number 8, the final rule does not substantially and directly affect the relationship between the Federal and state governments. The Secretary of the Department of the Interior has oversight to ensure that land under the HHCA is administered in a manner that advances the interests of the beneficiaries. A federalism assessment is not required.

7. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

- (a) Meets the criteria of section 3(a) requiring that all rules be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all rules be written in clear language and contain clear legal standards.

8. Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We evaluated this rule under the Secretary's consultation policy and under the criteria in Executive Order 13175 and determined that it has no substantial direct effects on

federally recognized Indian tribes and that consultation under the Secretary's tribal consultation policy is not required.

9. Paperwork Reduction Act

This rule does not contain information collection requirements subject to the Paperwork Reduction Act and therefore a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

10. National Environmental Policy Act

This final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act, 1969 (NEPA) is not required. Under Departmental Manual 516 DM 2.3A(2), Section 1.10 of 516 DM 2, Appendix 1 excludes from documentation in an environmental assessment or impact statement “policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case.” We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

11. Effects on the Energy Supply (E.O.13211)

This final rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

12. Clarity of This Regulation

The Secretary is required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This rule meets the requirements that each rule the Secretary publishes must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;

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- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

List of Subjects in 43 CFR Parts 47 and 48

Hawaii, Intergovernmental Programs, Land, State-Federal Relations.

Kristen J. Sarri,

Principal Deputy Assistant Secretary for Policy, Management and Budget.

For the reasons stated in the preamble, the Department of the Interior amends title 43 of the Code of Federal Regulations by adding new parts 47 and 48 as set forth below:

PART 47 – LAND EXCHANGE PROCEDURES

Sec.

47.5 What is the purpose of this part?

47.10 What definitions apply to terms used in this part?

47.15 What laws apply to exchanges made under this part?

Subpart A -- The Exchange Process

47.20 What factors will the Secretary consider in analyzing a land exchange?

47.30 When does a land exchange advance the interests of the beneficiaries?

47.35 Must lands exchanged be of equal value?

47.40 How must properties be described?

47.45 How does the exchange process work?

47.50 What should the Chairman include in a land exchange proposal for the Secretary?

47.55 What are the minimum requirements for appraisals used in a land exchange?

47.60 What documentation must the Chairman submit to the Secretary in the land exchange packet?

Subpart B -- Approval and Finalization

47.65 When will the Secretary approve or disapprove the land exchange?

47.70 How does the Chairman complete the exchange?

Authority: State of Hawai‘i Admission Act, 73 Stat. 4, approved March 18, 1959; Hawaiian Homes Commission Act, 1920, as amended, Act of July 9, 1921, 42 Stat. 108; Hawaiian Home Lands Recovery Act, 1995, 109 Stat. 537, 5 U.S.C. 301; 25 U.S.C. 2 and 9; 43 U.S.C. 1457; 112 Departmental Manual 28.

§ 47.5 What is the purpose of this part?

This part sets forth the procedures for conducting land exchanges of Hawaiian home lands authorized by the Hawaiian Homes Commission Act, 1920 (HHCA).

§ 47.10 What definitions apply to terms used in this part?

As used in this part, the following terms have the meanings given in this section.

Appraisal or *Appraisal report* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of the lands or interests in lands to be exchanged as of a specific date(s), supported by the presentation and analysis of relevant market information.

Beneficiary or beneficiaries means “native Hawaiian(s)” as that term is defined under section 201(a) of the Hawaiian Homes Commission Act.

Chairman means the Chairman of the Hawaiian Homes Commission designated under section 202 of the Hawaiian Homes Commission Act.

Commission means the Hawaiian Homes Commission established by section 202 of the Hawaiian Homes Commission Act, which serves as the executive board of the Department of Hawaiian Home Lands.

Consultation or consult means representatives of the government engaging in an open discussion process that allows interested parties to address potential issues, changes, or actions. Consultation does not necessarily require formal face-to-face meetings. The complexity of the matter along with the potential effects that the matter may have on the Trust or beneficiaries will dictate the appropriate process for consultation. Consultation requires dialogue (oral, electronic, or printed) or a good faith, dialogue or documented effort to engage with the beneficiaries, consideration of their views, and, where feasible, seek agreement with the beneficiaries when engaged in the land exchange process.

DHHL or Department of Hawaiian Home Lands means the department established by the State of Hawai‘i under sections 26-4 and 26-17 of the Hawai‘i Revised Statutes to exercise the authorities and responsibilities of the Hawaiian Homes Commission under the Hawaiian Homes Commission Act.

Hawaiian Home Lands Trust means all trust lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, and those lands obtained through approval under this part, and as directed by Congress.

Hawaiian Home Lands Trust Funds means the funds established in the HHCA section 213.

Hazardous substances means those substances designated under Environmental Protection Agency regulations at 40 CFR part 302.

HHCA or Hawaiian Homes Commission Act means the Hawaiian Homes Commission Act, 1920, 42 Stat. 108, as amended.

HHCA Beneficiary Association means an organization controlled by beneficiaries who submitted applications to the DHHL for homesteads and are awaiting the assignment of a homestead; represents and serves the interests of those beneficiaries; has as a stated primary purpose the representation of, and provision of services to, those beneficiaries; and filed with the Secretary a statement, signed by the governing body, of governing procedures and a description of the beneficiaries it represents.

HHLRA or Hawaiian Home Lands Recovery Act means the Hawaiian Home Lands Recovery Act, 1995, 109 Stat. 357.

Homestead Association means a beneficiary controlled organization that represents and serves the interests of its homestead community; has as a stated primary purpose the representation of, and provision of services to, its homestead community; and filed with the Secretary a statement, signed by the governing body, of governing procedures and a description of the territory it represents.

Land exchange is any transaction, other than a sale, that transfers Hawaiian home lands from the Hawaiian Home Lands Trust to another entity and in which the Hawaiian Home Lands Trust receives the entity's land as Hawaiian home lands. A land exchange can involve trading Hawaiian home lands for private land, but it can also involve trading land between the Hawaiian Home Lands Trust and State or Federal agencies.

Market value means the most probable price in cash, or terms equivalent to cash, that lands or interests in lands should bring in a competitive and open market under all conditions requisite to a fair sale, where the buyer and seller each acts prudently and knowledgeably, and the price is not affected by undue influence.

Native Hawaiian or native Hawaiian has the same meaning as that term defined under section 201(a) of the Hawaiian Homes Commission Act.

Office of Valuation Services (OVS) means the Office with real estate appraisal functions within the Office of the Assistant Secretary – Policy, Management, and Budget of the Department of the Interior.

Outstanding interests means rights or interests in property involved in a land exchange held by an entity other than a party to the exchange.

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Secretary means the Secretary of the Interior or the individual to whom the authority and responsibilities of the Secretary have been delegated.

Trust means the Hawaiian Home Lands Trust and the Hawaiian Home Lands Trust Funds.

§ 47.15 What laws apply to exchanges made under this part?

(a) The Chairman may only exchange land under the authority of the HHCA in conformity with the HHLRA.

(b) When the Chairman makes any land exchange, the following laws and regulations constitute a partial list of applicable laws and regulations:

Legislation or regulation	Citation
(1) The National Historic Preservation Act, 1966	16 U.S.C. 470 et seq.
(2) Implementing regulations for the National Historic Preservation Act	36 CFR part 800
(3) Section 3 of the Native American Graves Protection and Repatriation Act (NAGPRA)	25 U.S.C. 3002
(4) Implementing regulations for the Native American Graves Protection and Repatriation Act	43 CFR part 10

Legislation or regulation	Citation
(5) The National Environmental Policy Act, 1969 (NEPA)	42 U.S.C. 4371 et seq.
(6) Implementing regulations for NEPA	40 CFR parts 1500-1508; 43 CFR part 46
(7) The State of Hawai‘i Admission Act	73 Stat. 4
(8) Hawaiian Homes Commission Act, 1920, as amended	42 Stat. 108
(9) Hawaiian Home Lands Recovery Act, 1995	109 Stat. 537
(10) Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)	42 U.S.C. 9601 et seq.
(11) Implementing regulations for CERCLA	40 CFR part 312

No new legal rights or obligations are created through listing applicable laws and regulatory provisions in this section.

Subpart A – The Exchange Process

§ 47.20 What factors will the Secretary consider in analyzing a land exchange?

The Secretary may approve an exchange only after making a determination that the exchange will advance the interests of the beneficiaries. In considering whether a land exchange will advance the interests of the beneficiaries, the Secretary will evaluate the extent to which it will:

- (a) Achieve better management of Hawaiian home lands;
- (b) Meet the needs of HHCA beneficiaries and their economic circumstances by promoting:
 - (1) homesteading opportunities,
 - (2) economic self-sufficiency, and,
 - (3) social well-being;
- (c) Promote development of Hawaiian home lands for residential, agricultural, and pastoral use;
- (d) Protect cultural resources and watersheds;
- (e) Consolidate lands or interests in lands, such as agricultural and timber interests, for more logical and efficient management and development;
- (f) Expand homestead communities;

- (g) Accommodate land use authorizations;
- (h) Address HHCA beneficiary needs; and
- (i) Advance other identifiable interests of the beneficiaries consistent with the HHCA.

§ 47.30 When does a land exchange advance the interests of the beneficiaries?

A determination that an exchange advances the interests of the beneficiaries must find that:

- (a) The exchange supports perpetuation of the Hawaiian Home Lands Trust;
- (b) The interests of the beneficiaries in obtaining non-Hawaiian home lands exceeds the interests of the beneficiaries in retaining the Hawaiian home lands proposed for the exchange, based on an evaluation of the factors in section 47.20; and
- (c) The intended use of the conveyed Hawaiian home lands will not significantly conflict with the beneficiaries' interests in adjacent Hawaiian home lands.

§ 47.35 Must lands exchanged be of equal value?

Hawaiian home lands to be exchanged must be of equal or lesser value than the lands to be received in the exchange, as determined by the appraisal. Once the market value is established by an approved appraisal, an administrative determination as to the equity of the exchange can be made based on the market value reflected in the approved appraisal.

§ 47.40 How must properties be described?

The description of properties involved in a land exchange must be either:

- (a) Based upon a survey completed in accordance with the Public Land Survey System laws and standards of the United States; or
- (b) If Public Land Survey System laws and standards cannot be applied, based upon a survey that both:
 - (1) Uses other means prescribed or allowed by applicable law; and
 - (2) Clearly describes the property and allows it to be easily located.

§ 47.45 How does the exchange process work?

(a) The Secretary recommends the parties prepare a land exchange proposal in accordance with section 47.50. The Secretary also recommends the Chairman and the non-Chairman party in the exchange meet with the Secretary before finalizing a land exchange proposal and signing an agreement to initiate the land exchange to informally discuss:

- (1) The review and processing procedures for Hawaiian home lands exchanges;
- (2) Potential issues involved that may require more consideration; or

(3) Any other matter that may make the proposal more complete before submission.

(b) Whether or not a land exchange proposal is completed, the Chairman initiates the exchange by preparing the documentation, conducting appropriate studies, and submitting them to the Secretary in accordance with section 47.60.

(c) Upon completing the review of the final land exchange packet under section 47.60, the Secretary will issue a Notice of Decision announcing the approval or disapproval of the exchange.

(d) If the Secretary approves an exchange, title will transfer in accordance with State law.

§ 47.50 What should the Chairman include in a land exchange proposal for the Secretary?

(a) A land exchange proposal should include the following documentation:

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The proposal should include...	that should contain...
(1) Identifying information	(i) The identity of the parties involved in the proposed exchange; and (ii) The status of their ownership of the properties in the exchange, or their ability to provide title to the properties.
(2) Descriptive information	A legal description of: (i) The land considered for the exchange; and (ii) The appurtenant rights proposed to be exchanged or reserved.
(3) Authorized use information	(i) Any authorized uses including grants, permits, easements, or leases; and (ii) Any known unauthorized uses, outstanding interests, exceptions, adverse claims, covenants, restrictions, title defects or encumbrances.
(4) A time schedule for completing the exchange.	Expected dates of significant transactions or milestones.
(5) Assignment of responsibilities	Responsibilities for: (i) Performance of required actions; and (ii) Costs associated with the proposed exchange.
(6) Hazardous substance information	Notice of:

The proposal should include...	that should contain...
	(i) Any known release, storage, or disposal of hazardous substances on non-Hawaiian Home Land Trust properties in the exchange; (ii) Any commitments regarding responsibility for removal or remedial actions concerning hazardous substances on non-Hawaiian Home Land Trust properties; and (iii) All terms and conditions regarding hazardous substances on non-Hawaiian Home Land Trust properties.
(7) Grants of permission by each party to the other	Permission to enter the properties for the purpose of conducting physical examination and studies in preparation for the exchange. Written permission to appraise the properties should also be included.
(8) Three statements	Details of: (i) Arrangements for relocating tenants, if there are tenants, occupying the Hawaiian Home Land Trust and non-Hawaiian Home Land Trust properties involved in the exchange; (ii) How the land exchange proposal complies with the HHCA and HHLRA; and (iii) How the documents of conveyance will be exchanged once the Secretary has approved the exchange.

