

Approved by the Governor  
on JUN 28 2012

THE SENATE  
TWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

ACT 175  
S.B. NO. 2790  
S.D. 1  
H.D. 1

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## A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

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

1 PART I

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

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6 be repealed and sections 37-40 and 103D-309(a), Hawaii Revised  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

9 SECTION 2. The department of Hawaiian home lands shall  
10 report to the legislature no later than twenty days prior to the  
11 convening of the regular sessions of 2013, 2014, and 2015 on the  
12 status of the pilot project established under part I of Act 187,  
13 Session Laws of Hawaii 2010.

14 PART II

15 SECTION 3. Section 213, Hawaiian Homes Commission Act,  
16 1920, as amended, is amended by amending subsection (i) to read  
17 as follows:



1           "(i) Native Hawaiian rehabilitation fund. Pursuant to  
2 Article XII, Section 1, of the Hawaii Constitution, thirty per  
3 cent of the state receipts, derived from lands previously  
4 cultivated as sugarcane lands under any other provision of law  
5 and from water licenses, [~~and fifteen per cent of all revenues~~  
6 ~~from lease agreements granted lease extensions pursuant to~~  
7 ~~section 228,~~] shall be deposited into this fund. The department  
8 shall use this money for the rehabilitation of native Hawaiians,  
9 native Hawaiian families, and Hawaiian homestead communities,  
10 which shall include the educational, economic, political,  
11 social, and cultural processes by which the general welfare and  
12 conditions of native Hawaiians are thereby improved and  
13 perpetuated.

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

- 16           (1) All moneys received by the fund shall be deposited  
17           into the state treasury and kept separate and apart  
18           from all other moneys in the state treasury;
- 19           (2) The director of finance shall serve as a custodian of  
20           the fund. All payments from the fund shall be made by  
21           the director of finance only upon vouchers approved by  
22           the commission;



- 1 (3) The commission shall develop guidelines for the  
2 investment of moneys in the fund;
- 3 (4) The commission may invest and reinvest in investments  
4 authorized by chapter 88, Hawaii Revised Statutes.  
5 The commission may hold, purchase, sell, assign,  
6 transfer, or dispose of any securities and investments  
7 in which any of the moneys shall have been invested,  
8 as well as the proceeds of such investments; and
- 9 (5) The commission may pay out of any of the moneys held  
10 for investment, a reasonable amount to any person for  
11 supplying investment advisory or consultive services;  
12 and to meet such other costs incident to the prudent  
13 investment of moneys as the commission may approve.

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

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

21 ~~The department shall submit an annual report to the~~  
22 ~~legislature and the United States Department of the Interior, no~~



1 ~~later than twenty days prior to the convening of each regular~~  
 2 ~~session of the legislature, beginning with the regular session~~  
 3 ~~of 2011, on expenditures from this fund that are derived from~~  
 4 ~~the amounts deposited from commercial and multipurpose project~~  
 5 ~~lease extensions pursuant to section 228(e), including the~~  
 6 ~~amount expended, the recipient of the moneys expended, and the~~  
 7 ~~purpose of the expenditure.] "~~

8 SECTION 4. Section 228, Hawaiian Homes Commission Act,  
 9 1920, as amended, is amended to read as follows:

10 " ~~[+]§228.[+]~~ **Commercial and multipurpose project leases;**  
 11 **extension of term.** (a) Notwithstanding any law to the  
 12 contrary, the procedures under this section shall apply to  
 13 commercial and multipurpose projects under section 204 or 220.5,  
 14 and shall be in addition to any other procedures required by  
 15 law.

