

Act 173 (HB 2253 June 7, 1974)

Act 173 further amended §215 of the HHCA. The amendment clarifies the provisions relating to conditions of loans made under the HHCA by restating the maximum loan limits allowable for different loan purposes. As previously amended by Act 76-291 1968 (SLH 5/19/72), §215 provided a maximum loan of \$20,000 to lessees or successors in interest in residential lots. Act 173 increased the loan limit from \$20,000 to \$25,000 for repair, maintenance, purchase and erection of a dwelling and related permanent improvements. Loans for development and operation of a farm or a ranch remain at a maximum of \$25,000 under Act 173.

Act 173 also provides that unpaid principal balances of loans made directly from the Hawaiian Home Loan fund are to bear interest at the rate of 2 1/2 percent a year, while other loans are to bear interest at the rate established by the State. It also distinguished cancellation of a lease, which is done by the government, from surrender of a lease, which is made by the lessee.

ACT 173

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

SECTION 1. Section 213, Hawaiian Homes Commission Act 1920, as amended, is amended by amending subsection (h) to read:

"(h) Hawaiian home-commercial loan fund. The department is authorized to create a fund out of which loans may be made to those holding licenses 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 lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1974.)

ACT 173

H.B. NO. 2253-74

A Bill for an Act Relating to Conditions of Loans Made by the Department of Hawaiian Home Lands under the Hawaiian Homes Commission Act, 1920. As Amended.

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

SECTION 1. Section 215 of the Hawaiian Homes Commission Act, 1920, as amended, is amended to read:

"Sec. 215. Conditions of loans. Except as otherwise provided in section 213(i), each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural or mercantile cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract of loan:

(1) At any one time, the outstanding amount of loans made to any lessee, or successor or successors in interest, for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed \$25,000, for the development and operation of a farm or a ranch shall not exceed \$25,000, except that when loans are made to an agricultural cooperative association for the purposes stated in paragraph (4) of section 214, 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; provided, that where, upon the death of a lessee

*Edited accordingly.

leaving no 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 make the payment provided for by section 209(1); the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, 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 case of the death of a lessee, or cancellation of a lease by the department, or the surrender of a lease by the 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 to paragraph (3) of this section.

(2) The loans shall be repaid in periodic installments, such instaliments to be monthly, quarterly, semi-annual, or annual as may be determined by the department in each case. The term of any loan shall not exceed thirty years. Payments of any sum in addition to the required instaliments, 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 two and one-half per cent a year for loans made directly from the Hawaiian home-loan fund, or at the rate the State has established for other loans, payable periodically or upon demand by the department, as the department may determine. The payment of any instaliment due shall be postponed in whole or in part by the department 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 on the unpaid principal at the rate established for the loan.

(3) In the case of the death of a lessee the department shall, in any case, permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1) of this section. In case of the cancellation of a lease by the department or the surrender of a lease by the lessee, the department may, at its option declare all instaliments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1) of this section. The department may, 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 loan, or postpone the payment of any instaliment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments shall, however, continue to bear interest on the unpaid principal at the rate established for the loan. Further, the department may, if it deems 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 on the tract involved, such appraisal to be made in the manner and as provided for by section 209(1). In every case, the amount of such appraisal, or any part thereof, shall be considered as part or

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all, as the case may be, of any loan to such successor or successors, subject to paragraph (1) of this section.

(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 interest shall comply with such other conditions, not in conflict with any provision of this title, as the department may stipulate in the contract of loan.

(6) The borrower or the successor to his interest shall comply with the conditions enumerated in section 208, and with the provisions of section 209 of this title in respect to the lease of any tract.

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

SECTION 2. The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause or phrase of these legislative amendments or any of them, or the application thereof to any person or circumstances is held ineffective because the prior consent of the United States is required, then that portion only shall take effect upon or according to the grant of such 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. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 7, 1974.)

ACT 174

H. B. NO. 2255-74

A Bill for an Act Relating to a Revolving Fund, Designated as the Anahoiakaka Fund, Established under the Hawaiian Homes Commission Act, 1920, As Amended.

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

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (j) to read:

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