

**Hawaii State Enactments Proposing to Amend the
Hawaiian Homes Commission Act of 1920
Amendments Not Requiring Congressional Consent**

1. Act 177, 2006 Haw. Sess. Laws 701, amends section 213.6 of HHCA, allowing the Hawaiian Homes Commission to deposit Hawaiian Home Lands Trust Fund monies in depositories other than the state treasury and exempting such deposits from requirements of chapters 36 and 38, Hawaii Revised Statutes.

Does the amendment alter the qualifications of lessees?
No

Does the amendment allow for an increase of encumbrances on DHHL lands?
No

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?
No. None of these funds receive monies from the Hawaiian Home Lands Trust Fund.

Does the amendment increase the benefits to lessees of Hawaiian home lands?
This change is administrative in nature. Likely benefits lessees by providing opportunity for interest income.

State AG Position: No Congressional Consent Required

Department of the Interior Position: No Congressional Consent Required

2. Act 117, 2002 Haw. Sess. Laws, amends section 213(i) of the HHCA relating to the use of monies in the Native Hawaiian Rehabilitation Fund by clarifying the Department of Hawaiian Home Lands' ability to utilize moneys in the fund includes its use for native Hawaiian families and Hawaiian homestead communities.

Does the amendment alter the qualifications of lessees?
No.

Does the amendment allow for an increase of encumbrances on DHHL lands?
No

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?
No

Does the amendment increase the benefits to lessees of Hawaiian home lands?

Yes. Beneficiaries participating in consultation meeting spoke in favor of Act 117.

State AG Position: No Congressional Consent Required

U.S. Department of the Interior Position: No Congressional Consent Required

3. Act 110, 2001 Haw. Sess. Laws, amends section 222 of the HHCA to clarify the Department of Hawaiian Home Lands' rulemaking authority and makes clear the annual report requirement applies only to subleases of lands covered by general lease and not homestead leases. This proposed amendment is non-substantive in nature.

Does the amendment alter the qualifications of lessees?

No.

Does the amendment allow for an increase of encumbrances on DHHL lands?

No

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?

No

Does the amendment increase the benefits to lessees of Hawaiian home lands?

This amendment is non-substantive in nature and likely does not decrease benefits to the lessees.

State AG Position: No Congressional Consent Required

U.S. Department of the Interior Position: No Congressional Consent Required

4. Act 122, 2001 Haw. Sess. Laws, amends section 209 of the HHCA by authorizing DHHL to require a successor to a homestead lease under certain circumstances to secure private financing to repay any advances made from the Hawaiian home loan fund or the Hawaiian home general loan fund.

Does the amendment alter the qualifications of lessees?

No.

Does the amendment allow for an increase of encumbrances on DHHL lands?

No

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?

No. The successor was already responsible for the advances under current law. Act 122 merely authorizes the Commission to require private financing to satisfy the successor's obligation. Act 122 relates to administration of the HHCA and expands on the authority of the DHHL in managing its loan funds.

Does the amendment increase the benefits to lessees of Hawaiian home lands?

Yes. Protects the integrity of the Hawaiian home loan fund and the Hawaiian home general loan fund.

State AG Position: No Congressional Consent Required

U.S. Department of the Interior Position: No Congressional Consent Required

5. Act 119, 2000 Haw. Sess. Laws, amends the HHCA by permitting the Department of Hawaiian Home Lands to use either an open-bid or a closed-bid process when general leasing Hawaiian Home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial or other business purposes

Does the amendment alter the qualifications of lessees?

No.

Does the amendment allow for an increase of encumbrances on DHHL lands?

No

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?

No

Does the amendment increase the benefits to lessees of Hawaiian home lands?

n/a

State AG Position: No Congressional Consent Required

U.S. Department of the Interior Position: No Congressional Consent Required

6. Act 27, 1998 Haw. Sess. Laws, amends the HHCA by changing the designation of the Hawaiian home operating fund, the Hawaiian home receipts fund, the Hawaiian home trust fund, and the native Hawaiian rehabilitation fund from "special" funds to "trust" funds and leaving the Hawaiian homes administration account as the only special

fund. In general, Act 27 expands the authority of the Department of Hawaiian Home Lands in managing the various funds. In amending the status of the Hawaiian home operating fund from a "special" fund to a "trust" fund, the funds are excluded from the special fund assessment provisions of sections 36-27 and 36-30, Hawaii Revised Statutes.

