

A Bill for an Act Relating to Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 586-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A petition for relief under this chapter may be made by any family or household member on his or her own behalf or on behalf of [minor] a family or household [members.] member who is a minor, who is incapacitated as defined in section 560:5-101(2), or who is physically unable to go to the appropriate place to complete or file the petition.”

SECTION 2. Section 586-4, Hawaii Revised Statutes, is amended to read as follows:

“[[§586-4[]] Temporary restraining order. Upon petition to a family court judge, a temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The order may be granted to any person who, at the time such order is granted, is a family or household member as defined in section 586-1. The family court judge may issue the ex parte temporary restraining order orally, but shall reduce the order to writing by the close of the next court day following the application. The order shall state that there is probable cause to believe that a recent past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order shall further state that the temporary restraining order is necessary for the purpose of preventing acts of abuse, or a recurrence of actual domestic abuse, and assuring a period of separation of the parties involved. The order shall describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order, and may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing [the children or other relatives of the applicant residing with the applicant at the time of the granting of the order.] the applicant's family or household members. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1985.)

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

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

“(1) Upon the death of the lessee, his interest in the tract or tracts and the improvements thereon, including growing crops and agricultural stock (either on the tract or in any collective contract or program to which the lessee is a party by virtue of his interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee, husband and wife, children, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews, the lessee shall designate the person or persons to whom he directs his interest in the tract or tracts to vest upon his death. Such person or persons must be qualified to be a lessee of Hawaiian home lands; provided that Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands under the provisions of section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as amended; provided further that such person or persons need not be twenty-one years of age. Such designation shall be in writing, shall be specified at the time of execution of such lease with a right in such lessee in similar manner to change such beneficiary at any time and shall be filed with the department and approved by the department in order to be effective to vest such interests in the successor or successors so named.

In the absence of such a designation as approved by the department, the department shall select from the relatives of the lessee in 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 department 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.

In the case of the death of a lessee leaving no such relative 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 department is authorized to lease such land to a native Hawaiian [or Hawaiians] as provided in this Act.

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 such relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall appraise the value of all such improvements and growing crops or improvements and aquacultural stock, as the case may be, 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 the legal representative of the deceased lessee, or the previous lessee, as the case may be, the value thereof, less any indebtedness to the department, or for taxes, or for any other indebtedness the payment of which has been assured by the department, from the deceased lessee or the previous lessee. Such payments shall be made out of the loan fund and shall be considered an advance therefrom reimbursable out of payments made by the successor or successors to the tract involved.

Such appraisal shall be made by three appraisers, one of which shall be named by the department, 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 hereinbefore mentioned.”

SECTION 2. The amendments made by this Act are declared to be severable, and if any of them, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 3. The amendments made by this Act shall not affect the validity of any amendments to the Hawaiian Homes Commission Act, 1920, as amended, that may be pending before the United States Congress or that may be acted upon by the Congress before or after the effective date of this Act and, upon Congress' consent to such amendments, this Act shall be amended to conform to such amendments as consented to by Congress.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 29, 1985.)

Note

1. Prior to amendment, the word "to" appeared here.

ACT 138

S.B. NO. 153

A Bill for an Act Relating to Geothermal Energy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 182, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§182- Geothermal royalties. (a) The board shall fix the payment of royalties to the State for the utilization of geothermal resources at a rate which will encourage the initial and continued production of such resources. With respect to all geothermal mining leases previously issued or to be issued, where the board determines that it is necessary to encourage the initial or continued production of geothermal resources, the board shall have the authority to waive royalty payments to the State for any fixed period of time up to but not exceeding eight years.

(b) The board shall adopt, amend, or repeal rules pursuant to chapter 91 to establish the basis upon which the amount and duration of royalty payments to the State will be fixed or waived. The board's assessment of each application shall include, but not be limited to, the examination of such factors as the progress of geothermal development taking place in the State at the time of the application, the technical and financial capabilities of the applicant to undertake the project, and the need for providing a financial incentive in order for the applicant to proceed. The granting of any favorable terms to an applicant for the payment of royalties under this section may be revoked by the board if the applicant fails to satisfy any of the terms and conditions established by the board, or if the applicant wholly ceases operations and for reasons other than events which are outside the control of the parties and which could not be avoided by the exercise of due care by the parties.