

The Property of the State of
Hawaii in the official keeping of

ACTS

145

SESSION LAWS

146

OF

147

HAWAII

PASSED BY THE

SEVENTEENTH STATE LEGISLATURE

REGULAR SESSION

1993

Convened on Wednesday, January 20, 1993
and
Adjourned sine die on, Monday, May 3, 1993

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Honolulu, Hawaii

ACT 144

ACT 144

H.B. NO. 1896

A Bill for an Act Relating to Actuarial Assumptions of the Employees' Retirement System.

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

SECTION 1. Section 88-122, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The actuarial valuations made for years ending [June 30, 1991 and 1992,] June 30, 1993, and June 30, 1994, shall be based on an eight per cent investment yield rate and [such] the tables and factors [as are] adopted by the board of trustees for actuarial valuations of the system.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 21, 1993.)

ACT 145

H.B. NO. 2017

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 213, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

“§213. Funds and accounts. (a) There are established in the treasury of the State two revolving funds, to be known respectively as the Hawaiian home loan fund and the Hawaiian home general loan fund.

[(1)] (b) Hawaiian home loan fund. The moneys in this fund shall be available for the purposes enumerated in section 214 [of this Act] and for payments provided in section 209 and shall not be expended for any other purpose except as provided in subsection [(b)(1).] (e).

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

[(2)] (c) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, for construction of replacement homes, for home repairs or additions, or for the development and operation of a farm, ranch, or aquaculture operation; moneys transferred from other funds; 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 into this fund. The moneys in the fund shall be used for purposes enumerated in section 214 [of this Act] and for payments provided in section 209; [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;] provided [further] that, in

addition to the conditions enumerated in the following conditions: [to]

- (1) To be eligible for a farm loan, the lessee shall have an acceptable plan to derive, a substantial portion of the income from farming; [farm]
- (2) Farm loans made for the purpose shall not exceed \$20,000 and shall be used for soil and water conservation purposes; [the department for the repayment of such loans]
- (3) Subsidies and grants or cost-share payments shall be made by the department for the repayment of such loans and [the]
- (4) The lessee shall carry out repairs and improvements approved by a qualified agricultural engineer; [(A)] The department may

require the guaranty of repayment of loans from lending institutions to a holder of a lease license issued under section 207(c)(1)(B).

[(B)] The department may use moneys borrowed from government agencies for any of the purposes enumerated of principal and that part of the interest on the department by the lender paid by the lessee. The account shall be deposited into the same account as other earnings arising out of investments deposited into the Hawaiian home receipt

[(b)] (d) There are established revolving funds, to be known respectively as the Hawaiian home administration account, the Hawaiian home trust fund, and the native Hawaiian home trust fund.

[(1)] (e) Hawaiian home operating fund. All moneys received from the source, and moneys transferred from other funds deposited into the Hawaiian home operating fund, shall be used for the purposes enumerated in section 209, and shall be used only with the prior written approval of the governing authority.

- [(A)] (1) For construction of homes and improvements intended to be used on home lands, including acquisition of such lands, and interests therein, such as mortgages; [(B)] (2) For payment into the fund when necessary to meet the interest on loans issued for such revenue-producing purposes; [(C)] (3) For operation and maintenance of homes constructed from such funds or [for the purchase of] [(D)] (4) For the purchase of ties, supplies, or equipment not rented, or furnished on a charge basis; and [(E)] (5) For appraisals, surveys, and engineering, or any other purposes required to plan, implement, or carry out the purposes of section 202(b) required to plan, implement, or carry out the purposes of section 202(b).

The moneys in this fund may be used or appropriated by the legislature for the purposes of this fund, with the approval of the governing authority, for transfers, made on a loan basis from the I

H.B. NO. 1896

Provisions of the Employees' Retirement

of Hawaii:

Revised Statutes, is amended by

for years ending [June 30, 1991 and shall be based on an eight per cent factors [as are] adopted by the board of directors.

Text repealed is bracketed. New statutory

Text to be added upon its approval.

H.B. NO. 2017

Homes Commission Act, 1920, as

of Hawaii:

Homes Commission Act, 1920, as

There are established in the treasury of the State five special funds, to be known respectively as the Hawaiian home loan fund, the Hawaiian home administration account, the Hawaiian home receipts fund, the Hawaiian home trust fund, and the native Hawaiian rehabilitation fund.

The moneys in this fund shall be used for payments made on section 214 [of this Act] and for payments made for any other purpose except as provided in section 209.

Proceeds from investments from this fund shall be deposited into the Hawaiian home operating fund.

Moneys appropriated by the legislature for home repairs or additions, or for the purchase of land, or aquaculture operation; moneys representing reimbursements on such loans or advances, shall be used for purposes other than those provided in section 209; moneys appropriated for additions to their existing homes and for additions to the fund shall be used for purposes other than those provided in section 209; provided [further] that, in

addition to the conditions enumerated in section 215, farm loans shall be subject to the following conditions: [to]

- (1) To 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; [farm]
- (2) 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[.];
- (3) 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]
- (4) The lessee shall carry out recommended farm management practices approved by a qualified agricultural agency.

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

[(B)] 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]. 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]. 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.

[(b)] (d) There are established in the treasury of the State five special funds, to be known respectively as the Hawaiian home operating fund, the Hawaiian home administration account, the Hawaiian home receipts fund, the Hawaiian home trust fund, and the native Hawaiian rehabilitation fund.

[(1)] (e) Hawaiian home operating 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:

[(A)] (1) 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 interests therein, such as water rights or other interests;

[(B)] (2) 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;

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

[(D)] (4) 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

[(E)] (5) For appraisals, studies, consultants (including architects[,] and engineers), or any other staff services including those in section 202(b) required to plan, implement, develop, or 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, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not

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exceeding ten years; provided that the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000.

In addition, moneys of this fund shall be made available with the prior written approval of the governor for offsite improvements and 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]; 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 or the administration account.

[(2)] (f) Hawaiian home administration account. The entire receipts derived from any leasing or other disposition of the available lands [defined in] pursuant to section [204 of this Act] 204(2) and transfers from the Hawaiian home receipts fund shall be deposited into this account. Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into this fund. The moneys in this account shall be expended by the department for salaries and [all] 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:

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

[(B)] (2) 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[.];

[(C)] (3) 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 operating fund.

[(3)] (g) Hawaiian home receipts fund. All interest moneys from loans or investments received by the department from any fund except as provided for in each respective fund, shall be deposited into this fund. At the end of each quarter, all moneys in this fund may be transferred to the Hawaiian home operating fund, the Hawaiian home administration account, the Hawaiian home trust fund, and any loan fund in accordance with rules adopted by the department.

[(4)] (h) Hawaiian home trust fund. [All] Except for gifts, bequests, and other moneys given for designated purposes, 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. 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 Veterans [Administration,] Affairs, 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 in any duly organized bank in the State automatic fund transfer capabilities and ably required by the federal agencies respective insurance or guarantee programs.

[(5)] (i) Native Hawaiian rehabilitation Section 1, of the State Constitution, that from lands previously cultivated as sugarcane law and from water licenses, shall be deposited use this money solely for the rehabilitation include, but not be limited to, the educational cultural processes by which the general population are thereby improved and perpetuated.

[(B)] Any payment of principal, interest, loan or investment of money shall be deposited into this fund.

[(C)] Sections 214, 215, 216, and the administration of this fund shall be governed by the rules under chapter 91 of the State Code for the purposes of this fund."

SECTION 2. Statutory material material is underscored.

SECTION 3. This Act shall take effect on the date of its enactment. (Approved May 21, 1993.)

AC'

A Bill for an Act Relating to the Hawaiian Home Trust Fund Amended.

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

SECTION 1. Section 220.5, Hawaii Revised Statutes, as amended, is amended by amending subsection (d) to read:

"(d) Any project developer agree to provide for options for renewal of title provided that [the]:

- (1) The term of any one project shall not exceed sixty-five years; [and provided that]
(2) Any lands disposed of under this agreement shall be subject to withdrawal at any time with reasonable notice; and
(3) The rental shall be reduced to the extent that the department withdraws and the developer shall provide the proportionate improvements so taken in the term of the agreement, with the rental determined on the basis of the lesser of the rental which is less; or the developer's cost of improvements.

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 programs.

[(5)] (i) Native Hawaiian rehabilitation fund. [(A)] Pursuant to Article XII, Section 1, of the State 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, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include, but not be limited to, the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.

[(B)] 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.

[(C)] 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 necessary to administer and carry out the purposes of this fund."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 21, 1993.)

ACT 146

H.B. NO. 2019

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 220.5, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (d) to read as follows:

“(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 [the]:

- (1) The term of any one project developer agreement shall not exceed sixty-five years; [and provided further that any];¹
- (2) Any 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 [provided that the]
- (3) The 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; or the developer, in the alternative, may remove and

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relocate the developer's improvements to the remainder of the lands occupied by the developer."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 21, 1993.)

Note

1. So in original.

ACT 147

H.B. NO. 2020

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 (a) to read as follows:

"(a) Upon the death of the lessee, the lessee's interest in the tract or tracts and the improvements thereon, including growing crops and aquacultural stock (either on the tract or in any collective contract or program to which the lessee is a party by virtue of the lessee's 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 who are (1) at least one-quarter Hawaiian, husband, wife, or children, or (2) native Hawaiian, father and mother, 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 the lessee directs the lessee's interest in the tract or tracts to vest upon the lessee's death. The Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands or¹ under section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as amended, or under section 3 of the Act of July 9, 1952 (66 Stat. 511, 513). In all cases [such] that person or persons need not be eighteen years of age. [Such] The designation shall be in writing, may be specified at the time of execution of [such] the lease with a right in [such] the lessee in similar manner to change [such] the beneficiary at any time and shall be filed with the department and approved by the department in order to be effective to vest [such] the interests in the successor or successors so named.

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; or
- (2) If there is no husband or wife, then the children[.]; or
- (3) If there is no husband, wife, or child, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews.

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] the lessee.

In the case of the death of a lessee leaving no designated successor or successors, husband, wife, [or] children, or relative qualified to be a lessee of

Hawaiian home lands, the land subj
unleased Hawaiian home lands and the
land to a native Hawaiian as provided

Upon the death of a lessee wh
leaves a spouse not qualified to succ
succeed to the lease, or upon the de
qualified to be a lessee of Hawaiian h
the department, or the surrender of
appraise the value of all [such] the im
ments and aquacultural stock, as the ca
spouse or the nonqualified children as
lessee's death, or to the legal repres
previous lessee, as the case may be, th
department, or for taxes, or for any of
been assured by the department, owe
lessee. [Such] These payments shall be
and shall be considered an advance the
or successors to the tract involved. If
fund is insufficient to make [such] th
from the Hawaiian home general loan
successors to the tract involved; provi
from the Hawaiian home general loan
by the department for loans made fro
[Such] The appraisal shall be n
be named by the department, one by th
of the deceased lessee, as the case may
appraisers aforementioned."

SECTION 2. The provisions of
and, if any section, sentence, clause,
person or circumstances is held ineffect
the consent of the United States to ta
effect upon the granting of consent by t
remainder of this amendment or the ap

SECTION 3. Statutory material
material is underscored.

SECTION 4. This Act shall tak
(Approved May 21, 1993.)

1. Should be underscored.

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A Bill for an Act Relating to Homeles
Be It Enacted by the Legislature of the

SECTION 1. Chapter 358D, Ha
follows:

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] the land to a native Hawaiian 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] the 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 to 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, owed by the deceased lessee or the previous lessee. [Such] These payments shall be made out of the Hawaiian home loan fund and shall be considered an advance therefrom and shall be repaid by the successor or successors to the tract involved. If available cash in the Hawaiian home loan fund is insufficient to make [such] these 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.

[Such] The appraisal shall be made by three appraisers, one of whom 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 aforementioned."

SECTION 2. The provisions of this amendment are declared to be severable and, if any section, sentence, clause, or phrase 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 this amendment or the application thereof shall not be affected.

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 21, 1993.)

Note

- 1. Should be underscored.

ACT 148

H.B. NO. 2022

A Bill for an Act Relating to Homeless Persons.

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

SECTION 1. Chapter 358D, Hawaii Revised Statutes, is amended to read as follows:

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e repealed is bracketed. New statutory
ect upon its approval.

47 H.B. NO. 2020
an Homes Commission Act, 1920, as
te of Hawaii:

in Homes Commission Act, 1920, as
ion (a) to read as follows:

re lessee's interest in the tract or tracts
growing crops and aquacultural stock
tract or program to which the lessee is a
the tract or tracts), shall vest in the
paragraph. From the following relatives
r Hawaiian, husband, wife, or children,
widows or widowers of the children,
or widowers of the brothers and sisters,
esignate the person or persons to whom
tract or tracts to vest upon the lessee's
all not apply to the descendants of those
e entitled to the leased lands or¹ under
Stat. 777, 779), as amended, or under
Stat. 511, 513). In all cases [such] that
rs of age. [Such] The designation shall
of execution of [such] the lease with a
to change [such] the beneficiary at any
nt and approved by the department in
erests in the successor or successors so

xcept as hereinabove provided, who has
rs as approved by the department, the
wing qualified relatives of the decedent:

, then the children[.]; or
child, then from the following relatives
Hawaiian: father and mother, widows or
ndchildren, brothers and sisters, widows
nd sisters, or nieces and nephews.
tract or tracts may be made effective as

ee.
see leaving no designated successor or
or relative qualified to be a lessee of