

Approved by the Governor

on JUN 14 2011

THE SENATE  
TWENTY-SIXTH LEGISLATURE, 2011  
STATE OF HAWAII

ACT 114  
S.B. NO. 1290  
S.D. 1  
H.D. 2  
C.D. 1

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## A BILL FOR AN ACT

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RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.

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

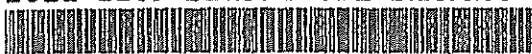
1 SECTION 1. Section 214, Hawaiian Homes Commission Act,  
2 1920, as amended, is amended by amending subsection (b) to read  
3 as follows:

4 "(b) In addition the department may:

5 (1) Use moneys in the Hawaiian home operating fund, with  
6 the prior approval of the governor, to match federal,  
7 state, or county funds available for the same purposes  
8 and to that end, enter into [~~such~~] an undertaking,  
9 agree to [~~such~~] conditions, transfer funds therein  
10 available for [~~such~~] expenditure, and do and perform  
11 [~~such~~] other acts and things, as may be necessary or  
12 required, as a condition to securing matching funds  
13 for [~~such~~] the department's projects or works;

14 (2) Loan or guarantee the repayment of or otherwise  
15 underwrite any authorized loan or portion thereof to  
16 lessees in accordance with section 215;

17 (3) Loan or guarantee the repayment of or otherwise  
18 underwrite any authorized loan or portion thereof to a



1 cooperative association in accordance with section  
2 215;

3 (4) Permit and approve loans made to lessees by government  
4 agencies or private lending institutions, where the  
5 department assures the payment of [~~such~~] these loans;  
6 provided that upon receipt of notice of default in the  
7 payment of [~~such~~] the assured loans, the department  
8 may, upon failure of the lessee to cure the default  
9 within sixty days, cancel the lease and pay the  
10 outstanding balance in full or may permit the new  
11 lessee to assume the outstanding debt; and provided  
12 further that the department shall reserve the  
13 following rights: [~~the~~]

14 (A) The right of succession to the lessee's interest  
15 and assumption of the contract of loan; [~~the~~]

16 (B) The right to require that written notice be given  
17 to the department immediately upon default or  
18 delinquency of the lessee; and [~~any~~]

19 (C) Any other rights enumerated at the time of  
20 assurance necessary to protect the monetary and  
21 other interests of the department;



- 1 (5) Secure, pledge, or otherwise guarantee the repayment  
2 of moneys borrowed by the department from government  
3 agencies or private lending institutions and pay the  
4 interim interest or advances required for loans;  
5 provided that the State's liability, contingent or  
6 otherwise, either on moneys borrowed by the department  
7 or on departmental guarantees of loans made to lessees  
8 under this paragraph and paragraphs (2), (3), and (4)  
9 of this subsection, shall at no time exceed  
10 [~~\$50,000,000,~~] \$100,000,000; the department's  
11 guarantee of repayment shall be adequate security for  
12 a loan under any state law prescribing the nature,  
13 amount, or form of security or requiring security upon  
14 which loans may be made;
- 15 (6) Use available loan fund moneys or other funds  
16 specifically available for ~~[such]~~ guarantee purposes  
17 as cash guarantees when required by lending agencies;
- 18 (7) Exercise the functions and reserved rights of a lender  
19 of money or mortgagee of residential property in all  
20 direct loans made by government agencies or by private  
21 lending institutions to lessees the repayment of which  
22 is assured by the department. The functions and



1 reserved rights shall include but not be limited to,  
2 the purchasing, repurchasing, servicing, selling,  
3 foreclosing, buying upon foreclosure, guaranteeing the  
4 repayment, or otherwise underwriting, of any loan, the  
5 protecting of security interest, and after  
6 foreclosures, the repairing, renovating, or  
7 modernization and sale of property covered by the loan  
8 and mortgage;

- 9 (8) Pledge receivables of loan accounts outstanding as  
10 collateral to secure loans made by government agencies  
11 or private lending institutions to the department, the  
12 proceeds of which shall be used by the department to  
13 make new loans to lessees or to finance the  
14 development of available lands for purposes permitted  
15 by this Act; provided that any loan agreement entered  
16 into under this paragraph by the department shall  
17 include a provision that the money borrowed by the  
18 department is not secured directly or indirectly by  
19 the full faith and credit or the general credit of the  
20 State or by any revenues or taxes of the State other  
21 than the receivables specifically pledged to repay the  
22 loan; provided further that in making loans or



1           developing available lands out of money borrowed under  
2           this paragraph, the department may establish, revise,  
3           charge, and collect fees, premiums, and charges as  
4           necessary, reasonable, or convenient, to assure  
5           repayment of the funds borrowed, and the fees,  
6           premiums, and charges shall be deposited into the  
7           Hawaiian home trust fund; and provided further that no  
8           moneys of the Hawaiian home loan fund may be pledged  
9           as security under this paragraph; and

10          (9) Notwithstanding any other provisions of this Act to  
11          the contrary, transfer into the Hawaiian home trust  
12          fund any available and unpledged moneys from any loan  
13          funds, the Hawaiian loan guarantee fund, or any fund  
14          or account succeeding thereto, except the Hawaiian  
15          home loan fund, for use as cash guarantees or reserves  
16          when required by a federal agency authorized to insure  
17          or guarantee loans to lessees."

18          SECTION 2. The provisions of the amendments made by this  
19          Act to the Hawaiian Homes Commission Act, 1920, as amended, are  
20          declared to be severable, and if any section, sentence, clause,  
21          or phrase, or the application thereof to any person or  
22          circumstances is held ineffective because there is a requirement

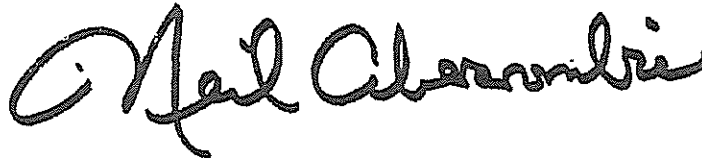


1 of having the consent of the United States to take effect, then  
2 that portion only shall take effect upon the granting of consent  
3 by the United States and effectiveness of the remainder of these  
4 amendments or the application thereof shall not be affected.

5 SECTION 3. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect on July 1, 2011.

APPROVED this 14 day of JUN, 2011



GOVERNOR OF THE STATE OF HAWAII