(b) When the parties to the exchange agree to proceed with the land exchange proposal, they may sign an agreement that the Chairman will initiate the exchange.

§ 47.55 What are the minimum requirements for appraisals used in a land exchange?

(a) The following table shows the steps in the appraisal process.

Appraisal process step	Requirements
(1) The parties to the exchange must arrange for appraisals.	(i) The parties must arrange for appraisals within 90 days after executing the agreement to initiate the land exchange, unless the parties agree to another schedule. (ii) The parties must give the appraiser the land exchange proposal, if any, and the agreement to initiate the land exchange, and any attachments and amendments.

Appraisal process step	Requirements
	(iii) The Chairman may request assistance from the Office of Valuation Services (OVS). OVS can provide valuation services to the Chairman, including appraisal, appraisal review, and appraisal advice on a reimbursable basis. OVS is also available for post-facto program review to ensure that appraisals conducted by the State are in conformance with the Uniform Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisitions as appropriate.
(2) The qualified appraiser must provide an appraisal report.	The appraiser must: (i) Meet the qualification requirements in paragraph (b) of this section; (ii) Produce a report that meets the qualifications in paragraph (c) of this section; and (iii) Complete the appraisal under the timeframe and terms negotiated with the parties in the exchange.
(3) The Secretary will review appraisal reports.	The Secretary will evaluate the reports using: (i) The Uniform Standards of Professional Appraisal Practice; and (ii) The Uniform Appraisal Standards for Federal Land Acquisitions.

(b) To be qualified to appraise land for exchange under paragraph (a)(2) of this section, an appraiser must:

(1) Be competent, reputable, impartial, and experienced in appraising property similar to the properties involved in the appraisal assignment; and

(2) Be approved by the OVS, if required by the Department of the Interior's Office of Native Hawaiian Relations.

(3) Be licensed to perform appraisals in the State of Hawai'i unless a Federal employee whose position requires the performance of appraisal duties. Federal employees only need to be licensed in one State or territory to perform real estate appraisal duties as Federal employees in all States and territories.

(c) Appraisal reports for the exchange must:

(1) Be completed in accordance with the current edition of the Uniform Standards of Professional Appraisal Practice (USPAP) and the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA); and

(2) Include the estimated market value of Hawaiian home lands and non-Hawaiian home lands properties involved in the exchange.

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§ 47.60 What documentation must the Chairman submit to the Secretary in the land exchange packet?

The documents in the exchange packet submitted to us for approval must include the following:

The packet must contain...	that must include...
(a) Required statements	(1) A statement of approval for the exchange from the Commission that includes the recorded vote of the Commission; (2) A statement of compliance with the National Historic Preservation Act and, as appropriate, a cultural and historic property review; (3) An explanation of how the exchange will advance the interests of the beneficiaries; (4) A summary of all consultations with beneficiaries, HHCA homestead associations, or HHCA beneficiary associations; and (5) A statement of compliance with the Native American Graves Protection and Repatriation Act.
(b) Required analyses and reports	(1) Environmental analyses and records sufficient to meet CERCLA, NEPA, and all other pertinent Federal environmental requirements; (2) Land appraisal reports and statements of qualification of the appraisers in accordance with section 47.55; and (3) If property conveyed is adjacent to Hawaiian home lands: (i) An analysis of intended use of the Hawaiian home lands conveyed; (ii) A finding that the intended use will not conflict with established management objectives on the adjacent Hawaiian home lands; and (4) A copy of the land exchange proposal, if any.
(c) Relevant legal documents	(1) Any land exchange agreements entered into regarding the subject properties between Chairman and the non-Chairman party; (2) Evidence of title; and (3) Deeds signed by the parties, with a signature block for the Secretary of the Interior or our authorized representative to approve the transaction.

§ 47.65 When will the Secretary approve or disapprove the land exchange?

On receipt of the complete land exchange packet from the Commission, the Secretary will approve or disapprove the exchange within 120 calendar days.

- (a) Before approving or disapproving the exchange, the Secretary will review all environmental analyses, appraisals, and all other supporting studies and requirements to determine whether the proposed exchange complies with applicable law and advances the interests of the beneficiaries.
- (b) The Secretary may consult with the beneficiaries when making a determination if a land exchange advances the interests of the beneficiaries.
- (c) After approving or disapproving an exchange, the Secretary will notify DHHL, the Commission, and other officials as required by section 205(b)(2) of the HHLRA. The Secretary will post notice of the determination on the DOI website and give email notice of the posting to all those on the notification list maintained by the Office of Native Hawaiian Relations requesting notice of actions by the Secretary.

§ 47.70 How does the Chairman complete the exchange once approved?

- (a) The Chairman completes the exchange in accordance with the requirements of State law.
- (b) The Chairman shall provide a title report to the Secretary as evidence of the completed exchange.

PART 48 – Amendments to the Hawaiian Homes Commission Act

Sec.

48.5 What is the purpose of this part?

48.6 What definitions apply to terms used in this part?

48.10 What is the Secretary's role in reviewing proposed amendments to the HHCA?

48.15 What are the Chairman's responsibilities in submitting proposed amendments to the Secretary?

48.20 How does the Secretary determine if the State is seeking to amend Federal law?

48.25 How does the Secretary determine if the proposed amendment decreases the benefits to beneficiaries of Hawaiian home lands?

48.30 How does the Secretary determine if Congressional approval is unnecessary?

48.35 When must the Secretary determine if the proposed amendment requires Congressional approval?

48.40 What notification will the Secretary provide?

48.45 When is a proposed amendment deemed effective?

48.50 Can the State of Hawai'i amend the Hawaiian Homes Commission Act without Secretarial review?

Authority: State of Hawai'i Admission Act, 73 Stat. 4, approved March 18, 1959; Hawaiian Homes Commission Act, 1920, 42 Stat. 108 et seq., Hawaiian Home Lands Recovery Act, 1995, 109 Stat. 537; 5 U.S.C. 301; 25 U.S.C. 2 and 9; 43 U.S.C. 1457; 112 Departmental Manual 28.

§ 48.5 What is the purpose of this part?

(a) This part sets forth the policies and procedures for:

(1) Review by the Secretary of amendments to the Hawaiian Homes Commission Act proposed by the State of Hawai'i; and

(2) Determination by the Secretary whether the proposed amendment requires congressional approval.

(b) This part implements requirements of the Hawaiian Homes Commission Act, the State of Hawai'i Admission Act, 1959, and the Hawaiian Home Lands Recovery Act, 1995.

§ 48.6 What definitions apply to terms used in this part?

As used in this part, the following terms have the meanings given in this section.

Beneficiary or beneficiaries means "native Hawaiian(s)" as that term is defined under section 201(a) of the Hawaiian Homes Commission Act.

Chairman means the Chairman of the Hawaiian Homes Commission designated under section 202 of the Hawaiian Homes Commission Act.

Commission means the Hawaiian Homes Commission, established by section 202 of the Hawaiian Homes Commission Act, which serves as the executive board of the Department of Hawaiian Home Lands.

Consultation or consult means representatives of the government

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engaging in an open discussion process that allows interested parties to address potential issues, changes, or actions. Consultation does not necessarily require formal face-to-face meetings. The complexity of the matter along with the potential effects that the matter may have on the Trust or beneficiaries will dictate the appropriate process for consultation. Consultation requires dialogue (oral, electronic, or printed) or a good faith, dialogue or documented effort to engage with the beneficiaries, consideration of their views, and, where feasible, seek agreement with the beneficiaries when engaged in the land exchange process.

DHHL or Department of Hawaiian Home Lands means the department established by the State of Hawai‘i under sections 26-4 and 26-17 of the Hawai‘i Revised Statutes to exercise the authorities and responsibilities of the Hawaiian Homes Commission under the Hawaiian Homes Commission Act.

Hawaiian Home Lands Trust means all trust lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, and those lands obtained through approval under part 47, and as directed by Congress.

Hawaiian Home Lands Trust Funds means the funds established in the HHCA section 213.

HHCA or Hawaiian Homes Commission Act means the Hawaiian Homes Commission Act, 1920, 42 Stat. 108 et seq., as amended.

HHCA Beneficiary Association means an organization controlled by beneficiaries who submitted applications to the DHHL for homesteads and are awaiting the assignment of a homestead; represents and serves the interests of those beneficiaries; has as a stated primary purpose the representation of, and provision of services to, those beneficiaries; and filed with the Secretary a statement, signed by the governing body, of governing procedures and a description of the beneficiaries it represents.

HHLRA or Hawaiian Home Lands Recovery Act means the Hawaiian Home Lands Recovery Act, 1995, 109 Stat. 537.

Lessee means either a:

(1) Beneficiary who has been awarded a lease under section 207(a) of the Hawaiian Homes Commission Act;

(2) Person to whom land has been transferred under section 208(5) of the Hawaiian Homes Commission Act; or

(3) Successor lessee under section 209 of the Hawaiian Homes Commission Act.

Homestead Association means a beneficiary controlled organization that represents and serves the interests of its homestead community; has as a stated primary purpose the representation of, and provision of services to, its homestead community; and filed with the Secretary a statement, signed by the governing body, of governing procedures and a description of the territory it represents.

Secretary means the Secretary of the Interior or the individual to whom the authority and responsibilities of the Secretary have been delegated.

Trust means the Hawaiian Home Lands Trust and the Hawaiian Home Lands Trust Funds.

§ 48.10 What is the Secretary's role in reviewing proposed amendments to the HHCA?

(a) The Secretary must review proposed amendments to the Hawaiian Homes Commission Act (HHCA) by the State of Hawai'i to determine whether the proposed amendment requires approval of Congress.

(b) The Secretary will notify the Chairman and Congress of this determination, and if approval is required, submit to Congress the documents required by §48.35(b).

§ 48.15 What are the Chairman's responsibilities in submitting proposed amendments to the Secretary?

(a) Not later than 120 days after the State approves a proposed amendment to the HHCA, the Chairman must submit to the Secretary a clear and complete:

- (1) Copy of the proposed amendment;
- (2) Description of the nature of the change proposed by the proposed amendment; and,
- (3) Opinion explaining whether the proposed amendment requires the approval of Congress.

(b) The following information must also be submitted:

(1) A description of the proposed amendment, including how the proposed amendment advances the interests of the beneficiaries;

(2) All testimony and correspondence from the Director of the Department of Hawaiian Home Lands, Hawaiian Homes Commissioners, Homestead Associations, HHCA Beneficiary Associations, and beneficiaries providing views on the proposed amendment;

(3) An analysis of the law and policy of the proposed amendment by the Department of Hawaiian Home Lands and the Hawaiian Homes Commission;

(4) Documentation of the dates and number of hearings held on the measure, and a copy of all testimony provided or submitted at each hearing;

(5) Copies of all committee reports and other legislative history, including prior versions of the proposed amendment;

(6) Final vote totals by the Commission and the legislature on the proposed amendment;

(7) Summaries of all consultations conducted with the beneficiaries regarding the proposed amendment; and

(8) Other additional information that the State believes may assist in the review of the proposed amendment.

§ 48.20 How does the Secretary determine if the State is seeking to amend Federal law?

(a) The Secretary will determine that Congressional approval is required if the proposed amendment, or any other legislative action that directly or indirectly has the effect of:

(1) Decreasing the benefits to the beneficiaries of the Trust;

(2) Reducing or impairing the Hawaiian Home Land Trust Funds;

(3) Allowing for additional encumbrances to be placed on Hawaiian home lands by officers other than those charged with the administration of the HHCA;

(4) Changing the qualifications of who may be a lessee;

(5) Allowing the use of proceeds and income from the Hawaiian home lands for purposes other than carrying out the provisions of the HHCA; or

(6) Amending a section other than sections 202, 213, 219, 220, 222, 224, or 225, or other provisions relating to administration, or paragraph (2) of section 204, section 206, or 212 or other provisions relating to the powers and duties of officers other than those charged with the administration of the HHCA.

(b) The Secretary may consult with the beneficiaries when making a determination.

§ 48.25 How does the Secretary determine if the proposed amendment decreases the benefits to beneficiaries of Hawaiian home lands?