Does the amendment alter the qualifications of lessees?

No.

Does the amendment allow for an increase of encumbrances on DHHL lands?

No

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?

No. The status of Hawaiian home-operating fund is changed from a "special" fund to a "trust" fund; thus, no longer making it subject to special fund assessments.

Does the amendment increase the benefits to lessees of Hawaiian home lands?

n/a

State AG Position: The change in status from a special fund to a trust fund does not represent a reduction or impairment of the Hawaiian home-operating fund. No Congressional Consent Required

U.S. Department of the Interior Position: No Congressional Consent Required

7. Act 196, 1997 Haw. Sess. Laws, amends the HHCA by permitting a homestead lessee to rent to another native Hawaiian "lodging within the lessee's existing home or in a separate residential dwelling constructed on the premises.

Does the amendment alter the qualifications of lessees?

No.

Does the amendment allow for an increase of encumbrances on DHHL lands?

No. Section 208(5), HHCA reads (with the proposed amendment language in quotes):

The lessee shall not sublet the person's interest in the tract or improvements thereon; "provided that a lessee may be permitted, with the approval of the department, to rent to a native Hawaiian or Hawaiians lodging either within the lessee's existing home or in a separate residential dwelling unit constructed on the premises."

If this sentence is considered in its entirety then it means the native Hawaiian renter remains unable to sublet a portion of the leasehold. The renter cannot, for example, encumber the leasehold with his own mortgage on a second dwelling on the property. He is only granted "lodging" within the lessee's house or in a second unit that the LESSEE

has built with approval of DHHL. No additional encumbrances are envisioned by this amendment because it does not provide authority for even the lessee himself to build a second house; that authority turns on the DHHL's approval pursuant to other provisions of the HHCA.

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?

No

Does the amendment increase the benefits to lessees of Hawaiian home lands.

Yes

State AG Position: Act 196, 1997 Haw. Sess. Laws, does not authorize subletting or additional encumbrances. Act 196 simply allows the lessee an opportunity for rental income. No Congressional Consent Required.

U.S. Department of the Interior Position: No Congressional Consent Required

8. Act 197, 1997 Haw. Sess. Laws, amends the HHCA by making technical corrections. These changes are non-substantive.

Does the amendment alter the qualifications of lessees?

No.

Does the amendment allow for an increase of encumbrances on DHHL lands?

No

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?

No

Does the amendment increase the benefits to lessees of Hawaiian home lands.

n/a

State AG Position: No Congressional Consent Required

U.S. Department of the Interior Position: No Congressional Consent Required

9. Act 232, 1996 Haw. Sess. Laws, amends the HHCA by increasing the ceiling on the aggregate departmental guarantee of loans made to lessees from \$21 million to \$50 million.

Does the amendment alter the qualifications of lessees?

No.

Does the amendment allow for an increase of encumbrances on DHHL lands?

No

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?

No. The DHHL guarantee of loans does not affect the Hawaiian home-operating fund in any way. The loan guarantee fund capitalization comes from State appropriations that are financed by general fund or general obligation bonds.

Does the amendment increase the benefits to lessees of Hawaiian home lands?

Yes. The increase in the ceiling of debt/guarantee liability clearly intends to increase the benefits to the lessees of Hawaiian home lands by making available an additional \$30 million, either by borrowing the money and lending it to them directly or by guaranteeing loans to them from other sources.

State AG Position: No Congressional Consent Required

U.S. Department of the Interior Position: No Congressional Consent Required.

10. Act 14, 1995 Haw. Sess. Laws, amends the HHCA by adding a new section designated as the “Hawaiian home lands trust fund” into which the State agreed to make twenty annual deposits of \$30 million dollars each or their discounted value equivalent.

Does the amendment alter the qualifications of lessees?

No.

Does the amendment allow for an increase of encumbrances on DHHL lands?

No

Does the amendment reduce or impair the Hawaiian home-loan fund, the Hawaiian home-operating fund, or the Hawaiian home-development fund?

No

Does the amendment increase the benefits to lessees of Hawaiian home lands.

Yes. \$30 million a year provides a steady predictable funding stream for DHHL to assist with their affordable housing goals.

State AG Position: No Congressional Consent Required

U.S. Department of the Interior Position: No Congressional Consent Required