A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

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

PART I

SECTION 1. Act 187, Session Laws of Hawaii 2010, is amended by amending section 12 to read as follows:

"SECTION 12. This Act shall take effect on July 1, 2010; provided that on June 30, [2012] 2015, part I of this Act shall be repealed and sections 37-40 and 103D-309(a), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act."


PART II

SECTION 3. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (i) to read as follows:
"(i) Native Hawaiian rehabilitation fund. Pursuant to Article XII, Section 1, of the Hawaii 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, [and fifteen per cent of all revenues from lease agreements granted lease extensions pursuant to section 228,] shall be deposited into this fund. The department shall use this money for 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.

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

(1) All moneys received by the fund shall be deposited into the state treasury and kept separate and apart from all other moneys in the state treasury;

(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;
(3) The commission shall develop guidelines for the investment of moneys in the fund;

(4) The commission may invest and reinvest in investments authorized by chapter 88, Hawaii Revised Statutes.

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; and

(5) The commission may pay out of any of the moneys held for investment, a reasonable amount to any person for supplying investment advisory or consultive services; and to meet such other costs incident to the prudent investment of moneys as the commission may approve.

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

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

[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 228(e), including the amount expended, the recipient of the moneys expended, and the purpose of the expenditure."

SECTION 4. Section 228, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

"[i]$228.[i] 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 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 the 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 specifications 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 (e), 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(4).]

(§) 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).

(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."

SECTION 5. Act 187, Session Laws of Hawaii 2010, is amended by repealing section 9:

["SECTION 9. All lease revenues from commercial and multipurpose project leases collected by the department of Hawaiian home lands to which section 213.6, Hawaiian Homes Commission Act, 1920, as amended, applies shall be deposited into the Hawaiian home lands trust fund established under section 213.6, Hawaiian Homes Commission Act, 1920, as amended; provided that the department of Hawaiian home lands shall deposit fifteen per cent of those revenues that are derived from the amounts deposited from commercial and multipurpose project lease extensions pursuant to section (e), Hawaiian Homes Commission Act, 1920, as amended, into the native Hawaiian rehabilitation fund established under section 213.6, Hawaiian Homes Commission Act, 1920, as amended."]

PART III

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 7. This Act shall take effect on July 1, 2012; provided that part I shall take effect on June 29, 2012.

APPROVED this 28 day of JUN, 2012

GOVERNOR OF THE STATE OF HAWAII