(a) In determining benefits to the beneficiaries, the Secretary will consider the goals and purposes of the Trust, including, but not limited to, the following:

(1) The provision of homesteads to beneficiaries;

(2) The rehabilitation of beneficiaries and their families and Hawaiian homestead communities;

(3) The educational, economic, political, social, and cultural processes by which the general welfare and conditions of beneficiaries are improved and perpetuated;

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- (4) The construction of replacement homes, repairs or additions;
 - (5) The development of farm, ranch or aquaculture, including soil and water conservation;
 - (6) The enhanced construction, reconstruction, operation and maintenance of revenue-producing improvements intended to benefit occupants of Hawaiian home lands;
 - (7) The making of investments in water and other utilities, supplies, equipment, and goods, as well as professional services needed to plan, implement, develop or operate such projects that will improve the value of Hawaiian home lands for their current and future occupants; and,
 - (8) The establishment and maintenance of an account to serve as a reserve for loans issued or backed by the Federal Government.
- (b) The Secretary will determine if the proposed amendment or any other legislative action decreases the above-described or similar benefits to the beneficiaries, now or in the future, by weighing the answers to the following questions:
- (1) How would the proposed amendment impact the benefits to current lessees of Hawaiian home lands?
 - (2) How would the proposed amendment impact the benefits to beneficiaries currently on a waiting list for a Hawaiian home lands lease?
 - (3) How would the proposed amendment impact the benefits to beneficiaries who have not yet applied for a Hawaiian home lands lease?
 - (4) If the interests of the beneficiaries who have not been awarded a Hawaiian home lands lease and the lessees differ, how does the proposed amendment weigh the interests of beneficiaries who have not been awarded a Hawaiian home lands lease with the interests of Hawaiian home lands lessees?
 - (5) If the interests of the beneficiaries who have not been awarded a Hawaiian home lands lease and the lessees differ, do the benefits to the lessees outweigh any detriment to the beneficiaries who have not been awarded a Hawaiian home lands lease?
 - (6) If the interests of the beneficiaries differ from the interests of the lessees, do the benefits to the beneficiaries outweigh any detriment to the lessees?

§ 48.30 How does the Secretary determine if Congressional approval is unnecessary?

The Secretary will determine that Congressional approval is unnecessary if the proposed amendment meets none of the criteria in section 48.20.

§ 48.35 When must the Secretary determine if the proposed amendment requires Congressional approval?

The Secretary will review the documents submitted by the Chairman, and if they meet the requirements of section 48.15, the Secretary will determine within 60 days after receiving them if the proposed amendment requires Congressional approval.

§ 48.40 What notification will the Secretary provide?

(a) If the Secretary determines that Congressional approval of the proposed amendment is unnecessary, the Secretary will:

(1) Notify the Chairmen of the Senate Committee on Energy and Natural Resources and of the House Committee on Natural Resources, the Governor, Speaker of the House of Representatives and President of the Senate of the State of Hawai`i, and the Chairman of the Hawaiian Homes Commission; and

(2) Include, if appropriate, an opinion on whether the proposed amendment advances the interests of the beneficiaries.

(b) If the Secretary determines that Congressional approval of the proposed amendment is required, the Secretary will notify the Chairmen of the Senate Committee on Energy and Natural Resources and of the House Committee on Natural Resources, the Governor, Speaker of the House of Representatives and President of the Senate of the State of Hawai`i, and the Chairman of the Hawaiian Homes Commission. The Secretary will also submit to the Committees the following:

(1) A draft joint resolution approving the proposed amendment;

(2) A description of the change made by the proposed amendment and an explanation of how the proposed amendment advances the interests of the beneficiaries;

(3) A comparison of the existing law with the proposed amendment;

(4) A recommendation on the advisability of approving the proposed amendment;

(5) All documentation concerning the proposed amendment received from the Chairman; and

(6) All documentation concerning the proposed amendment received from the beneficiaries.

(c) The Secretary will post notice of the determination on the Department of the Interior's website.

§ 48.45 When is a proposed amendment deemed effective?

(a) If the Secretary determines that a proposed amendment meets none of the criteria in §48.20, the effective date of the proposed amendment is the date of the notification letter to the Congressional Committee Chairmen.

(b) If the Secretary determines that the proposed amendment requires congressional approval then the effective date of the proposed amendment is the date that Congress's approval becomes law.

§ 48.50 Can the State of Hawai'i amend the Hawaiian Homes Commission Act without Secretarial review?

The Secretary must review all proposed amendments to the Hawaiian Homes Commission Act. Any proposed amendments to any terms or provisions of the Hawaiian Homes Commission Act by the State must also specifically state that the proposed amendment proposes to amend the Hawaiian Homes Commission Act. Any state enactment that impacts any of the criteria in section 48.20 shall have no effect on the provisions of the HHCA or administration of the Trust, except pursuant to this part.