16 (b) Prior to the disposition of available land through a  
 17 request for proposals for an initial lease for a commercial or  
 18 multipurpose project, the department shall consult with  
 19 beneficiaries of the trust in the master planning of the  
 20 available lands. The process of beneficiary consultation shall  
 21 be as established by the department and shall:



- 1           (1) Engage beneficiaries and beneficiary-serving  
2           organizations;
- 3           (2) Provide for the timely dissemination of information  
4           about the proposed project and the gathering of input;  
5           and
- 6           (3) Allow for a reasonable time and reasonable access to  
7           relevant information for evaluation and consideration.
- 8           (c) Notwithstanding section 220.5(d)(1), the department  
9           may extend the term of a lease of Hawaiian home lands for  
10          commercial or multipurpose projects and with the approval by the  
11          department of a written agreement proposed by the lessee, or the  
12          lessee and developer, to:
- 13           (1) Make improvements to the leased property; or
- 14           (2) Obtain financing for the improvement of the leased  
15          lands.
- 16          The extension of the lease pursuant to this section shall be  
17          based upon the improvements made or to be made, shall be no  
18          longer than twenty years, and shall be granted only once.
- 19          (d) Before the written agreement is approved, the lessee,  
20          or the lessee and developer, shall submit to the department the  
21          plans and specifications for the proposed development. The



1 department shall review the plans, specifications, and the  
2 written agreement and determine:

3 (1) Whether the development is of sufficient value and  
4 meets the priorities of the commission to justify an  
5 extension of the lease;

6 (2) The estimated time needed to complete the improvements  
7 and expected date of completion of the improvements;  
8 and

9 (3) The minimum revised annual rent based on the fair  
10 market value of the lands to be developed, as  
11 determined by an appraiser for the department, and  
12 percentage rent where gross receipts exceed a  
13 specified amount.

14 The commission shall adopt and publish a policy pursuant to  
15 chapter 91, Hawaii Revised Statutes, which shall be used to  
16 evaluate any request for a lease extension, including the terms  
17 of the lease, prospective payments, and renegotiation, and shall  
18 be used by the commission for any final determination on a lease  
19 extension request.

20 ~~[(c) Upon the extension of a lease term pursuant to~~  
21 ~~subsection (c), the department shall deposit fifteen per cent of~~  
22 ~~all revenues generated from the lease from the time the lease~~



1 ~~extension is granted, into the native Hawaiian rehabilitation~~  
2 ~~fund under section 213(i).~~

3       ~~(f)]~~ (e) The department shall submit an annual report to  
4 the legislature and the United States Department of the  
5 Interior, no later than twenty days prior to the convening of  
6 each regular session, beginning with the regular session of  
7 2011, of all leases of available lands for commercial and  
8 multipurpose projects, including the following:

- 9       (1) The total number of leases;  
10       (2) Acreage of each lease;  
11       (3) Terms of each lease;  
12       (4) Whether the lessee is a beneficiary or beneficiary  
13             controlled organization; and  
14       (5) Whether the lease was for retained available lands not  
15             required for leasing under section 207(a), and was  
16             negotiated with a native Hawaiian, or organization or  
17             association owned or controlled by native Hawaiians,  
18             under section 204(a)(2).

19       (f) All lease revenues from commercial and multipurpose  
20 project leases collected by the department to which this section  
21 applies shall be deposited into the Hawaiian home administration  
22 account established under section 213(f).



1 (g) As used in this section, "improvements" means any  
2 renovation, rehabilitation, reconstruction, or construction of  
3 the property, including minimum requirements for off-site and  
4 on-site improvements."

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

7 [~~SECTION 9. All lease revenues from commercial and  
8 multipurpose project leases collected by the department of  
9 Hawaiian home lands to which section , Hawaiian Homes  
10 Commission Act, 1920, as amended, applies shall be deposited  
11 into the Hawaiian home lands trust fund established under  
12 section 213.6, Hawaiian Homes Commission Act, 1920, as amended,  
13 provided that the department of Hawaiian home lands shall  
14 deposit fifteen per cent of those revenues that are derived from  
15 the amounts deposited from commercial and multipurpose project  
16 lease extensions pursuant to section (c), Hawaiian Homes  
17 Commission Act, 1920, as amended, into the native Hawaiian  
18 rehabilitation fund established under section 213(i), Hawaiian  
19 Homes Commission Act, 1920, as amended." ]~~

20 PART III


21 SECTION 6. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.





1 SECTION 7. This Act shall take effect on July 1, 2012;  
2 provided that part I shall take effect on June 29, 2012.

APPROVED this 28 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII