

THE HAWAIIAN HOMES COMMISSION ACT, 1920, 42 STAT. 108

CHAP. 42.—An Act To amend an Act entitled “An Act to provide a government for the Territory of Hawaii,” approved April 30, 1900, as amended, to establish an Hawaiian Homes Commission, granting certain powers to the board of harbor commissioners of the Territory of Hawaii, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE 1.—DEFINITIONS.¹

SEC. 1. That this Act may be cited as the “Hawaiian Homes Commission Act, 1920.”

SEC. 2. That when used in this Act the term “Hawaiian Organic Act” means the Act entitled “An Act to provide a government for the Territory of Hawaii,” approved April 30, 1900, as amended.

[SEC. 101]²

TITLE 2.—HAWAIIAN HOMES COMMISSION.

SEC. 201. DEFINITIONS.³ (a) ~~That~~³ When used in this title-

□⁴ “~~e~~Commission”⁵ means the Hawaiian homes commission.

□⁶ “~~p~~Public land”⁵ has the same meaning as defined in paragraph (3) of subdivision (a) of section 73 of the Hawaiian Organic Act.

□⁷ “~~f~~Fund”⁵ means the Hawaiian home loan fund.

□⁸ “~~Territory~~⁴⁹ ~~State~~⁴⁹” means the ~~Territory~~⁴⁹ ~~State~~⁴⁹ of Hawaii;

□⁹ “Hawaiian home lands” means all lands given the status of Hawaiian home lands under the provisions of section 204 of this title.

□¹⁰ “~~t~~Tract”⁵ means any tract of Hawaiian home lands leased, as authorized by section 207 of this title, or any portion of ~~such~~³ ~~the~~³ tract.

□¹¹ “~~n~~Native Hawaiian”⁵ means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

□¹² “~~i~~Irrigated pastoral land”⁵ means land not in the description of agricultural land but which, through irrigation, is capable of carrying more livestock the year through than first-class pastoral land.¹³

(b) Any term defined or described in section 347 or 351 of the Revised Laws of Hawaii of 1915, except a term defined in ~~subdivision~~³ ~~subsection~~³ (a) of this section, shall, whenever used in this title, have the same meaning as given by such definition or description.

[SEC. 201.5]¹⁴

[SEC. 201.6]¹⁵

SEC. 202. []¹⁶ DEPARTMENT OFFICERS, STAFF, COMMISSION, MEMBERS, COMPENSATION.¹⁷

(a) There shall be a department of Hawaiian home lands which shall be headed by an executive board to be known as the Hawaiian homes commission. The members of the commission shall be nominated and appointed in accordance with section []¹⁸ 26-34, Hawaii Revised Statutes.¹⁹ The commission shall be composed of []²⁰ ~~eight~~²¹ ~~nine~~²¹ members, as follows: three shall be residents of the City and County of Honolulu²²; ~~one~~²¹ ~~two~~²¹ shall be ~~a resident~~²¹ residents²¹ of the county of Hawaii one of whom shall be a resident of east Hawaii and the other a resident of west Hawaii²¹; two shall be residents of the county of Maui, one of whom shall be a resident from the island of Molokai; one shall be a resident of the county of Kauai; and the ~~eight~~²¹ ~~ninth~~²¹ member shall be the chairman of the Hawaiian Homes Commission.¹⁹ All members shall have been residents of the State []²³ at least three years prior to their appointment and at least four of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands previous to 1778. The members of the commission shall serve without pay, but shall receive actual expenses incurred by them in the discharge of their duties as such members. The governor shall appoint the chairman of the commission from among the members thereof.

The commission may delegate to the chairman such duties, powers, and authority or so much thereof, as may be lawful or proper for the performance of the functions vested in the commission. The chairman of the commission shall serve in a full-time capacity []²⁴. He shall, in such capacity perform such duties, and exercise such powers and authority, or so much thereof, as may be delegated to him by the commission as herein provided above.

(b) The provisions of sections []²⁵ 76-16(o), Hawaii Revised Statutes,¹⁹ shall apply to the positions of the first deputy and private secretary to the chairman of the commission. []²⁶ The department may hire a²⁷ temporary²⁷ staff []²⁸ on a contractual basis not subject to chapters 76 []²⁹ and 78, Hawaii Revised Statutes, when the services to be performed will assist in carrying out the purposes of the Act. These positions may be funded through appropriations for capital improvement program projects and by the administration account, []³⁰ ~~or~~²⁷ operating funds³¹, or native Hawaiian rehabilitation fund²⁷. No contract shall be for a period longer than two years, []³² but individuals hired under contract shall³³ may³³ be employed ~~beyond~~³³ for³³ a maximum of six years, provided that the six-year limitation shall not apply if the department with the approval of the governor, determines that such contract individuals are needed to provide critical services for the efficient functioning of the department.³³ All other positions in the department shall be subject to []³⁴ chapter []³⁵ 76 []³⁶, Hawaii Revised Statutes³⁷ []³⁸.

All vacant []³⁹ and new []⁴⁰ positions []⁴¹ covered by []⁴² chapter []⁴³ []⁴⁴ 76 []⁴⁵, Hawaii Revised Statutes¹⁹, shall be filled in accordance with the provisions of []⁴⁶ sections 76-23 and 76-31 []⁴⁷, Hawaii Revised Statutes¹⁹, []⁴⁸ provided that the provisions of these sections shall be applicable first to qualified persons of Hawaiian extraction.⁴⁹

SEC. 203. CERTAIN PUBLIC LANDS DESIGNATED "AVAILABLE LANDS."⁵⁰ All public lands of the description and acreage, as follows, excluding (a) all lands within any forest reservation, (b) all cultivated sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement, are hereby designated, and hereinafter referred to, as "available lands":

(1) On the island of Hawaii: Kamaoa-Puueo (eleven thousand acres, more or less), in the district of Kau; Puukapu (twelve thousand acres, more or less), Kawaihae I (ten thousand acres, more or less), and Pauahi

(seven hundred and fifty acres, more or less), in the district of South Kohala; Kamoku-Kapulena (five thousand acres, more or less), Waimanu (two hundred acres, more or less), and Nienie (seven thousand three hundred and fifty acres, more or less), in the district of Hamakua; fifty-three thousand acres to be selected by the commission from the lands of Humuula Mauka, in the district of North Hilo; Panaewa, Waiakea (two thousand acres, more or less), Waiakea-kai, or Keaaukaha (two thousand acres, more or less), and two thousand acres of agricultural lands to be selected by the commission from the lands of Piihonua, in the district of South Hilo; and two thousand acres to be selected by the commission from the lands of Kaohe-Makuu, in the district of Puna; **land at Keaukaha, Hawaii, more particularly described as follows:**

PARCEL I

Now set aside as Keaukaha Beach Park by Executive Order Numbered 421, and being a portion of the Government land at Waiakea, South Hilo, Hawaii.

Beginning at the southeast corner of this parcel of land, on the north side of Kalaniana'ole Road, the coordinates of said point of beginning referred to Government survey triangulation station "Halai" being five thousand six hundred and eighty-one and twelve one-hundredths feet north and seventeen thousand nine hundred and thirty-three and fifteen one-hundredths feet east, as shown on Government Survey Registered Map Numbered 2704, and running by true azimuths.

1. Sixty-one degrees fifty-eight minutes one thousand three hundred and fifty-one and seventy-three one-hundredths feet along the north side of Kalaniana'ole Road (fifty feet wide);

2. One hundred and fifty-one degrees fifty-eight minutes eight hundred and forty feet along United States military reservation for river and harbor improvements (Executive Order Numbered 176);

Thence along the seashore at high-water mark, the direct azimuths and distances between points at seashore being:

3. Two hundred and eighty-two degrees no minutes four hundred and sixty-eight and fifty one-hundredths feet;

4. Three hundred and thirteen degrees twenty minutes four hundred and forty-one feet;

5. Two hundred and sixty degrees twenty minutes one hundred and forty feet;

6. Two hundred and forty-two degrees twenty minutes two hundred and fifty feet;

7. One hundred and eighty-eight degrees forty minutes sixty feet;

8. Two hundred and seventy-two degrees twenty minutes one hundred and seventy feet;

9. Two hundred and five degrees no minutes sixty feet;

10. One hundred and ten degrees twenty minutes two hundred and twenty feet;

11. Ninety degrees fifty minutes eighty feet;

12. One hundred and sixty-two degrees no minutes one hundred and seventy feet;

13. Two hundred and fifty degrees thirty minutes four hundred and thirty feet;

14. Three hundred and thirty-one degrees fifty-eight minutes three hundred and eighty feet along parcel II of Government land to the point of beginning and containing an area of eleven and twenty one-hundredths acres, more or less.⁵¹

PARCEL II

Being a portion of the Government land of Waiakea, South Hilo, Hawaii, and located on the north side of Kalanianaʻole Road and adjoining parcel I, hereinbefore described.

Beginning at the south corner of this parcel of land, on the north side of Kalanianaʻole Road, the coordinates of said point of beginning referred to Government survey triangulation station 'Halai', being five thousand six hundred and eighty-one and twelve one-hundredths feet north and seventeen thousand nine hundred and thirty-three and fifteen one-hundredths feet east and running by true azimuths:

1. One hundred and fifty-one degrees fifty-six minutes three hundred and eighty feet along the east boundary of parcel I;

2. Two hundred and twenty-nine degrees forty-five minutes thirty seconds one hundred and ninety-one and one one-hundredth feet;

3. One hundred and ninety-eight degrees no minutes two hundred and thirty feet to a one-and-one-half-inch pipe set in concrete;

4. Three hundred and seven degrees thirty-eight minutes five hundred and sixty-two and twenty-one one-hundredths feet to a one-and-one-half-inch pipe set in concrete;

5. Twenty-eight degrees no minutes one hundred and twenty-one and thirty-seven one-hundredths feet to the north side of Kalanianaʻole Road;

6. Sixty-one degrees fifty-eight minutes four hundred and eighty-three and twenty-two one-hundredths feet along the north side of Kalanianaʻole Road to the point of beginning and containing an area of five and twenty-six one-hundredths acres, more or less.⁵¹

(2) On the island of Maui: Kahikinui (twenty-five thousand acres, more or less) in the district of Kahikinui, and the public lands (six thousand acres, more or less) in the district of Kula;

(3) On the Island of Molokai: Palaau (eleven thousand four hundred acres, more or less), Kapaakea (two thousand acres, more or less), Kalamaula (six thousand acres, more or less), Hoolehua (three thousand five hundred acres, more or less), Kamiloloa I and II (three thousand six hundred acres, more or less), and Makakupaia (two thousand two hundred acres, more or less); and Kalaupapa (five thousand acres, more or less);

(4) On the island of Oahu: Nanakuli (three thousand acres, more or less), and Lualualei (two thousand acres, more or less), in the District of Waianae; and Waimanalo (four thousand acres, more or less), in the District of Koolaupoko, excepting therefrom the military reservation and the beach lands; and *those certain portions of the lands of Auwaiolimu and Kewalo described by metes and bounds as follows, to wit:*⁵²

(I) Portion of the Government land at Auwaiolimu, Punchbowl Hill, Honolulu, Oahu, described as follows:

Beginning at a pipe at the southeast corner of this tract of land, on the boundary between the lands of Kewalo and Auwaiolimu, the coordinates of said point of beginning referred to Government survey triangulation station 'Punchbowl' being one thousand one hundred and thirty-five and nine-tenths feet north and two thousand five hundred and fifty-seven and eight-tenths feet east as shown on Government Survey Registered Map Numbered 2692, and running by true azimuths:

- (1) One hundred and sixty-three degrees thirty-one minutes two hundred and []⁵³ thirty-eight⁵⁴ and eight-tenths feet along the east side of the Punchbowl-Makiki Road;
- (2) Ninety-four degrees eight minutes one hundred and twenty-four and nine-tenths feet across Tantalus Drive and along the east side of []⁵⁵ Puowaina⁵⁰ Drive;
- (3) One hundred and thirty-one degrees thirteen minutes two hundred and thirty-two and five-tenths feet along a twenty-five foot roadway;
- (4) One hundred and thirty-nine degrees fifty-five minutes twenty and five-tenths feet along same;
- (5) One hundred and sixty-eight degrees seventeen minutes two hundred and fifty-seven and eight-tenths feet along Government land (old quarry lot);
- (6) One hundred and fifty-six degrees thirty minutes three hundred and thirty-three feet along same to a pipe;
- (7) Thence following the old Auwaiolimu stone wall along L.C. award 3145 to Laenui, grant 5147 (lot 8 to C.W. Booth), L.C. award 1375 to Kapule, and L.C. award 1355 to Kekuanoni, the direct azimuth and distance being two hundred and forty-nine degrees forty-one minutes one thousand three hundred and three and five-tenths feet;
- (8) Three hundred and twenty-one degrees, twelve minutes, six hundred and ninety-three feet along the remainder of the land of Auwaiolimu;
- (9) Fifty-one degrees, twelve minutes, one thousand and four hundred feet along the land at Kewalo to the point of beginning; containing an area of twenty-seven acres; excepting and reserving there from Tantalus Drive, crossing this land;⁵²

(II) Portion of the land of Kewalo, Punchbowl Hill, Honolulu, Oahu, being part of the lands set aside for the use of the Hawaii Experiment Station of the United States Department of Agriculture by proclamation of the Acting Governor of Hawaii, dated June 10, 1901, and described as follows:

Beginning at the northeast corner of this lot, at a place called 'Puu Ea' on the boundary between the lands of Kewalo and Auwaiolimu, the coordinates of said point of beginning referred to Government survey triangulation station 'Punchbowl', being three thousand two hundred and fifty-five and six-tenths feet north and five thousand two hundred and forty-four and seven-tenths feet east, as shown on Government survey registered map numbered 2692 of the Territory of Hawaii, and running by true azimuths:

1. Three hundred and fifty-four degrees thirty minutes nine hundred and thirty feet along the remainder of the land of Kewalo, to the middle of the stream which divides the lands of Kewalo and Kalawahine;

2. Thence down the middle of said stream along the land of Kalawahine, the direct azimuth and distance being forty-nine degrees sixteen minutes one thousand five hundred and twelve and five-tenths feet;
3. One hundred and forty-one degrees twelve minutes eight hundred and sixty feet along the remainder of the land of Kewalo;
4. Two hundred and thirty-one degrees twelve minutes five hundred and fifty-two and six-tenths feet along the land of Auwaiolimu to Puu Iole;
5. Thence still along the said land of Auwaiolimu following the top of the ridge to the point of beginning, the direct azimuth and distance being two hundred and thirty-two degrees twenty-six minutes one thousand four hundred and seventy feet and containing an area of thirty acres; excepting and reserving there from Tantalus Drive, crossing this land;⁵²

[]⁵⁶ (III) Portion of the land of Kalawahine makai of Tantalus Drive consisting of twelve acres, more or less, said parcel described more specifically in tax map key 2-4-24-8, which includes certain parcels adjoining the Ewa portion of Kalawahine Place currently occupied by short-term land dispositions if the persons residing on those parcels meet the qualifications established by the Legislature of the Territory of Hawaii and elect to have the land under their homes transferred to the department, and certain portions of the Ewa portion of the parcel, but excluding the hillside side portions of the southeast parcel, with metes and bounds designated by the department and approved by the department of land and natural resources; provided that persons now residing on portion of the land described, be given first opportunity to lease the lands on which they now reside, for a term of 99 years, whether or not they be native Hawaiians as defined in the Hawaiian Homes Commission Act of 1920, as amended.⁵⁰

(IV) Portion of the Hawaiian Experiment Station under the control of the United States Department of Agriculture, situate on the northeast side of Auwaiolimu Street.⁵¹

Kewalo-uka, Honolulu, Oahu

Being a portion of the land of Kewalo-uka conveyed by the Territory of Hawaii to the United States of America by proclamations of the Acting Governor of Hawaii, Henry E. Cooper, dated June 10, 1901, and August 16, 1901, and a portion of the United States Navy hospital reservation described in Presidential Executive Order Numbered 1181, dated March 25, 1910.

Beginning at the west corner of this parcel of land, on the Auwaiolimu-Kewalo-uka boundary and on the northeast side of Auwaiolimu Street, the coordinates of said point of beginning referred to Government survey triangulation station 'Punchbowl', being one thousand two hundred and thirty and fifty-eight one-hundredths feet north and two thousand six hundred and seventy-five and six one-hundredths feet east as shown on Government Survey Registered Map Numbered 2985 and running by azimuths measured clockwise from true south:

1. Two hundred and thirty-one degrees twelve minutes one thousand two hundred and forty-eight and twenty-six one-hundredths feet along the land of Auwaiolimu;
2. Three hundred and twenty-one degrees twelve minutes eight hundred and sixty feet along Hawaiian Home Land as described in Presidential Executive Order Numbered 5561;
3. Thence down along the middle of stream in all its turns and windings along the land of Kalawahine to the north corner of Roosevelt High School lot, the direct azimuth and distance being thirty-three degrees forty-eight minutes forty seconds one thousand one hundred and twelve and twenty one-hundredths feet;

Thence still down along the middle of stream for the next seven courses along the Roosevelt High School premises, the direct azimuth and distances between points in middle of said stream being:

4. Twenty-three degrees forty minutes twenty-eight and ninety one-hundredths feet;
5. Eight degrees no minutes one hundred and fifteen feet;
6. Three hundred and thirty-seven degrees fifty minutes forty-eight feet;
7. Two degrees thirty minutes sixty feet;
8. Forty-nine degrees forty minutes fifty-two feet;
9. Forty-six degrees six minutes ninety and seventy one-hundredths feet;
10. Ninety-two degrees forty-three minutes ninety-five and sixty one-hundredths feet; thence
11. Eighty-three degrees thirty-eight minutes seventy-one and sixty-three one-hundredths feet along Territorial land to the northeast side of Auwaiolimu Street;
12. Thence on a curve to the left with a radius of one thousand-one hundred and seventy-six and twenty-eight one-hundredths feet along the northeast side of Auwaiolimu Street along land described in Presidential Executive Order Numbered 1181, dated March 25, 1910, the direct azimuth and distance being one hundred and seventy-two degrees twenty-nine minutes thirty-five seconds one hundred and sixty-four and thirty-nine one-hundredths feet;
13. Thence continuing on a curve to the left with a radius of one thousand one hundred and seventy-six and twenty-eight one-hundredths feet along the northeast side of Auwaiolimu Street, the direct azimuth and distance being one hundred and sixty degrees fifty minutes forty-eight seconds three hundred and twelve and seventy-five one-hundredths feet;
14. Two hundred and twenty-four degrees fifty-three minutes six hundred and seventy and sixty-five one-hundredths feet along the Quarry Reservation (Territory of Hawaii, owner);
15. One hundred and ten degrees six minutes two hundred and thirty-nine and twenty one-hundredths feet along same;
16. Ninety-two degrees five minutes two hundred and two and twenty one-hundredths feet along same;
17. Fifty-three degrees twenty minutes three hundred and forty and thirty-four one-hundredths feet along same;
18. One hundred and forty-two degrees thirty minutes four hundred and twenty-four and sixty-eight one-hundredths feet along the northeast side of Auwaiolimu Street to the point of beginning and containing an area of twenty-seven and ninety one-hundredths acres; excepting and reserving there from that certain area included in Tantalus Drive, crossing this land.

(V) Portion of Kewalo-uka Quarry Reservation. Situate on the northeast side of Auwaiolimu Street.⁵¹

Kewalo-uka, Honolulu, Oahu

Being land reserved by the Territory of Hawaii within the Hawaii Experiment Station under the control of the United States Department of Agriculture, as described in proclamations of the Acting Governor of Hawaii, Henry E. Cooper, dated June 10, 1901.

Beginning at the northwest corner of this parcel of land and on the northeast side of Auwaiolimu Street, the coordinates of said point of beginning referred to Government survey triangulation station 'Punchbowl', being eight hundred and ninety-three and sixty-six one-hundredths feet north and two thousand nine hundred and thirty-three and fifty-nine one-hundredths feet east as shown on Government Survey Registered Map Numbered 2985 and running by azimuths measured clockwise from true south:

1. Two hundred and thirty-three degrees twenty minutes three hundred and forty and thirty-four one-hundredths feet along the Hawaii Experiment Station under the control of the United States Department of Agriculture;
2. Two hundred and seventy-two degrees five minutes two hundred and two and twenty one-hundredths feet along same;
3. Two hundred and ninety degrees six minutes two hundred and thirty-nine and twenty one-hundredths feet along same;
4. Forty-four degrees fifty-three minutes six hundred and seventy and sixty-five one-hundredths feet along same to the northeast side of Auwaiolimu Street;
5. Thence on a curve to the left with a radius of one thousand one hundred and seventy-six and twenty-eight one-hundredths feet along the northeast side of Auwaiolimu Street, the direct azimuth and distance being one hundred and forty-seven degrees fifty-one minutes thirteen seconds two hundred and nineteen and fifty one-hundredths feet;
6. One hundred and forty-two degrees thirty minutes one hundred and thirty-four and fifty-five one-hundredths feet along the northeast side of Auwaiolimu Street;
7. Two hundred and thirty-two degrees thirty minutes twenty feet along same;
8. One hundred and forty-two degrees thirty minutes seventy-one and fifty-seven one-hundredths feet along same to the point of beginning and containing an area of four and six hundred and forty-six one-thousandths acres.⁵¹

(VI) Being a portion of Government land of Auwaiolimu, situated on the northeast side of Hawaiian home land of Auwaiolimu and adjacent to the land of Kewalo-Uka at Pauoa Valley, Honolulu, Oahu, Territory of Hawaii. Beginning at a pipe in concrete at the south corner of this parcel of land, being also the east corner of Hawaiian home land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Punchbowl", being two thousand twelve and seventy-five one-hundredths feet south and three thousand six hundred forty-seven and eighty-seven one-hundredths feet east, and thence running by azimuths measured clockwise from true south:

1. One hundred and forty-one degrees twelve minutes six hundred and ninety-three feet along Hawaiian home land;
2. Thence along middle of stone wall along L. C. Aw. 1356 to Kekuanoni, Grant 5147, Apana 1 to C. W. Booth, L. C. Aw. 1351 to Kamakainau, L. C. Aw. 1602 to Kahawai, Grant 4197 to Keauloa, L. C. Aw. 5235 to Kaapuiki and Grant 2587 to Haalelea;

3. Two hundred and ninety-five degrees thirty minutes three hundred and twenty feet along the remainder of Government land of Auwaiolimu;

4. Twenty-four degrees sixteen minutes thirty seconds one thousand five hundred seventy-nine and thirty-six one-hundredths feet along the remainder of Government land of Auwaiolimu;

5. Thence along middle of ridge along the land of Kewalo-Uka to a point called 'Puu Iole' (pipe in concrete monument), the direct azimuth and distance being fifty-six degrees no minutes eight hundred and thirty feet;

6. Fifty-two degrees twelve minutes five hundred fifty-two and sixty one-hundredths feet along the land of Kewalo-Uka to the point of beginning and containing an area of thirty-three and eighty-eight one-hundredths acres, more or less.⁵⁷

(VII) Being portions of Government lands of Kewalo-Uka and Kalawahine situated on the east side of Tantalus Drive at Pauoa Valley, Honolulu, Oahu, Territory of Hawaii. Beginning at the west corner of this parcel of land, the true azimuth and distance to a point called "Puu Ea" (pipe in concrete monument) being one hundred and seventy-four degrees thirty minutes four hundred one and ninety-nine one-hundredths feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Punchbowl" being two thousand eight hundred fifty-five and ten one-hundredths feet north and five thousand two hundred eighty-two and twenty-five one-hundredths feet east and thence running by azimuths measured clockwise from true south:

1. Two hundred and forty-eight degrees nineteen minutes forty seconds eight hundred fifty and fifty-four one-hundredths feet along the land of Kewalo-Uka;

2. Sixteen degrees thirty minutes five hundred feet along the land of Kewalo-Uka, along the land of Kalawahine;

3. Twenty-five degrees no minutes five hundred feet along the land of Kalawahine;

4. Thirty-five degrees no minutes three hundred and twenty feet along the land of Kalawahine;

5. Fifty degrees forty-six minutes ninety-six and seventy one-hundredths feet along Makiki Forest Ridge lots;

6. Seventy-three degrees twenty minutes two hundred fifty-five and ninety one-hundredths feet along Makiki Forest Ridge lots;

7. Eighty-six degrees thirty-two minutes one hundred sixty-three and forty one-hundredths feet along Makiki Forest Ridge lots;

8. Thence along the south side of Tantalus Drive on a curve to the right with a radius of two hundred and seventy feet, the direct azimuth and distance being two hundred and twenty-one degrees twelve minutes nineteen seconds ninety-eight and thirty-six one-hundredths feet;

9. Two hundred and thirty-one degrees forty-two minutes one hundred ninety-three and thirty-five one-hundredths feet along the south side of Tantalus Drive;

10. Still along Tantalus Drive on a curve to the left with a radius of one hundred eighty and seventy-eight one-hundredths feet, the direct azimuth and distance being one hundred and eighty-one degrees forty-five minutes fifty-five seconds two hundred seventy-six and seventy-two one-hundredths feet;

11. Two hundred and forty-two degrees fifteen minutes sixty-two and thirty-two one-hundredths feet along the land of Kewalo-Uka;

12. One hundred and seventy-four degrees thirty minutes five hundred twenty-eight and one one-hundredths feet along the land of Kewalo-Uka to the point of beginning and containing an area of five hundred and seventy-four thousand seven hundred and thirty square feet or thirteen and one hundred ninety-four one-thousandths acres.⁵⁷

(5) On the island of Kauai: Upper land of Waimea, above the cultivated sugar cane lands, in the district of Wanea (fifteen thousand acres, more or less); and Moloaa (two thousand five hundred acres, more or less), and Anahola and Kamalomalo (five thousand acres, more or less).

(6) Wailuku, Maui: That parcel of government land, situate in the District of Wailuku, island and county of Maui, comprising twelve and four hundred and fifty-five one-thousandths acres of the Ili of Kou and being a portion of the land covered by General Lease Numbered 2286 to Wailuku Sugar Company, Limited, notwithstanding the fact that said parcel is cultivated sugarcane land, subject, however, to the terms of said lease.⁵⁸

(7) Cultivated sugarcane lands: That parcel of Anahola, Island of Kauai, comprising four hundred and one and four hundred and twenty-three one-thousandths acres, hereinafter described and being portion of the land covered by general lease numbered 2724 to the Lihue Plantation Company, Limited, notwithstanding the fact that said parcel is cultivated sugarcane land, subject however, to the terms of said lease, said parcel being more particularly described as follows:

Being a portion of land described in general lease numbered 2724 to the Lihue Plantation Company situate in the district of Anahola, Kauai, Territory of Hawaii, beginning at the northwest corner of this parcel of land, the coordinates of which referred to government triangulation station south base are three thousand and forty-nine and sixty-two one-hundredths feet south, one thousand nine hundred and thirty-two and twenty-five one-hundredths feet west, and running thence by azimuths measured clockwise from true south two hundred and eighty-four degrees thirty minutes two hundred and fifty feet, thence on the arc of circular curve to the left, with a radius of eight hundred and ninety feet and a central angle of thirty-five degrees fifteen minutes, the direct azimuth and distance being two hundred and sixty-six degrees fifty-two minutes thirty seconds five hundred and thirty-eight and ninety-six one-hundredths feet, thence two hundred and forty-nine degrees fifteen minutes one thousand eight hundred and nine and twenty-five one-hundredths feet, thence two hundred and twenty-four degrees fifteen minutes three thousand and fifty-six feet, thence one hundred and thirty-four degrees fifteen minutes two hundred and seven feet, to the seashore at Anahola Bay, thence along the seashore around Kahala Point, the direct azimuth and distance being two hundred and thirty-seven degrees six minutes seven seconds one thousand and sixty and fourteen one-hundredths feet, thence along the seashore, the direct azimuth and distance being three hundred and thirty-two degrees no minutes one thousand eight hundred and twenty-seven feet, thence along the seashore, the direct azimuth and distance being three hundred and fifty-five degrees no minutes one thousand eight hundred and twenty-seven feet, thence eighty-seven degrees twenty minutes seven hundred and forty feet, thence fifty-nine degrees no minutes two thousand seven hundred and fifteen feet, thence sixty-nine degrees fifteen minutes one thousand eight hundred and eighty-seven and thirty-six one-hundredths feet, thence on the arc of a circular curve to the right with a radius of three thousand and twelve feet, and a central angle of thirty-five degrees fifteen minutes the direct azimuth and distance being eighty-six degrees fifty-two minutes thirty seconds one thousand eight hundred and twenty-three

and ninety-eight one-hundredths feet, thence one hundred and four degrees thirty minutes two hundred and fifty feet, thence one hundred and ninety-four degrees thirty minutes one thousand and thirty-one feet, thence on the area of a circular curve to the left with a radius of six hundred and seven and ninety-five one-hundredths feet and a central angle of fifty-three degrees three minutes thirty seconds the direct azimuth and distance being seventy-seven degrees fifty-eight minutes fifteen seconds five hundred and forty-three and nine one-hundredths feet to the government road, thence two hundred and thirty-one degrees twenty-six minutes thirty seconds one hundred and thirteen and sixty-one one-hundredths feet along the government road, thence along the government road on the arc of a circular curve to the left with a radius of four hundred and seventy-seven feet and a central angle of forty-four degrees twenty-six minutes thirty seconds, the direct azimuth and distance being two hundred and nine degrees thirteen minutes fifteen seconds three hundred and sixty and seventy-eight one-hundredths feet, thence one hundred and eighty-seven degrees no minutes one hundred and sixty-nine and fifty-four one-hundredths feet along the government road, thence on the arc of a circular curve to the left with a radius of three hundred and fifty-one and eight one-hundredths feet and a central angle of eighty-two degrees thirty minutes the direct azimuth and distance being three hundred and twenty-five degrees forty-five minutes four hundred and sixty-two and ninety-seven one-hundredths feet, thence one hundred and ninety-four degrees thirty minutes five hundred and seventy-nine feet, thence one hundred and four degrees thirty minutes three hundred feet, thence one hundred and ninety-four degrees thirty minutes two hundred feet, thence two hundred and eighty-four degrees thirty minutes three hundred feet, thence one hundred and ninety-four degrees thirty minutes two hundred and fifty-two feet to the point of beginning containing an area of four hundred and one and four hundred and twenty-three one-thousandths acres more or less.⁵⁹

WITHDRAWAL OF 'AVAILABLE LANDS'

Section 203 of title 2 of the Act entitled "Hawaiian Homes Commission Act, 1920", approved July 9, 1921 (42 Sta. 108), designates land hereinafter described as "available lands" within the meaning of that Act, is hereby repealed and the land restored to its previous status under the control of the Territory of Hawaii.

(1) On the Island of Molokai: Those portions of Hoolehua, apana 2, and Palaau, apana 2, comprising the Molokai airplane landing field as set aside for public purposes by Executive Order Numbered 307 of the Governor of the Territory of Hawaii, dated December 15, 1927, consisting of two hundred four and nine-tenths acres, more or less, and particularly described as follows:

Beginning at a point on the southeast corner of the said land, from which the azimuth (measured clockwise from true south) and distance to United States Coast and Geodetic Survey Triangulation Station "Middle Hill" (Kualapuu) is two hundred and seventy-two degrees twenty-three minutes thirty-nine seconds, twelve thousand seven hundred twenty and nine-tenths feet, thence from said point of beginning by metes and bounds, eighty-five degrees ten minutes thirty seconds, three thousand four hundred and twenty-seven feet; one hundred and eighty degrees fifty-six minutes thirty seconds, two thousand six hundred thirty and two-tenths feet; two hundred and seventy-nine degrees fifty-five minutes thirty seconds, four thousand nine hundred seven and three-tenths feet; three hundred and forty-six degrees twenty minutes, three hundred forty-two and three-tenths feet near west edge of Kakainapahao Gulch; three degrees twenty-six minutes, four hundred twenty-seven and one-tenth feet; eighty-three degrees twenty-four minutes, one thousand four hundred sixty-eight and two tenths feet; five degrees fifty-eight minutes, five hundred seventy-one and three-tenths feet to the point of beginning.⁶⁰

(2) On the island of Molokai: That portion of Palaau, Apana 2, being an addition to the Molokai airplane landing field as follows:

Parcel 1. As returned to the commissioner of public lands of the Territory of Hawaii by resolution numbered 68 of the Hawaiian Homes Commission, dated March 3, 1941, and consisting of thirteen and five hundred and twenty-seven one-thousandths acres, more or less, more particularly described as follows:

Beginning at a point on the southeast corner of this piece of land, on the west boundary of the present Molokai airport, the true azimuth and distance from the northwest corner of the Molokai airport (Executive Order Numbered 809) being no degrees fifty-six minutes thirty seconds two hundred and forty-two feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station Middle Hill being one and fifteen one-hundredths feet north and sixteen thousand one hundred and twenty-eight and one one-hundredths feet west, thence running by true azimuths measured clockwise from south;

(1) Sixty degrees twenty-five minutes eight hundred and forty-one and seventy-four one-hundredths feet along the remainders of fifty-foot road and lot 170 of the Hawaiian Homes land;

(2) One hundred and eighty degrees fifty-six minutes thirty seconds eight hundred and twelve and sixty-two one-hundredths feet along the remainder of lot 170 of the Hawaiian Homes land;

(3) Two hundred and forty degrees twenty-five minutes eight hundred and forty-one and seventy-four one-hundredths feet along the remainders of lot 170, Pine Avenue, lot 158 and fifty-foot road of the Hawaiian Homes land, to the west side of the present Molokai airport; and

(4) No degrees fifty-six minutes thirty seconds eight hundred and twelve and sixty-two one-hundredths feet along the west side of the present Molokai airport to the point of beginning.

On the island of Hawaii: Those portions of Keaukaha, tract 1, being additions to the Hilo airplane landing field, comprising several parcels of land as follows:

Parcel 1. Land situated at Keaukaha, tract 1, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, being portions of lots 96, 97, 182, 183, 184, 185, Desha Avenue, and twenty-five foot alley, of the Keaukaha residence lots, as shown on Government Survey Registered Maps 2723 and 3017, on file in the office of the Territorial surveyor at Honolulu.

Beginning at the south corner of this piece of land, and on the west boundary of the Hawaiian Homes land, the true azimuth and distance from the northwest corner of the Hilo airport addition, as shown on Government Survey Registered Maps 2723 and 3017 on file in the office of the Territorial surveyor at Honolulu, and on the south side of Kamehameha Avenue, being one hundred and eighty degrees no minutes four hundred and three and thirty-one one-hundredths feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station Halai being two thousand five hundred and twenty and thirty-one one-hundredths feet north and fifteen thousand five hundred and fifty-three one-hundredths feet east, thence running by azimuths measured clockwise from true south:

1. One hundred and eighty degrees no minutes six hundred and fifteen and ninety-five one-hundredths feet along Government land and tract A of grant deeded by Territory of Hawaii to Hilo Railroad Company;

2. Three hundred and ten degrees forty-two minutes four hundred and one and sixty-six one-hundredths feet along the remainders of Desha Avenue, lots 96, 97, twenty-five-foot alley, and lot 182 of the Keaukaha residence lots; and

3. Forty degrees forty-two minutes four hundred and sixty-six and ninety-seven one-hundredths feet along the remainders of lots 182, 183, 184, 185, and Desha Avenue of the Keaukaha residence lots to the point of beginning, and containing an area of two and one hundred and fifty-five one-thousandths acres, more or less.

Parcel 2. Land situated on the south side of Kamehameha Avenue, at Keaukaha, tract 1, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, being all of lots 449 to 486, inclusive, all of lots 546 to 564, inclusive, and portions of Kauhane, Spencer, Pua, and Kamaka Avenues of the Keaukaha residence lots, as shown on Government Survey Registered Maps 2723 and 3017, on file in the office of the Territorial surveyor at Honolulu.

Beginning at the northwest corner of this piece of land, being also the southwest corner of Kamehameha and Kauhane Avenues, the coordinates of said point of beginning referred to Government Survey Triangulation Station Halai being two thousand one hundred and seventeen feet north and sixteen thousand eight hundred and eighty feet east, thence running by azimuths measured clockwise from true south:

1. Two hundred and seventy degrees no minutes two thousand and seventeen and eighty-five one-hundredths feet along the south side of Kamehameha Avenue;
2. Three hundred and sixty degrees no minutes four hundred and fifty feet along lots 448 and 487 of the Keaukaha residence lots;
3. Three hundred and sixty degrees no minutes fifty feet across Kamaka Avenue;
4. Three hundred and sixty degrees no minutes two hundred and twenty-five feet along lot 545 of the Keaukaha residence lots;
5. Ninety degrees no minutes three hundred and ninety-two and forty-eight one-hundredths feet along lots 583, 582, 581, and 580 of the Keaukaha residence lots;
6. Ninety degrees no minutes fifty feet across Pua Avenue;
7. Ninety degrees no minutes eight hundred and one and fifteen one-hundredths feet along lots 579, 578, 577, 576, 575, 574, 573, and 572 of the Keaukaha residence lots;
8. Ninety degrees no minutes fifty feet across Spencer Avenue;
9. Ninety degrees no minutes six hundred and seventy-four and twenty-two one-hundredths feet along lots 571, 570, 569, 568, 567, 566, and 565, of the Keaukaha residence lots;
10. Ninety degrees no minutes fifty feet across Kauhane Avenue; and
11. One hundred and eighty degrees no minutes seven hundred and twenty-five feet along Puuhala Reserve and the present Hilo airport addition, as shown on Government Survey Registered Maps 2723 and 3017 on file in the office of the Territorial surveyor at Honolulu, to the point of beginning, and containing an area of thirty-three and five hundred and eighty-five one-thousand acres, more or less.

Parcel 3. As returned to the Commissioner of Public Lands of the Territory of Hawaii by resolution numbered 78 of the Hawaiian Homes Commission, dated May 13, 1942. Land situated at Keaukaha, tract 1, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, being the whole of lots 446, 447, 448, 487,

488, 489, 543, 544, 545, 584, 585, and 586 and portions of lots 581, 582, and 583 and a portion of Kamaka Avenue, of the Keaukaha residence lots, as shown on Government Survey Registered Maps 2723 and 3017, more particularly described as follows:

Beginning at the northeast corner of this piece of land, being also the northeast corner of lot 446 and the southwest corner of Kamehameha and Baker Avenues, the true azimuth and distance from the northwest corner of Hilo airport addition (of twenty and fifty-four one-hundredths acres and on the south side of Kamehameha Highway), as shown on Government Survey Registered Maps 2723 and 3017, being two hundred and seventy degrees no minutes and three thousand six hundred and eighty-eight and seventy one-hundredths feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station Halai being two thousand one hundred and seventeen feet north and nineteen thousand one hundred and ninety-two and twenty-three one-hundredths feet east, thence running by azimuths measured clockwise from true south:

1. Three hundred and sixty degrees no minutes four hundred and fifty feet along the west side of Baker Avenue;
2. Three hundred and sixty degrees no minutes fifty feet across Kamaka Avenue;
3. Three hundred and sixty degrees no minutes four hundred and fifty feet along the west side of Baker Avenue;
4. Ninety degrees no minutes two hundred and ninety-four and thirty-eight one-hundredths feet along the north side of Kawika Avenue;
5. One hundred and eighty degrees no minutes one hundred and twelve and fifty one-hundredths feet along lot 583 of the Keaukaha residence lots;
6. One hundred and ten degrees fifty-five minutes three hundred and fifteen and thirteen one-hundredths feet along the remainders of lots 583, 582, and 581 of the Keaukaha residence lots;
7. Two hundred and seventy degrees no minutes two hundred and ninety-four and thirty-six one-hundredths feet along lots 548, 547, and 546 of the Keaukaha residence lots;
8. One hundred and eighty degrees no minutes two hundred and twenty-five feet along lot 546 of the Keaukaha residence lots;
9. One hundred and eighty degrees no minutes fifty feet across Kamaka Avenue;
10. One hundred and eighty degrees no minutes four hundred and fifty feet along lots 486 and 449 of the Keaukaha lots to the south side of Kamehameha Avenue; and
11. Two hundred and seventy degrees no minutes two hundred and ninety-four and thirty-eight one-hundredths feet along the south side of Kamehameha Avenue to the point of beginning and containing an area of six and eighty one-hundredths acres.

Parcel 4. As returned to the Commissioner of Public Lands of the Territory of Hawaii by resolution numbered 78 of the Hawaiian Homes Commission, dated May 13, 1942. Land situated at Keaukaha, tract 1, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, being the whole of lots 93, 94, 95, 98, 99, 100, 101, and 102 and portions of lots 92, 96, 97, and 103 and a portion of Desha Avenue of the

Keaukaha residence lots, as shown on Government Survey 'Registered Maps 2723 and 3017, more particularly described as follows:

Beginning at the northwest corner of this piece of land, being also the northwest corner of lot 94 and on the southeast side of twenty-five foot road, the true azimuth and distance from the northwest corner of Hilo airport addition (of twenty and fifty-four one-hundredths acres and on the south side of Kamehameha Highway), as shown on Government Survey Registered Maps 2723 and 3017, being one hundred and eighty degrees no minutes one thousand seven hundred and fifty-one and eighty-seven one-hundredths feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station Halai being three thousand eight hundred and sixty-eight and eighty-seven one-hundredths feet north and fifteen thousand five hundred and three and fifty-three one-hundredths feet east, thence running by azimuths measured clockwise from true south:

1. Two hundred and forty-three degrees fifty minutes one hundred and seventy-seven and ninety-three one-hundredths feet along the southeast side of twenty-five-foot road;
2. Three hundred and thirty-three degrees fifty minutes two hundred and thirty-five and sixty one-hundredths feet along lot 92 of the Keaukaha residence lots;
3. Two hundred and forty-three degrees fifty minutes one hundred feet along the remainder of lot 92 of the Keaukaha residence lots;
4. Three hundred and thirty-three degrees fifty minutes two hundred feet along lot 91 of the Keaukaha residence lots;
5. Three hundred and thirty-three degrees fifty minutes fifty feet across Desha Avenue;
6. Two hundred and forty-three degrees fifty minutes one hundred feet along the southeast side of Desha Avenue;
7. Three hundred and thirty-three degrees fifty minutes two hundred and thirty-five and sixty one-hundredths feet along lot 103 of the Keaukaha residence lots;
8. Two hundred and forty-three degrees fifty minutes one hundred feet along the remainder of lot 103 of the Keaukaha residence lots;
9. Three hundred and thirty-three degrees fifty minutes two hundred feet along the southwest side of Kauhane Avenue;
10. Sixty-three degrees fifty minutes six hundred and eighty-eight and thirty-six one-hundredths feet along the northwest side of twenty-five foot road;
11. One hundred and thirty degrees forty-two minutes two hundred and eighty-six and seventy-three one-hundredths feet along the remainders of lots 97 and 96 and Desha Avenue of the Keaukaha residence lots; and
12. One hundred and eighty degrees no minutes seven hundred and thirty-two and sixty-one one-hundredths feet along Government land and tract A of grant deed by the Territory of Hawaii to Hilo Railroad Company to the point of beginning and containing an area of ten and eight hundred and forty-nine one-thousandths acres.⁶¹

(3) Portion of Hawaiian home land of Keaukaha, tract 2, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, as returned to the Commissioner of Public Lands of the Territory of Hawaii by resolution numbered 85 of the Hawaiian Homes Commission, dated July 18, 1944, and more particularly described as follows:

Beginning at a spike at the northwest corner of this tract of land and on the southeast corner of the intersection of Nene and Akepa Streets, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Halai" being five thousand two hundred and eight and twenty-one one-hundredths feet north and twenty-four thousand eight hundred and eighteen and six one-hundredths feet east, and running by azimuths measured clockwise from true south:

1. Two hundred and ninety degrees eleven minutes five hundred and sixty-one and eighty-two one-hundredths feet along the south side of Nene Street;
2. Thence along same on a curve to the left with a radius of one thousand four hundred and sixty-five and four-tenths feet, the chord azimuth and distance being two hundred and sixty-eight degrees thirty-seven minutes one thousand and seventy-seven and thirty one-hundredths feet;
3. Two hundred and forty-seven degrees three minutes five hundred and ninety-six and sixty-two one-hundredths feet along same;
4. Three hundred and sixty degrees no minutes one thousand two hundred and thirty-seven and eighty-five one-hundredths feet;
5. Ninety degrees no minutes two thousand one hundred and fifty-three and sixty-nine one-hundredths feet;
6. One hundred and eighty degrees no minutes one thousand one hundred and seventy-three and four one-hundredths feet along the east side of the proposed extension of Akepa Street to the point of beginning, and containing an area of fifty acres, more or less.⁶²

(4) (III) Portion of the land of Kalawahine situated mauka or northeast of Roosevelt High School, Honolulu, Oahu.

Being portion of L.C. award 11215, Apana 2, to Keliiahonui conveyed by W.M. Giffard to the Territory of Hawaii by deed dated February 1, 1907, and recorded in liber 291, page 1.

(Being portion of the lands set aside for the Hawaiian Homes Commission by the Seventy-third Congress by Act Numbered 227, approved May 16, 1934.)

Beginning at the south corner of this parcel of land and near the east corner of Roosevelt High School lot, the coordinates of said point of beginning referred to Government survey triangulation station "Punchbowl", being twenty-five and two one-hundredths feet south and four thousand one hundred and seventeen and thirty-nine one-hundredths feet east as shown on Government survey registered map numbered 2985 and running by azimuths measured clockwise from true south:

1. One hundred and twenty-eight degrees fifty-four minutes seven hundred and six and thirteen one-hundredths feet along Roosevelt High School lot, and passing over a pipe at six hundred eighty-four and thirteen one-hundredths feet;

2. Thence up along the middle of stream in all its turns and windings along the land of Kewalo-uka to the south corner of Hawaiian Home Land (Presidential Executive Order Numbered 5561), the direct azimuth and distance being two hundred and thirteen degrees forty-eight minutes forty seconds one thousand one hundred twelve and twenty one-hundredths feet;
3. Thence continuing up along the middle of stream in all its turns and windings along the land of Kewalo-uka (Presidential Executive Order Numbered 5561) to the south side of Tantalus Drive realignment, the direct azimuth and distance being two hundred and twenty-eight degrees twenty-nine minutes ten seconds one thousand three hundred and ninety-one feet;
4. Thence on a curve to the right with a radius of one hundred twenty and seventy-eight one-hundredths feet along the southerly side of Tantalus Drive realignment (sixty feet wide), the direct azimuth and distance being three hundred and fifty-eight degrees twenty-one minutes one hundred ninety-three and eighty one-hundredths feet;
5. Fifty-one degrees forty-two minutes one hundred ninety-three and thirty-five one-hundredths feet along the southerly side of Tantalus Drive realignment;
6. Thence on a curve to the left with a radius of three hundred and thirty feet, along same, the direct azimuth and distance being twenty-five degrees twenty-three minutes ten seconds two hundred ninety-two and fifty-eight one-hundredths feet;
7. Twenty-two degrees fifty-three minutes two hundred ninety-one and ninety-three one-hundredths feet along the southerly side of Tantalus Drive realignment and along the west side of Kalawahine Slope lots;
8. Thence on a curve to the left with a radius of three hundred, five and sixty one-hundredths feet along the west side of the Kalawahine Slope lots, the direct azimuth and distance being six degrees twenty-one minutes thirty seconds one hundred seventy-three and eighty-five one-hundredths feet;
9. Three hundred and forty-nine degrees fifty minutes forty-seven feet along the west side of the Kalawahine Slope lots;
10. Thence on a curve to the right with a radius of five hundred and twenty feet along same and along Territorial land, the direct azimuth and distance being seventeen degrees thirty-one minutes four hundred eighty-three and eighteen one hundredths feet;
11. Three hundred and fifteen degrees twelve minutes seventy-five feet along Territorial land;
12. Forty-five degrees twelve minutes six hundred eleven and two one-hundredths feet along the northwest side of a twenty-foot road reserve;
13. Thirty-four degrees four minutes thirty seconds three hundred thirty-six and ninety-six one-hundredths feet along same to the point of beginning and containing an area of thirty-one and sixty one-hundredths acres.⁵⁷

SEC. 2. Notwithstanding the foregoing provisions of this Act, if, at any time, in the opinion of the []⁶³ board of land and natural resources⁴⁹, use of the above-described lands has been discontinued by the Department of Commerce, upon the making of such a determination by the []⁶⁴ board of land and natural resources⁴⁹ such lands shall become available lands within the meaning of section 203 of title II of the Hawaiian Homes Commission Act, 1920, as amended.⁶²

SEC. 3. Notwithstanding the provisions of the Hawaiian Homes Commission Act, as amended, limiting the leasing of lands to native Hawaiians, persons, whether or not native Hawaiians as defined by ~~such~~ said⁵⁷ Act, as amended, who []⁶⁵, on May 16, 1934, were residing on the lands of Auwaiolimu, Kewalo-Uka, and Kalawahine, on the island of Oahu, described by this Act shall be given first opportunity to lease, in the case of said Auwaiolimu and Kewalo-Uka lands, the lands on which they reside, and, in the case of said Kalawahine lands, other similar lands under the control of the Hawaiian Homes Commission.⁵⁷

SEC. 204. CONTROL BY DEPARTMENT OF “AVAILABLE LANDS,” RETURN TO BOARD OF LAND AND NATURAL RESOURCES, WHEN⁶⁶; OTHER LANDS, USE OF. (a)⁶⁷ Upon the passage of this Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the ~~commission~~⁴⁹ department⁴⁹ to be used and disposed of in accordance with the provisions of this ~~title~~⁶⁸ Act⁶⁸, except that:

(1) []⁶⁹ In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of the passage of this Act, such land shall not assume the status of Hawaiian home lands until the lease expires or the []⁷⁰ board of land and natural resources⁴⁹ withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause, as provided in []⁷¹ section 73(d)⁷² of the Hawaiian Organic Act, the []⁷³ board of land and natural resources⁴⁹ shall withdraw such lands from the operation of the lease whenever the ~~commission~~⁴⁹ department⁴⁹ []⁷⁴ gives notice to []⁷⁵ the board⁶⁸ that the ~~commission~~⁴⁹ department⁴⁹ is of the opinion that the lands are required by it for the purposes of this ~~title~~⁶⁸ Act⁶⁸ and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in []⁷⁶ section 73(d)⁷² of the Hawaiian Organic Act;⁷⁷

(2) []⁷⁸ Any available land, including land selected by the ~~commission~~⁴⁹ department⁴⁹ out of a larger area, as provided by this Act, []⁷⁹ not leased as authorized by []⁸⁰ section 207(a) of this Act⁶⁸, may be returned to the []⁸¹ board of land and natural resources⁴⁹ []⁸² as provided under section 212 of this Act,⁶⁸ or may be retained for management by the department.⁸³ Any Hawaiian home lands general lease issued by the department after June 30, 1985 shall contain a withdrawal clause allowing the department to withdraw the land leased at any time during the term of the lease for the purposes of this Act.⁷²

[]⁸⁴ In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of ~~such~~⁷² those⁷² lands⁸³ []⁸⁵ or any improvement thereon⁸⁶ to the public,⁶⁶ including native Hawaiians on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands as provided in chapter 171⁶⁶ []⁸⁷, Hawaii Revised Statutes;⁶⁸ provided, that the department may not sell such lands in fee simple except as authorized in section 205 of this Act,⁸³ provided further that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition []⁸⁸ of Hawaiian home lands or any improvement thereon⁸⁶ to a native Hawaiian, or organization or associations owned or controlled by native Hawaiians, for commercial, industrial or other business purposes, in accordance with the ~~procedure~~ procedures⁸⁹ set forth in []⁹⁰ chapter 171⁸⁶, Hawaii Revised Statutes.⁶⁸ []⁹¹

[]⁹²(4)⁶⁸ (3)⁶⁸ The ~~commission~~⁴⁹ department⁴⁹ may⁷², with the approval of []⁹³ the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, may⁷² exchange the title to available lands []⁹⁴ for land, privately or⁶⁸ publicly owned,⁹⁵ of an equal value. All lands⁷² so acquired by the ~~commission~~⁴⁹ department⁴⁹ shall assume the status of available lands as though []⁹⁶ ~~such~~⁷² the⁷² land⁶⁸ were originally designated as ~~such~~⁶⁸ available lands⁶⁸ under section 203[]⁹⁷ of this Act,⁷² and all land so conveyed by the ~~commission~~⁴⁹ department⁴⁹ shall assume the status of the land for which it was exchanged. The limitations imposed by section 73 (1) of the Hawaiian Organic Act and the land laws

of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto.⁹⁸ No such exchange of land publicly owned by the State⁶⁸ shall be made without the approval of two-thirds of the members of the board of land and natural resources.⁴⁹ For the purposes of this paragraph, lands “publicly owned” means land owned by a county or the State or the United States.⁶⁸

(b) Unless expressly provided elsewhere in this Act, lands or an interest therein acquired by the department pursuant to section 213(b)(1), 221(c), or 225(b), or any other section of this Act authorizing the department to acquire lands or an interest therein, may be managed and disposed of in the same manner and for the same purposes as Hawaiian home lands.⁶⁷

[SEC. 204.5]¹⁰¹

SEC. 205. **SALE OF LEASE, LIMITATIONS ON.**³ Available lands shall be sold or leased only:

- (1) In the manner and for the purposes set out in this title; or
- (2) As may be necessary to complete any valid agreement of sale or lease in effect at the time of the passage of this Act; except that such limitations shall not apply to the unselected portions of lands from which the ~~commission~~⁴⁹ department⁴⁹ has made a selection and given notice thereof, or failed so to select and give notice within the time limit, as provided in paragraph (3) of section 204 of this title.

SEC. 206. **OTHER OFFICERS NOT TO CONTROL HAWAIIAN HOME LANDS; EXCEPTIONS.**³ The powers and duties of the governor and the board of land and natural resources⁴⁹, in respect to lands of the ~~Territory~~⁴⁹ State⁴⁹, shall not extend to lands having the status of Hawaiian home lands, except as specifically provided in this title.

SEC. 207. **LEASES TO HAWAIIANS, LICENSES.**¹⁰⁴ —¹⁰⁵ (a) The ~~commission~~⁴⁹ department⁴⁹ is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts⁶¹ of Hawaiian home lands within the following acreage limits per each lessee⁵¹:

- (1) Not¹⁰⁷ more than forty⁵¹ acres of agriculture lands or lands used for aquaculture purposes¹⁰⁸; or
- (2) Not¹⁰⁷ more than ~~five~~¹⁰⁷ one¹⁰⁷ hundred acres of irrigated pastoral lands and not more than one thousand acres of other¹⁰⁷ pastoral lands; or

(3)¹⁰⁷ not more than one acre of any class of land to be used as a residence lot: Provided that in the case of any existing lease of a farm lot in the Kalanianaʻole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the department; Provided further, that a lease granted to any lessee may include two detached farm lots or aquaculture lots, as the case may be,¹⁰⁸ located on the same island and within a reasonable distance of each other, one of which, to be designated by the ~~commission~~⁴⁹ department⁴⁹, shall be occupied by the lessee as his¹⁰⁸ the lessee's¹⁰⁸ home, the gross acreage of both lots not to exceed the maximum acreage of an agricultural, or¹⁰⁸ pastoral lot, or aquaculture¹³³ aquacultural¹³³ lot,¹⁰⁸ as the case may be, as provided in this section¹¹⁵ .¹¹⁶ .¹¹⁷

(b) The title to lands so leased shall remain in the []¹¹⁸ State¹³³. Applications for tracts shall be made to and granted by the ~~commission~~⁴⁹ department⁴⁹, under such regulations, not in conflict with any provision of this title, as the ~~commission~~⁴⁹ department⁴⁹ may prescribe. The ~~commission~~⁴⁹ department⁴⁹ shall, whenever tracts are available, enter into such a lease with any applicant who, in the opinion of the ~~commission~~⁴⁹ department⁴⁹, is qualified to perform the conditions of such lease.

(c)(1) The ~~commission~~⁴⁹ department⁴⁹ is authorized to grant licenses []¹¹⁹ []¹²⁰ as easements for railroads, telephone lines, electric power and light lines, gas mains, and the like. The ~~commission~~⁴⁹ department⁴⁹ is also authorized to grant licenses for lots within a district in which lands are leased under the provisions of this section, ~~to~~¹²¹ for¹²¹; ¹⁰⁵ []¹²²

(A) Churches¹²³, hospitals, ~~and~~¹²⁴ public schools, post offices, and other improvements for public purposes;¹⁰⁵ ¹²⁴ and¹²⁵

(B) Theaters¹²⁶, garages, service stations, markets, stores, and other mercantile establishments (all of which shall be owned by []¹²⁷ native Hawaiians¹²¹ or by organizations formed and controlled by []¹²⁸ native Hawaiians¹²¹).¹⁰⁵

(2) The ~~commission~~⁴⁹ department⁴⁹ is also authorized []¹²⁹ to grant licenses to the United States []¹³⁰ for reservations, roads, and other rights-of-way, water storage and distribution facilities, and practice target ranges []¹³¹.

(3) Any license issued under this subsection shall be subject to such terms, conditions, and restrictions as the department shall determine and shall not restrict the areas required by the department in carrying on its duties, nor interfere in any way with the department's operation or maintenance activities.¹³²

SEC. 207.5. HOUSING DEVELOPMENT. The department is authorized to develop and construct single-family and multifamily units for housing native Hawaiians. The method of disposition, including rentals, as well as the terms, conditions, covenants, and restrictions as to the used and occupancy of such single-family and multifamily units shall be prescribed by rules adopted by the department pursuant to chapter 91.¹³³

SEC. 208. CONDITIONS [] OF¹³⁴ LEASES.¹³⁵ Each lease made under the authority granted the ~~commission~~⁴⁹ department⁴⁹ by []¹³⁶ section 207 of this title²¹⁴ Act²¹⁴, and the tract in respect to which the lease is made, shall be deemed subject to the following conditions, whether or not stipulated in the lease:

(1) The original⁵¹ lessee shall be a native Hawaiian, not less than []¹³⁷ eighteen⁷² years of age. In case two lessees either original or in succession marry, they shall choose the lease to be retained, and the remaining lease shall be transferred, ~~quit-claimed~~ quitclaimed,²¹⁴ or canceled in accordance with the provisions of succeeding sections.⁵¹

(2) The lessee shall pay a rental of \$1 a year for the tract and the lease shall be for a term of ninety-nine years; except that the department may extend the term of any lease; provided that the approval of any extension shall be subject to the condition that the aggregate of the initial ninety-nine year term and any extension granted shall not be for more than one hundred ninety-nine years.¹³⁸

(3) The lessee shall⁷² may be required to⁷² occupy and commence to use or cultivate the tract as []¹³⁹ the lessee's¹⁴⁰ home or farm or occupy and commence to use the tract for aquaculture purposes, as the case may be,¹⁰⁸ within one year after the []¹⁴¹ commencement of the term of the lease¹³⁸ []¹⁴².

(4) The lessee shall¹⁴⁰ thereafter, for at least such part of each year as the commission⁴⁹ department⁴⁹ shall ¹⁴³ prescribe by rules⁷² so¹⁴⁰ shall¹⁴⁰ occupy and use or cultivate the tract on ¹⁴⁴ the lessee's¹⁴⁵ own behalf.

(5) ¹⁴⁶ The lessee shall not in any manner transfer to, ¹⁴⁷ or otherwise hold for the benefit of, any other person or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the department, or agree so to transfer, ¹⁴⁸ or otherwise hold, ¹⁴⁹ the lessee's interest in the tract¹³⁵; except that the lessee, with the approval of the department, also may transfer the lessee's interest in the tract to the following qualified relatives of the lessee who are at least one-quarter Hawaiian: husband, wife, child, or grandchild.¹⁴⁰ ¹⁵⁰ Such interest shall not, except in pursuance of such a transfer, ¹⁵¹ to or holding for or agreement with a native Hawaiian or Hawaiians or qualified relative who is at least one-quarter Hawaiian¹⁴⁰ approved of by the commission⁴⁹ department⁴⁹, or for any indebtedness due the commission⁴⁹ department⁴⁹ or for taxes, or for any other indebtedness the payment of which has been assured by the commission⁴⁹ department⁴⁹⁵¹ including loans from governmental²¹⁴ other²¹⁴ agencies where such loans have been approved by the department,¹⁵² be subject to attachment, levy, or sale upon court process. ¹⁵³¹⁵⁴ The lessee shall not sublet ¹⁵⁵ the lessee's¹⁵⁶ interest in the tract or improvements thereon¹³⁵; provided that a lessee may be permitted, with the approval of the department, to rent a native Hawaiian or Hawaiians lodging either within the lessee's existing home or in a separate residential dwelling unit constructed on the premises.¹³³

(6) Notwithstanding the provisions of paragraph (5), the lessee, with the consent and approval of the commission, may mortgage or pledge the lessee's interest in the tract or improvements thereon to a recognized lending institution authorized to do business as a lending institution in either the State or elsewhere in the United States; provided the loan secured by a mortgage on the lessee's leasehold interest is insured or guaranteed by the Federal Housing Administration, ¹⁵⁷ Department of Veterans Affairs¹³³, or any other federal agency and their respective successors and assigns, which are authorized to insure or guarantee such loans, or any acceptable private mortgage insurance as approved by the commission.¹³³ The mortgagee's interest in any such mortgage shall be freely assignable. Such mortgages, to be effective, must be consented to and approved by the commission and recorded with the department.¹⁵⁸

Further, notwithstanding the authorized purposes of loan limitations imposed under section 214 of this Act and the authorized loan amounts limitations imposed under section 215 of this Act, loans made by lending institutions as provided in this paragraph, insured or guaranteed by the Federal Housing Administration, ¹⁵⁹ Department of Veterans Affairs¹³³, or any other federal agency and their respective successors and assigns, or any acceptable private mortgage insurance¹⁶⁰ may be for such purposes and in such amounts, not to exceed the maximum insurable limits, together with such assistance payments and other fees, as established under section 421 of the Housing and Urban Rural Recovery Act of 1983 which amended Title II of the National Housing Act of 1934 by adding section 247, and its implementing regulations, to permit the Secretary of Housing and Urban Development to insure loans secured by a mortgage executed by the homestead lessee covering a homestead lease issued under section 207(a) of this Act and upon which there is located a one to four family single family residence.¹⁵⁸

~~(6)~~¹⁵⁸ (7)¹⁵⁸ The lessee shall pay all taxes assessed upon the tract and improvements thereon ¹⁶¹. The commission⁴⁹ department⁴⁹ may ¹⁶² pay such taxes and have a lien therefore as provided by section 216 of this Act.⁵¹

~~(7)~~ (8)¹⁵⁸ The lessee shall perform such other conditions, not in conflict with any provision of this title²¹⁴ Act²¹⁴, as the commission⁴⁹ department⁴⁹ may stipulate in the lease; provided ¹⁶³ that the an original⁵¹ lessee shall be exempt from all taxes for the first five seven¹⁶⁴ years ¹⁶⁵ after commencement of the term of the lease.¹³⁸

□¹⁶⁶

SEC. 209. SUCCESSORS TO LEASES ¹⁶⁷ □¹⁶⁸ (1) (a) ¹⁶⁹ Upon the death of the lessee ~~his~~¹⁷⁰ the lessee's¹⁷⁰ interest in the tract or tracts⁵⁴ and the improvements thereon, including growing crops and ~~agricultural~~ aquacultural stock¹⁰⁸ (either on the tract or in any collective contract or program to which the lessee is a party by virtue of ~~his~~¹⁷⁰ the lessee's¹⁷⁰ interest in the tract or tracts⁵⁴) shall vest □¹⁷¹ in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee,¹⁷² who are (1) at least one-quarter Hawaiian¹⁶⁹, husband, ~~and~~¹⁶⁹ wife, □¹⁷³ children, or □¹⁷⁴ grandchildren,¹⁷⁵ □¹⁷⁶ or (2) native Hawaiian¹⁶⁹, father and mother,¹⁷⁷ widows or widowers of the children, grandchildren, brother or sisters □¹⁷⁸ widows or widowers of the brothers and sisters, or nieces and nephews, -- the lessee shall designate the person or persons to whom ~~he~~¹⁷⁰ the lessee¹⁷⁰ directs ~~his~~¹⁷⁰ the lessee's¹⁷⁰ interest in the tract or tracts to vest upon ~~his~~¹⁷⁰ the lessee's¹⁷⁰ death. □¹⁷⁹ The¹⁶⁹ Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased land under □¹⁸⁰ section 3 □¹⁸¹ of the Act of May 16, 1934 (48 Stat. 777, 779), as amended⁵⁷ or under⁵⁰ □¹⁸² section 3 of the Act of July 9, 1952 (66 Stat. 511, 513)¹⁸³. □¹⁸⁴ In all cases ~~such~~¹⁷⁷ that¹⁷⁷ person or persons need not be ~~twenty-one~~¹⁷⁰ eighteen¹⁷⁰ years of age. ~~Such~~¹⁷⁷ The¹⁷⁷ designation ~~must~~¹⁰⁸ shall¹⁰⁸ be in writing, □¹⁸⁵ may¹⁶⁹ be specified at the time of execution of ~~such~~¹⁷⁷ the¹⁷⁷ lease with a right in ~~such~~¹⁷⁷ the¹⁷⁷ lessee in similar manner to change ~~such~~¹⁷⁷ the¹⁷⁷ beneficiary at any time, and shall be filed with the ~~commission~~⁴⁹ department⁴⁹ and approved by the ~~commission~~⁴⁹ department⁴⁹, in order to be effective to vest ~~such~~¹⁷⁷ the¹⁷⁷ interests in the successor or successors so named.⁵⁴

□¹⁸⁶ 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 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; or¹⁷⁷
- (2) If there is no husband or wife, then the children; or¹⁷⁷
- (3) If there is no husband, wife, or child, then the grandchildren; or¹⁷⁵
- (4) If there is no husband, wife, ~~or~~¹⁷⁵ child, or grandchild¹⁷⁵ then □¹⁸⁷ from the following relative of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, grandchildren, brothers and sisters, □¹⁸⁸ widows or widowers of the brothers and sisters, or nieces and nephews.¹⁷⁷

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~~¹⁷⁷ the¹⁷⁷ lessee.¹⁶⁹

□¹⁸⁹ In the case of the death of a lessee leaving no □¹⁹⁰ designated successor or successors, husband, wife, ~~or~~¹⁷⁷ children¹⁶⁹, or relative¹⁷⁷ qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the ~~commission~~⁴⁹ department⁴⁹ is authorized to lease ~~such~~¹⁷⁷ the¹⁷⁷ land to a native Hawaiian □¹⁹¹ as provided in this Act.⁵⁴

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 ¹⁹² ¹⁹³ relative ¹⁹⁴ qualified to be a lessee of Hawaiian home lands, or the cancelation of a lease by the ~~commission~~⁴⁹ department⁴⁹, or the surrender of a lease by the lessee, the ~~commission~~⁴⁹ department⁴⁹ shall appraise the value of all ~~such~~¹⁷⁷ the¹⁷⁷ improvements and growing crops or improvements and aquaculture stock, as the case may be,¹⁰⁸ 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 the¹⁰⁸ legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the ~~commission~~⁴⁹ department⁴⁹, or for the¹⁰⁸ taxes, or for any other indebtedness the payment of which has been assured by the ~~commission~~⁴⁹ department⁴⁹, ~~from~~¹⁷⁰ owed by ¹⁷⁰ the deceased lessee or the previous lessee. ~~Such~~¹⁷⁷ These¹⁷⁷ payment shall be made out of the Hawaiian home¹⁷⁰ loan fund and shall be considered an advance there from ¹⁹⁵ and shall be repaid¹⁷⁰ by the successor or successors to the tract involved.⁵⁴ If available cash in the Hawaiian home loan fund is insufficient to make ~~such~~¹⁷⁷ these¹⁷⁷ 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.¹⁷⁰ The successor or successors may be required by the commission to obtain private financing in accordance with section 208(6) to pay off the amount advanced from the Hawaiian home loan fund or Hawaiian home general loan fund.¹⁹⁶

¹⁹⁷

(b) The appraisal of improvements and growing crop, or stock, if any, shall be made by any one of the following methods:¹⁹⁸

- (1) By a disinterested appraiser hired by the department; provided that the previous lessee or deceased lessee's legal representative shall not be charged for the cost of the appraisal; or¹⁹⁸
- (2) By one disinterested appraiser mutually agreeable to both the department and the previous lessee or the deceased lessee's legal representative, with the cost of appraisal borne equally by the two parties; or¹⁹⁸
- (3) By not more than three disinterested appraisers of which the first shall be contracted for and paid by the department. If the previous lessee or the deceased lessee's legal representative does not agree with the appraised value, the previous lessee or the deceased lessee's legal representative shall contract with and pay for the services of a second appraiser whose appraisal report shall be submitted to the department not later than ninety days from the date of the first appraisal report; provided that the first appraisal shall be used if the second appraiser is not hired within thirty days from the date the department transmits the first appraisal report to the previous lessee or the deceased lessee's representative. If the appraisal values are different and a compromise value between the two appraisals is not reached, a third appraisal shall be made by an appraiser appointed by the first two appraisers not later than ninety days from the date of the second appraisal report and the third appraiser shall determine the final value. The cost of the third appraisal shall be borne equally by the department and the previous lessee or the deceased lessee's legal representative.¹⁹⁸

The department may adopt rules not in conflict with this section to establish appraisal procedures, including the time period by which the department and the previous lessee or the deceased lessee's legal representative shall act on appraisal matters.¹⁹⁸

(c) If a previous lessee has abandoned the tract or tracts cannot be located after at least two attempts to contact the previous lessee by certified mail, the department by public notice published at least once in each of four successive weeks in a newspaper of general circulation in the State shall give notice to the

pervious lessee that the lease will be canceled in accordance with section 210 and 216 of this title and the department will appraise the value of the improvements and growing crops and stock, if any, if the pervious lessee does not present himself or herself within one hundred and twenty days from the first day of publication of the notice. Following cancellation of the lease and appraisal of the improvements and growing crops and stock, if any, the department shall make the payout as provided in subsection (a).¹⁹⁸

~~[]¹⁹⁹ (b)¹⁶⁹ (d)¹⁹⁸~~ After the cancelation of a lease by the ~~commission⁴⁹ department⁴⁹~~ in accordance with ~~[]²⁰⁰~~ sections 210 and 216 of this title, or the surrender of a lease by a lessee, the ~~commission⁴⁹ department⁴⁹~~ ~~[]²⁰¹ may¹⁹⁸~~ transfer the lease or ~~to¹⁹⁸~~ issue a new lease to any qualified ~~native¹⁹⁸~~ Hawaiian regardless of whether or not ~~[]²⁰² that person¹⁹⁸~~ is related in any way by blood or marriage to the previous lessee.⁵¹

~~[]²⁰³ (e)¹⁶⁹ (e)¹⁹⁸ Should¹⁹⁸ If¹⁹⁸~~ any successor or successors to a tract ~~be¹⁹⁸ is¹⁹⁸~~ a minor or minors, the ~~commission⁴⁹ department⁴⁹~~ may appoint a guardian therefore, subject to the approval of the court of proper jurisdiction. ~~Such¹⁷⁰ The¹⁷⁰~~ guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold; provided, that ~~said¹⁷⁰ the¹⁷⁰~~ guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold; provided, that ~~said¹⁷⁰ the¹⁷⁰~~ guardian ~~shall¹⁷⁰~~, in so representing ~~such¹⁹⁸ the¹⁹⁸~~ successor or successors, shall¹⁷⁰ comply with ~~[]²⁰⁴~~ this title and the stipulations and provisions contained in the lease, except that ~~said¹⁷⁰ the¹⁷⁰~~ guardian ~~may¹⁶⁹~~ need¹⁶⁹ not be a native Hawaiian as defined in section 201 of this title.⁵¹

SEC. 210. **CANCELLATION OF LEASES.**³ Whenever the ~~commission⁴⁹ department⁴⁹~~ has reason to believe that any condition enumerated in section 208, or any provision of section 209, of this title has been violated, the ~~commission⁴⁹ department⁴⁹~~ shall give due notice and afford opportunity for a hearing to the lessee of the tract in respect to which the alleged violation relates or to the successor **of the lessee's interest therein, as the case demands.** If upon such³ hearing the ~~commission⁴⁹ department⁴⁹~~ finds that the lessee or ~~his³ the lessee's³~~ successor has violated any condition in respect to the leasing of such tract, the ~~commission⁴⁹ department⁴⁹~~ may declare ~~his³ the lessee's³~~ interest in the tract and all improvements thereon to be forfeited and the lease in respect thereto canceled, and shall thereupon order the tract to be vacated within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such tract shall thereupon revert in the ~~commission⁴⁹ department⁴⁹~~ and the ~~commission⁴⁹ department⁴⁹~~ may take possession of the tract and the improvements thereon.

[REPEALED]²⁰⁵

SEC. 211. **COMMUNITY PASTURES.**³ The ~~commission⁴⁹ department⁴⁹~~ shall, when practicable, provide from the Hawaiian home lands a community pasture adjacent to each district in which agricultural lands are leased, as authorized by the provisions of section 207 of this title.

SEC. 212. **LAND RETURNED TO CONTROL OF BOARD OF LAND AND NATURAL RESOURCES.**^{68 206} The ~~commission⁴⁹ department⁴⁹~~ may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this ~~title⁶⁸ Act⁶⁸~~ to the control of the ~~[]²⁰⁷ board of land and natural resources⁴⁹~~. Any Hawaiian home lands so returned shall, until the ~~commission⁴⁹ department⁴⁹~~ gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the ~~[]²⁰⁸ Hawaii Revised Statutes; except provided⁶⁸~~ that such lands may ~~not⁶⁸ be sold, leased, set aside, used, transferred, or otherwise⁶⁸~~ disposed of ~~except⁶⁸~~ under a general lease only. ~~Any lease by the board of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board, for the purpose of this Act,~~

upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided, that the minimum withdrawal notice period shall be specifically stated in such lease.⁶⁸ Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the ~~commission~~⁴⁹ department⁴⁹ of public lands to terminate the lease and return the lands to the ~~commission~~⁴⁹ department⁴⁹ whenever the ~~commission~~⁴⁹ department⁴⁹ ~~gives~~²⁰⁹ notice to him that the ~~commission~~⁴⁹ department⁴⁹ is of the opinion that the lands are required ~~to~~²¹⁰.

Notwithstanding the provisions of section 171-95, Hawaii Revised Statutes, in the leasing of Hawaiian home lands by the board to a public utility or other governmental agency, where such use directly benefits the department of Hawaiian home lands or the homestead lessees, the rental may be nominal; in all other instances, the lease rental shall be no less than the value determined in accordance with section 171-17(b), Hawaii Revised Statutes.⁶⁸

Any general lease of Hawaiian home lands hereafter entered into by the board shall be ~~null and~~ void unless prior to the disposition of ~~said~~ such lease by public auction, direct negotiation, or otherwise, approval shall be obtained from the department of Hawaiian home lands.⁶⁸

SEC. 213. ~~There are established in the treasury of the State seven~~²¹¹ FUNDS AND ACCOUNTS.²¹²—(a) There are established in the treasury of the State ~~seven~~³¹ two³¹ revolving funds, to be known respectively as the Hawaiian home loan fund ~~and~~²¹³ and³¹ the Hawaiian home general loan fund²¹⁴ ~~and~~²¹⁵.

~~The moneys in this fund shall be available for the purposes enumerated in section 214 in~~²¹⁶ (b)²¹⁷ Hawaiian home loan fund. ~~of this Act~~²¹⁸ The moneys in this fund shall be available for the purposes enumerated in section 214 ~~in~~¹⁰⁸ ~~of~~¹⁰⁸ ~~this Act~~²¹⁴²¹⁷ and for payments provided in section 209 and shall not be expended for any other purpose except as provided in subsection³¹ ~~and~~²¹⁹ (e).²¹⁷

~~and~~²²⁰

Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home operating fund.²²¹

~~and~~²²²

~~Money appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund,~~²²³ (c)²¹⁷ Hawaiian home general loan fund. Money appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, ~~and~~²²⁴ for construction of replacement homes for home repairs or additions, or for the development and operation of a farm, ranch, or aquaculture operation;³¹ moneys transferred from ~~and~~²²⁵ other funds;³¹ 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 ~~to~~²²⁶ into²²⁶ this fund. The moneys in the fund shall be used for purposes enumerated in section 214²¹⁴ ~~and~~²²⁷ and for payments provided in section 209¹⁷⁰; ~~and~~²²⁸ provided ~~further~~²¹⁷ that, in addition to the conditions enumerated in section 215, farm loans shall be subject to the following conditions:

- (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;~~²¹⁷
- (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;~~²¹⁷

- (3)²¹⁷ 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
- (4)²¹⁷ The lessee shall carry out recommended farm management practices approved by a qualified agricultural agency.³¹

□²²⁹ 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) □²³⁰ or license issued under section 207(c)(1)(B)³¹ □²³¹.

□²³² 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 □²³³. 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 additional interest or other earnings arising out of investments from this account shall be credited to and deposited into the Hawaiian home receipts fund.³¹

□²³⁴

~~(B)~~²¹⁷ (d)²¹⁷ There are established in the treasury of the State □²³⁵ four trust²³⁶ funds, to be known respectively as the Hawaiian home development³¹ operating³¹ fund, □²³⁷ □²³⁸ the Hawaiian loan²²¹ home²²¹ interest³¹ receipts³¹ fund, □²³⁹ the Hawaiian home trust fund, □²⁴⁰ and the native Hawaiian rehabilitation fund⁶⁸ and one special fund to be known as the Hawaiian homes administration account.²³⁶ Expenditures and procurements less than \$100,000 made from these trust funds and accounts shall be exempt from chapter 103D, Hawaii Revised Statutes; provided that the department shall develop internal policies and procedures for the procurement of goods, services, and construction that are consistent with the goals of public accountability and public procurement practices for expenditures from these funds. The department is encouraged to use the provisions of chapter 103D, Hawaii Revised Statutes, where possible; provided that the use of one or more provisions of chapter 103D, Hawaii Revised Statutes, shall not constitute a waiver of the exemption from that chapter and shall not subject the department to any other provision of chapter 103D, Hawaii Revised Statutes.

The department shall submit an annual report to the legislature no later than twenty days before the convening of each regular session. The report shall include, but not be limited to, solicitations of goods, services, and construction, types of procurements, and awardees.²⁴¹

~~(+)~~²¹⁷ (e)²¹⁷ Hawaiian home development³¹ operating³¹ 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:³¹

~~(A)~~²¹⁷ (1)²¹⁷ 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 interest therein, such as water rights or other interests,³¹

~~(B)~~²¹⁷ (2)²¹⁷ 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;³¹

~~(C)~~²¹⁷ (3)²¹⁷ For operation and maintenance of such improvements constructed from such funds or other funds;³¹

- ~~(D)~~²¹⁷ (4)²¹⁷ 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; and³¹
- ~~(E)~~²¹⁷ (5)²¹⁷ For appraisals, studies, consultants (including architects and²¹⁷ engineers), or any other staff services including those in section 202(b) required to plan, implement, develop, or operate these projects.³¹

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 exceeding ten years; provided that the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000.³¹ ²⁴²

In addition, moneys of³¹ this fund shall be made³¹ available with the prior written approval of the governor for offsite improvements and the 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 acquire under section 209 ²⁴³; 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 or³¹ the administration account ²⁴⁴.

~~(F)~~²¹⁷ (f)²¹⁷ Hawaiian home administration account. The entire receipts derived from any leasing or other disposition²¹⁷ of the available lands ²⁴⁵ pursuant to section 204(2)²¹⁷ and transfers from the Hawaiian home interest³¹ receipts³¹ fund²¹⁴ shall be deposited into this account. Any interest or other earnings arising out of investments from this fund and any amounts recovered from any party involved with the construction or development of the homes in Panaewa residential lots, units 3 and 4²⁴⁶ shall be credited to and deposited into this fund.²²¹ The moneys in this account shall be expended by the department for salaries and all²¹⁷ 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:²¹⁴

~~(A)~~²⁴⁷ (1)²¹⁷ The department shall²¹⁷, when required by the governor but not later than November 15 preceding each regular session of the legislature, shall²¹⁷ submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law;²¹⁴

~~(B)~~²⁴⁷ (2)²¹⁷ 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;²¹⁴

~~(C)~~²⁴⁷ (3)²¹⁷ 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 development³¹ operating³¹ fund.²¹⁴
²⁴⁷

Notwithstanding any provisions to the contrary, for the period of July 1, 1994, to July 1, 1995, moneys in the account may be used for homes in Panaewa residential lots, units 3 and 4:²⁴⁶

(1) To repair, remove, replace, or restore the homes; or²⁴⁶

(2) In direct settlement with the homeowners.²⁴⁶

~~(3)~~³¹ (g)²¹⁷ Hawaiian loan²²¹ home²²¹ receipts fund. All interest moneys from loans or investments received by the department from any fund except ²⁴⁸ as provided for in each respective fund,²²¹ shall be deposited ~~in~~²²⁶ into²²⁶ this fund. At the end of each quarter, all moneys in this fund shall³¹ may³¹ be transferred to ²⁴⁹ the Hawaiian home operating fund, the Hawaiian home administration account²²⁶, the Hawaiian home trust fund,¹⁵⁸ and any loan fund in accordance with rules adopted by the department.²¹⁴
²⁵⁰

~~(4)~~³¹ (h)²¹⁷ Hawaiian home trust fund. ~~All~~²¹⁷ Except for gifts, bequests, and other moneys given for designated purposes,²¹⁷ 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.²¹⁴ 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 ²⁵¹ Affairs²¹⁷, 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 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 programs¹⁵⁸ ²⁵².

~~(5)~~³¹ (i)²¹⁷ Native Hawaiian rehabilitation fund. ~~(A)~~²¹⁷ Pursuant to Article XII, Section 1, of the State ²⁵³ 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, ²⁵⁴ shall be deposited into this fund. The department shall use this money solely²⁵⁵ for the rehabilitation of native Hawaiians, native Hawaiian families, and Hawaiian homestead communities,²⁵⁵ which shall include ²⁵⁶ the educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.⁶⁸ ~~(B)~~²¹⁷

The native Hawaiian rehabilitation fund shall be subject to the following conditions:²³⁶

- (1) All moneys received by the fund shall be deposited in the state treasury and kept separate and apart from all other moneys in the state treasury;²³⁶
- (2) The director of finance shall serve as a custodian of the fund. All payments from the fund shall be made by the director of finance only upon vouchers approved by the commission;²³⁶
- (3) The commission shall develop guidelines for the investments in which any of the moneys shall have been invested, as well as the proceeds of such investments;²³⁶
- (4) The commission may invest and reinvest in investments authorized in chapter 88, Hawaii Revised Statutes²⁵⁵. The commission may hold, purchase, sell, assign, transfer, or dispose of any securities and investments in which any of the moneys shall have been invested, as well as the proceeds of such investments; and²³⁶

- (5) The commission may pay out of any of the moneys held for investment, a reasonable amount to any person for supplying investment advisory prudent investment of moneys as the commission may approve.²³⁶

Any payment of principal, interest, or other earnings arising out of the loan or investment money from this fund shall be credited to and deposited into this fund.²⁵⁷ . (E)²¹⁷

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 91²¹⁷, Hawaii Revised Statutes,²⁵⁵ necessary to administer and carry out the purposes of this fund.²⁵⁷

[]²⁵⁸

[SEC. 213.5]²⁵⁹

SEC. 213.6.²⁶⁰ HAWAIIAN HOME LANDS TRUST FUND. There is established []²⁶¹ a trust fund to be known as the Hawaiian home lands trust fund, into which shall be deposited all appropriations by the state legislature specified to be deposited therein. Moneys of the Hawaiian home lands trust fund shall be expended by the department as provided by law upon approval by the commission and shall be used for capital improvements and other purposes undertaken in furtherance of the Act. The department shall have a²⁶⁰ fiduciary responsibility toward the trust fund and shall provide annual reports therefore to the legislature and to the beneficiaries of the trust.²⁶²

The commission may deposit moneys from the trust fund into depositories other than the state treasury and may manage, invest, and reinvest moneys in the trust fund. The commission may hold, purchase, sell, assign, transfer, or dispose of any securities and investments in which any of the moneys have been invested as well as the proceeds of the investments. Moneys from the trust fund that are deposited into depositories other than the state treasury shall be exempt from the requirements of chapter 36 and 38.²⁶⁰ Any interest or other earnings arising out of investments from the trust fund shall be credited to and deposited into the trust fund.²⁶²

SEC. 214. []²⁶³ PURPOSES OF LOANS; AUTHORIZED ACTIONS.²⁶⁴—(a)²¹⁴ The ~~commission~~⁴⁹ department⁴⁹ []²⁶⁵ may make loans from the²⁶⁶ revolving²⁶⁶ funds²⁶⁶ to []²⁶⁷ any lessee or native Hawaiian³¹ to whom,²¹⁴ or any agricultural²¹⁴ cooperative association []²⁶⁸ to which, a lease has been issued under section 207(a) of this Act³¹ or a³¹ license has been issued under section 207(c)(1)(B)³¹ of this Act.²¹⁴ Such loans may be made for the following purposes:

(1) The repair or maintenance or purchase or²⁶⁹ erection of dwellings on any tract and the undertaking of other permanent improvements thereon;

(2) The purchase of livestock, swine, poultry, fowl,³⁰¹ aquaculture stock,¹⁰⁸ and farm and aquaculture¹⁰⁸ equipment; ~~and~~²⁶⁹

(3) Otherwise assisting in the development of tracts and of farm, ~~and~~¹⁰⁸ ranch²⁶⁹, and aquaculture¹⁰⁸ operation []²⁷⁰, including:³¹

(A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;³¹

- (B) The liquidation of indebtedness incurred for any of the forgoing purposes relating to farm loans aged less than five years;³¹
- (C) The payment of normal and reasonable living expenses of a full-time farmer;³¹
- (D) The planning, layout, and installation of soil and water conservation practices; and³¹
- (E) Providing relief and rehabilitation to homestead farmers and ranchers due to damage by rain and wind storms, droughts, tidal wave, earthquake, volcanic eruption, and other natural catastrophes, and for livestock disease, epidemics, crop blights, and serious effects of prolonged shipping and dock strikes;³¹

(4) The cost of breaking up, planting, and cultivating land and harvesting crops, the cost of excavating or constructing aquaculture ponds and tanks,¹⁰⁸ the purchase of seeds, fertilizers, feeds, insecticides, medicines, and chemicals for disease and pest control for animals, fish, shellfish,¹⁰⁸ and crops, and the¹⁰⁸ related supplies required for ~~and~~¹⁰⁸ ranch, and aquaculture¹⁰⁸ operation, the erection of fences and other permanent improvements for farm, ~~or~~¹⁰⁸ ranch and aquaculture¹⁰⁸ purposes and the expenses of marketing²⁶⁹; and²⁶⁶

(5) To assist lessees³¹ licensees³¹ in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by ²⁷¹ native Hawaiians³¹ or by organizations formed and controlled by ²⁷² native Hawaiians.³¹

(b) In addition the department may:²¹⁴

- (1) Use moneys in the ²⁷³ Hawaiian home operating fund³¹, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, enter into ²⁷⁴ undertaking, agree to ²⁷⁵ conditions, transfer funds therein available for ²⁷⁶ expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for the department's²⁷⁷ projects or works;²¹⁴
- (2) Loan or guarantee repayment of or otherwise underwrite any authorized loan or portion thereof ²⁷⁸ to lessees in accordance with section 215;²¹⁴
- (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;²¹⁴
- (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of these²⁷⁹ loans; provided that upon receipt of notice of default in the payment of the²⁸⁰ assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provide further that the department shall reserve the following rights:
 - (A) ²⁸¹ The right of succession to the lessee's interest and assumption of the contract of loan;
 - (B) ²⁸² The right to require that written notice be given to the department immediately upon default or delinquency of the lessee²⁸³; and
 - (C) ²⁸⁴ Any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;²¹⁴

- (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and ²⁸⁵ paragraphs (2), (3), and (4) ²⁸⁶ of this ~~section~~ ²⁸⁷ subsection ²⁸⁷, shall at no time exceed ²⁸⁸ ²⁸⁹ ²⁹⁰ \$100,000,000 ²⁹¹ ²⁹²; the department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made;³¹
- (6) Use available loan fund moneys or other funds specifically available for ~~guarantee~~²⁹³-purposes as cash guarantees when required by lending agencies;²¹⁴
- (7) Exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by government agencies or by private lending institutions to lessees the repayment of which is assured by the department. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment, or otherwise underwriting of any loan, protecting of security interest, and after foreclosure, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage.²¹⁴
- (8) Pledge receivables of loan accounts outstanding as collateral to secure loans made by government agencies or private lending institutions to the department, the proceeds of which shall be used by the department make new loans to lessees or to finance the development of available lands for purposes permitted by this Act; provided that any loan agreement entered into under this paragraph by the department shall include a provision that the money borrowed by the department is not secured directly or indirectly be the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the receivables specifically pledged to repay the loan; provided further that in making loans or developing available lands out of money borrowed under this paragraph, the department may establish , revise, charge, and collect fees, premiums, and charges as necessary, reasonable, or convenient, to assure repayment of the funds borrowed, and the fees, premiums, and charges shall be deposited into the Hawaiian home trust fund; and provided further that no moneys of the Hawaiian home loan fund may be pledged as security under this paragraph; and²⁹⁴
- (9) Notwithstanding any other provisions of this Act to the contrary, transfer into the Hawaiian home trust fund any available and unpledged moneys from any loan funds, the Hawaiian loan guarantee fund, or any fund or account succeeding thereto, except the Hawaiian home loan fund, for use as cash guarantees or reserves when required by a federal agency authorized to insure or guarantee loans to lessees.²⁹⁴

SEC. 215. CONDITIONS OF LOANS.²⁹⁵ Except as otherwise provided in section ²⁹⁶ ²⁹⁷ ²⁹⁸ section 213 (c)3, each contract of loan with the lessee or ~~the~~ any⁵¹ successor or successors⁵¹ to ~~his~~ ³ the lessee's interest in the tract or with any agricultural, ~~or~~¹⁰⁸ mercantile²⁶⁶ or aquacultural¹⁰⁸ cooperative association composed entirely of lessees²⁶⁹ shall be held subject to the following conditions, whether or not stipulated in the contract ~~or~~²⁶⁶ loan:

- (1) ²⁹⁹ ³⁰⁰ At any one time, the outstanding amount of loans made³⁰¹ to any lessee, or successor or successors in interest,⁵⁴ ³⁰² for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed ³⁰³ ³⁰⁴ ³⁰⁵ fifty per cent of the maximum single residence loan amount allowed in Hawaii by the United States Department of Housing and Urban Development's Federal Housing Administration (FHA)³⁰⁶, for the development ~~or~~¹⁰⁸ and¹⁰⁸ operation of a farm, ~~or~~¹⁰⁸

ranch, or aquaculture¹⁰⁸ operation shall not exceed ³⁰⁷ ³⁰⁸ ³⁰⁹, \$50,000³⁰⁶ except that when loans are made to an agricultural or aquaculture¹⁰⁸ cooperative association for the purposes stated in ³¹⁰ section ³¹¹ 214(a)(4)³¹², 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;³⁰¹ provided that ³¹³ upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands,⁵⁴ or the cancellation of a lease by the ~~commission~~⁴⁹ department⁴⁹, or the surrender of a lease by the lessee, the ~~commission~~⁴⁹ department⁴⁹ shall make the ³¹⁴ payment provided for by section ³¹⁵ 209(a)³⁰⁶ the amount of any such payment ³¹⁶ ³¹⁷ 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 ~~the~~²⁶⁶ case of the death of a lessee, or ~~the~~²⁶⁶ cancellation of a lease by the ³¹⁸ by the department, or the surrender of a lease by the¹⁰⁸ 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 to⁵⁴ ³¹⁹ paragraph (3).²⁸³

(2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semiannual, or annual as may be determined by the ~~commission~~⁴⁹ department⁴⁹ in each case. The term of ~~the~~²⁶⁶ any loan shall not exceed thirty years. ³²⁰ Payments of²⁶⁹ any sum in addition to the required installments, 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 ³²¹ ³²² two and one-half per cent²⁶⁹ ³²³ a year for loans made directly from the Hawaiian home-loan fund, or at the rate ³²⁴ of two and one-half per cent or higher as established by law³²⁵ ³²⁶ for other loans¹⁰⁸ ³²⁷ ³²⁸ payable periodically or upon demand by the ~~commission~~⁴⁹ department⁴⁹, as the ~~commission~~⁴⁹ department⁴⁹ may determine.¹⁰⁵ ³²⁹ The payment of any installment due shall ³³⁰ be postponed in whole or in part by the ~~commission~~⁴⁹ department⁴⁹ 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 ³³¹ on the unpaid principal at the rate established for the loan.³⁰¹

(3) In the¹⁰⁸ case of the ³³² ³³³ death of a lessee⁵⁴ the ~~commission~~⁴⁹ department⁴⁹ shall, in any case,⁵⁴ permit the successor or successors to the tract to assume the contract of loan subject to ³³⁴ paragraph (1) ³³⁵. In case of the cancellation of a lease by the ~~commission~~⁴⁹ department⁴⁹ or the surrender of a lease by ~~a~~²⁶⁶ the lessee, the ~~commission~~⁴⁹ department⁴⁹ may, at its option, declare all ~~annual~~⁵⁴ installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to ³³⁶ paragraph (1) ⁵¹ ³³⁷. The ~~commission~~⁴⁹ department⁴⁹ may ³³⁸, 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~~¹⁰⁸ the¹⁰⁸ loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments shall, however, continue to bear interest ³³⁹ on the unpaid principal at the rate established for the loan.³⁰¹ Further, the ~~commission~~⁴⁹ department⁴⁹ may, ³⁴⁰ if it deems it 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 or improvements and aquaculture stock, as the case may be,¹⁰⁸ on the tract involved, such appraisal to be made in the manner and as provided for by section ³⁴¹ 209(a)³⁰⁶. In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors, subject to ³⁴² paragraph (1)⁵⁴ ³⁴³.

(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 his³ the borrower's³ interest ³⁴⁴ shall comply with such other conditions, not in conflict with any provision of this title, as the ~~commission~~⁴⁹ department⁴⁹ may stipulate in the contract of loan.

(6) The borrower or the successor to his³ the borrower's³ interest ³⁴⁵ shall comply with the conditions enumerated in section 208, and with ³⁴⁶ section 209 of this ~~title~~²⁸³ Act²⁸³ in respect to the lease of ~~the~~²⁶⁹ any²⁶⁹ tract.

(7) Whenever the ~~commission~~⁴⁹ department⁴⁹ shall determine that a lessee²⁶⁹ borrower²⁶⁹ is delinquent in the payment of his²⁶⁹ any²⁶⁹ indebtedness to the ~~commission~~⁴⁹ department⁴⁹ it may require such lessee²⁶⁹ borrower²⁶⁹ to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such lessee²⁶⁹ borrower²⁶⁹, including the indebtedness to others the payment of which has been assured by the ~~commission~~⁴⁹ department⁴⁹ of all moneys due or to become due to such lessee²⁶⁹ borrower²⁶⁹ by reason of any agreement or contract, collective or otherwise, to which the lessee²⁶⁹ borrower²⁶⁹ is a party ³⁴⁷. Failure to execute such an assignment when requested by the ~~commission~~⁴⁹ department⁴⁹ shall be sufficient ground for cancellation of the lessee's²⁶⁹ borrower's²⁶⁹ lease or interest therein.⁵⁴

SEC. 216. INSURANCE BY BORROWERS; ACCELERATION OF LOANS; LIEN AND

ENFORCEMENT THEREOF.²⁹⁵ (a) ²¹⁴ The ~~commission~~⁴⁹ department⁴⁹ may require the borrower to insure, in such amount as the ~~commission~~⁴⁹ department⁴⁹ may ³⁴⁸ prescribe, ³⁴⁹ any livestock, aquaculture stock,¹⁰⁸ swine, poultry, fowl,²¹⁴ machinery, equipment, dwellings, and permanent improvements purchased or constructed out of any moneys loaned or assured²¹⁴ by the ~~commission~~⁴⁹ department⁴⁹; or in lieu thereof, the ~~commission~~⁴⁹ department⁴⁹ may directly take out such insurance and add the cost thereof to the amount of ³⁵⁰ principal payable under the loan.¹⁰⁵

(b)²¹⁴ Whenever the ~~commission~~⁴⁹ department⁴⁹ has reason to believe that the borrower has violated any condition enumerated in paragraph (2), (4), (5), or (6) of section 215 of this ~~title~~²¹⁴ Act²¹⁴, the ~~commission~~⁴⁹ department⁴⁹ shall give due notice and afford opportunity for a hearing to the borrower or the successor or successors⁵¹ to his interest ³⁵¹ as the case demands. If upon such hearing the ~~commission~~⁴⁹ department⁴⁹ finds that the borrower has violated the condition, the ~~commission~~⁴⁹ department⁴⁹ may declare all ³⁵² principal and interest of the loan¹⁰⁵ immediately due and payable notwithstanding any provision in the contract of loan to the contrary.

(c)²¹⁴ The ~~commission~~⁴⁹ department⁴⁹ shall have a first¹⁰⁵ lien upon the borrower's or lessee's interest in ³⁵³ any lease, growing crops, aquaculture stock,¹⁰⁸ either on ~~the~~²⁶⁹ his²⁶⁹ tract or share²¹⁴ in any collective contract or program,⁵¹ ³⁵⁴ livestock, swine, poultry, fowl,²¹⁴ aquaculture stock,¹⁰⁸ machinery, and equipment purchased with moneys loaned by the ~~commission~~⁴⁹ department⁴⁹, and in any dwellings or other permanent improvements on any lease hold tract, to the amount of all principal and interest due and unpaid and of all taxes and insurance and improvements paid by the ~~commission~~⁴⁹ department⁴⁹, and ³⁵⁵ any other²¹⁴ indebtedness of the borrower, the payment of which has been assured by the ~~commission~~⁴⁹ department⁴⁹ ³⁵⁶. Such lien shall have priority over any other obligation for which ³⁵⁷ the¹⁰⁸ property subject to the lien²⁶⁹ may be security.

(d)²¹⁴ The ~~commission~~⁴⁹ department⁴⁹ may, ³⁵⁸ subject to this Act and procedures established by rule,²¹⁴ enforce any ~~such~~¹⁰⁸ lien by declaring the borrower's interest in ³⁵⁹ the property subject to the lien to be forfeited, any lease held by the borrower cancelled, and shall thereupon order such lease hold premises vacated and the property subject to the lien surrendered within a reasonable time.²⁶⁹ The right to the use and occupancy of the Hawaiian home lands contained in such ~~tract~~²⁶⁹ lease²⁶⁹ shall thereupon revert in the ~~commission~~⁴⁹ department⁴⁹, and the ~~commission~~⁴⁹ department⁴⁹ may take possession of the ~~tract~~²⁶⁹ lease²⁶⁹ premises covered therein and the improvements and growing crops⁵¹ or improvements and aquaculture

stock¹⁰⁸ thereon; provided that the ~~commission~~⁴⁹ department⁴⁹ shall pay to the borrower any difference ~~in~~³⁶⁰ which may be due him after the appraisal provided for¹⁰⁸ in ~~in~~³⁶¹ section 209 ~~in~~³⁶² has been made.⁵¹

SEC. 217. **EJECTMENT, WHEN; LOAN TO NEW LESSEE FOR IMPROVEMENTS.**³ In case the lessee or borrower or the successor to ~~his~~³ ~~an~~³ interest in the tract, as the case may be, fails to comply with any order issued by the ~~commission~~⁴⁹ department⁴⁹ under the provisions of section 210 or 216 of this title, the ~~commission~~⁴⁹ department⁴⁹ may:

- (1) Bring action of ejectment or other appropriate proceeding; or
- (2) Invoke the aid of the circuit court of the ~~Territory~~⁴⁹ State⁴⁹ for the judicial circuit in which the tract designated in the ~~commission's~~⁴⁹ department's⁴⁹ order is situated. Such court may thereupon order the lessee or ~~his~~³ ~~the lessee's~~³ successor to comply with the order of the ~~commission~~⁴⁹ department⁴⁹. Any failure to obey the order of the court may be punished by it as contempt thereof. Any tract forfeited under the provisions of section 210 or 216 of this title may be again leased by the ~~commission~~⁴⁹ department⁴⁹ as authorized by the provisions of section 207 of this title, except that the value, in the opinion of the ~~commission~~⁴⁹ department⁴⁹, of all improvements made in respect to such tract by the original lessee or any successor to ~~his~~³ ~~an~~³ interest therein shall constitute a loan by the ~~commission~~⁴⁹ department⁴⁹ to the new lessee. Such loan shall be subject to the provisions of this section and sections 215, except paragraph (1), and 216 to the same extent as loans made by the ~~commission~~⁴⁹ department⁴⁹ from the Hawaiian loan fund.

~~in~~³⁶³

SEC. 219. **AGRICULTURAL AND AQUACULTURAL EXPERTS.**¹⁰⁸ The ~~commission~~⁴⁹ department⁴⁹ is authorized to employ agricultural and aquacultural¹⁰⁸ experts at such compensation and in such number as it deems necessary. The annual expenditures for such compensation shall not exceed \$6,000. It shall be the duty of such agricultural and aquacultural¹⁰⁸ experts to instruct and advise the lessee of any tract or the successor to the lessee's interest therein as to the best methods of diversified farming and stock raising and aquaculture operations¹⁰⁸ and such other matters as will tend successfully to accomplish the purposes of this title.

SEC. 219.1. **GENERAL ASSISTANCE.**³⁶⁴ (a)³⁶⁵ The ~~commission~~⁴⁹ department⁴⁹ is authorized to carry on any activities it deems necessary to assist the lessees in obtaining maximum utilization of the leased lands, including taking any steps necessary to develop these lands for their highest and best use commensurate with the purpose for which the land is being leased as provided for in section 207, and assisting the lessees in all phases of farming, and¹⁰⁸ ranching, and aquaculture¹⁰⁸ operations and ~~in~~¹⁰⁸ the marketing of their agriculture or aquaculture¹⁰⁸ produce and livestock.²⁶⁹

(b) Notwithstanding any law to the contrary, the department either alone or together with any other governmental agency, may:³⁶⁵

- (1) Form an insurance company, association (nonprofit or otherwise), pool, or trust;³⁶⁵
- (2) Acquire an existing insurance company;³⁶⁵
- (3) Enter into arrangements with one or more insurance companies; or³⁶⁵

(4) Undertake any combination of the foregoing; upon such terms and conditions and for such periods, as the commission shall approve, to provide homeowner protection, including hurricane coverage, for lessees participating in such undertaking, Such undertaking shall be subject to the provisions of chapter ___, including but not limited to section ___-10(b), and chapter 431.³⁶⁵

(c) The department, if experiencing any of the powers as authorized under subsection (b) may:³⁶⁵

(1) Issue revenue bonds under and pursuant to part III of chapter 39, Hawaii Revised Statutes, to establish necessary reserves to provide for the payment of claims in excess of reserves and for other related purposes; or to pay any liability incurred that is self-insured or uninsured by the commission including without limitations, liabilities for damage to property, comprehensive liability, environmental, or other losses; and³⁶⁵

(2) Invest funds held in reserve, which are not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control or as the commission may authorize by resolution.³⁶⁵

SEC. 220. []³⁶⁶ DEVELOPMENT PROJECTS; APPROPRIATIONS BY LEGISLATURE; BONDS ISSUED BY LEGISLATURE⁵⁴; MANDATORY RESERVATION OF WATER.³⁶⁷ (a)³¹ Subject to subsection (d),³⁶⁷ the ~~commission~~⁴⁹ department⁴⁹ is hereby⁵⁴ authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands and to undertake other activities having to do with the economic and social welfare of the homesteader⁵⁴, including the authority to derive revenue from the sale, to others than homesteaders, of water and other products of such projects or activities, or from the enjoyment thereof by others than homesteaders, where such sale of products or enjoyment of projects or activities by others does not interfere with the proper performance of the duties of the ~~commission~~⁴⁹ department⁴⁹¹⁰⁵; provided, however³¹, that roads through or over Hawaiian home lands, other than Federal-aid highways and roads, shall be maintained by the county []³⁶⁸ in which ~~said~~³¹ the³¹ particular road or roads to be maintained are located.⁵⁴¹⁰⁵

(b)³¹ The Legislature of the ~~Territory~~⁴⁹ State⁴⁹ is authorized to appropriate out of the treasury of the ~~Territory~~⁴⁹ State⁴⁹ such sums as it deems necessary to augment the []³⁶⁹ funds of the department³¹ and to⁵⁴ provide the ~~commission~~⁴⁹ department⁴⁹ with funds sufficient to execute and carry on¹⁰⁵ such projects []³⁷⁰ and activities.⁵⁴ The legislature is further authorized to issue bonds to the extent required to yield the amount of any sums so appropriated for the payment of which, if issued for revenue-producing improvements, the ~~commission~~⁴⁹ department⁴⁹ shall provide, as set forth in section 213 (d)³¹¹⁰⁵ []³⁷¹

(c)³¹ To enable the construction of irrigation projects which will service Hawaiian home lands, either exclusively or in conjunction with other lands served by such projects, the ~~commission~~⁴⁹ department⁴⁹ is authorized, with the approval of the governor, and subject to subsection (d),³⁶⁷ to:

(1)³¹ Grant to the []³⁷² board of land and natural resources³¹, or to any other agency of the government of the ~~Territory~~⁴⁹ State⁴⁹ or the United States undertaking the construction and operation of such irrigation projects, licenses for rights-of-way for pipelines, tunnels, ditches, flumes, and other water conveying facilities, reservoirs and other storage facilities, and for the development and use of water appurtenant to Hawaiian home lands; ~~to~~³¹

(2)³¹ Exchange available lands for public lands, as provided in section 204 (4) of this Act, for sites for reservoirs and subsurface water development wells and shafts; ~~to~~³¹

(3)³¹ Request any such irrigation agency to organize irrigation projects for Hawaiian home lands and to transfer irrigation facilities constructed by the ~~commission~~⁴⁹ department⁴⁹ to any such irrigation agency; ~~to~~³¹

(4)³¹ Agree to pay the tolls and assessments made against community pastures for irrigation water supplied to such pastures; and ~~to~~³¹

(5)³¹ Agree to pay the costs of construction of projects constructed for Hawaiian home lands at the request of the ~~commission~~⁴⁹ department⁴⁹, in the event the assessments paid by the homesteaders upon lands are not sufficient to pay such costs: provided, That licenses for rights-of-way for the purposes and in the manner specified in this section may be granted for a term of years longer than is required for amortization of the costs of the project or projects requiring use of such rights-of-way only if authority for such longer grant is approved by an Act of the Legislature of the ~~Territory~~⁴⁹ State⁴⁹ of Hawaii. Such payments shall be made from, and be a charge against the Hawaiian home operating fund.³⁷³

(d) For projects, pursuant to this section, sufficient water shall be reserved for current and foreseeable domestic, stock water, aquaculture, and irrigation activities on tracts leased to native Hawaiians pursuant to section 207(a).³⁶⁷

[SEC. 220.5]³⁷⁴

SEC. 221. WATER.³⁷⁵ (a) When used in this section-

(1) The term "water license" means any license issued by the ³⁷⁶ board of land and natural resources⁴⁹ granting to any person the right to the use of government-owned water; and

(2) The term "surplus water" means so much of any government-owned water covered by a water license or so much of any privately owned water as is in excess of the quantity required for the use of the licensee or owner, respectively.

(b) All water licenses issued after the passage of this Act shall be deemed subject to the condition, whether or not stipulated in the license, that the licensee shall, upon the demand of the ~~commission~~⁴⁹ department⁴⁹, grant to it the right to use, free of all charge, any water which the ~~commission~~⁴⁹ department⁴⁹ deems necessary adequately to supply the livestock, aquaculture operations,¹⁰⁸ agriculture operations,³⁷⁵ or ~~the~~¹⁰⁸ domestic needs of individuals upon any tract.

(c) In order adequately to supply livestock, the aquaculture operations,¹⁰⁸ the agriculture operations,³⁷⁵ or the domestic needs of individuals upon any tract, the ~~commission~~⁴⁹ department⁴⁹ is authorized

(1) to use, free of all charge, government-owned water not covered by any water license or covered by a water license issued after the passage of this Act, or covered by a water license issued previous to the passage of this Act but containing a reservation of such water for the benefit of the public, and (2) to contract with any person for the right to use or to acquire, under eminent domain proceedings similar, as near as may be, to the proceedings provided in respect to land by sections ³⁷⁷ 101-10 to 101-34, Hawaii Revised Statutes¹⁰⁸, the right to use any privately owned surplus water or any government-owned surplus water covered by a water license issued previous to the passage of this Act, but not containing a reservation of such water for the benefit of the public. Any such acquirement shall be held to be for a

public use and purpose. The ~~commission~~⁴⁹ department⁴⁹ may institute the eminent domain proceedings in its own name.

(d) The ~~commission~~⁴⁹ department⁴⁹ is authorized, for the additional purpose of adequately irrigating any tract, to use, free of all charge, []³⁷⁸ Government-owned surplus water tributary to the Waimea River upon the island of Kauai, not covered by a water license or covered by a water license issued after []³⁷⁹ July 9, 1921.³⁷⁵ Any water license issued after the passage of this Act and covering any such government-owned water shall be deemed subject to the condition, whether or not stipulated therein, that the licensee shall, upon the demand of the ~~commission~~⁴⁹ department⁴⁹, grant to it the right to use, free of all charge, []³⁸⁰ any of the surplus water tributary to the Waimea river upon the island of Kauai, which is covered by the license and which the ~~commission~~⁴⁹ department⁴⁹ deems necessary for the additional purpose of adequately irrigating any tract.

Any funds which may be appropriated by Congress as a grant-in-aid for the construction of an irrigation and water utilization system on the island of Molokai designed to serve []³⁸¹ Hawaiian home³⁷⁵ lands, and which are not required to be reimbursed to the federal government, shall be deemed to be payment in advance by the []³⁸² department³⁷⁵ and lessees of the []³⁸³ department³⁷⁵ of charges to be made to them for the construction of such system and shall be credited against such charges when made.³⁷³

(e) All rights conferred on the ~~commission~~⁴⁹ department⁴⁹ by this section to use, contract for, or³⁷⁵ acquire the use of water shall be deemed to include the right to use, contract for, or acquire the use of any ditch or pipe line constructed for the distribution and control of such water and necessary to such use by the ~~commission~~⁴⁹ department⁴⁹.

(f) Water systems in the exclusive control of the department shall remain under its exclusive control; provided that the department may negotiate an agreement to provide for the maintenance of the water system and the billing and collection of user fees.³⁸⁴ If any provision or the application of such³⁸⁴ that³⁸⁴ provision is inconsistent with []³⁸⁵ provisions³⁸⁴ contained herein³⁸⁴ in this section³⁸⁴, this section shall control.⁶⁸

Water systems include all real and personal property together with all improvements to such systems acquired or constructed by the department for the distribution and control of such³⁸⁴ water or domestic or agricultural use.⁶⁸

SEC. 222. []³⁸⁶ ADMINISTRATION.³⁸⁷ (a) []³⁸⁸ The department may make such expenditures and shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes,³⁸⁹ as are necessary for the efficient execution of the functions vested in the department by this Act. All expenditures of the department []³⁹⁰, []³⁹¹ and all moneys necessary for loans made by the department,³¹ in accordance with the provisions of this Act, []³⁹² shall be allowed and paid upon the presentation of itemized vouchers therefor,³¹ approved by the chairman of the commission or the chairman's designated representative.³¹ The department shall make an annual report to the legislature of the State upon the first day of each regular session thereof³¹ and such special reports as the legislature may from time to time require. The chairman and members¹⁹ of the commission shall give bond []³⁹³ as required by law. The sureties upon the bond and the conditions thereof shall be approved annually by the governor.⁴⁹

(b) When land originally leased by the department in accordance with chapter 171, Hawaii Revised Statutes,³⁸⁹ is, in turn, subleased by the department's lessee or sublessee, the department shall submit, []³⁹⁴ upon the first day³⁸⁹ of the convening of any regular session, a written report to the legislature which shall cover the sublease transactions occurring in the calendar³⁸⁹ fiscal³⁸⁹ year prior to the regular session and shall contain the names of persons involved in the transaction, the size of the area under lease, the purpose

of the lease, the land classification of the area under lease, the tax map key number, the lease rental, the reason for approval of the sublease by the department, and the estimated net economic result accruing to the department, lessee and sublessee.³⁹⁵

SEC. 223. The Congress of the United States reserves the right to alter, amend, or repeal the provisions of this title.

SEC. 224. SANITATION AND RECLAMATION EXPERT.^{396—397} The Secretary of the Interior shall designate from his Department someone experienced in sanitation, rehabilitation, and reclamation work to reside in the Territory⁴⁹ State⁴⁹ []³⁹⁸ and cooperate with the ~~commission~~⁴⁹ department⁴⁹ in carrying out its duties. The salary of such official so designated by the Secretary of the Interior shall be paid by the []³⁹⁹ department while he is carrying on his duties in the State.³⁹⁷

SEC 225. INVESTMENT OF LOAN⁴⁰⁰ FUNDS; DISPOSITION.^{400—} (a)²¹⁴ The ~~commission~~⁴⁹ department⁴⁹ shall have the power and authority to invest and reinvest any of the moneys in []⁴⁰¹ any of its funds,⁴⁰⁰ not otherwise immediately needed for the purposes of the fund, in such bonds and securities as authorized by Territorial⁴⁹ state⁴⁹ law for the investment of Territorial⁴⁹ State⁴⁹ sinking fund moneys []⁴⁰².

(b) (1) The department may receive, manage, and invest moneys or other property, real, personal or mixed, or any interest therein, which may be given, bequeathed, or devised, or in any manner received from sources other than the legislature or any federal appropriation, for the purposes of the Act.²¹⁴

(2) All moneys received by or on behalf of the department shall be deposited into the state treasury to be expended according to law and for purposes in accordance with the terms and conditions of the gift. All moneys shall be appropriated for purposes enumerated in such gifts and if no specific purpose is enumerated, shall be appropriated to the Hawaiian home trust fund.²¹⁴

(3) The department is authorized to sell, lease, or in any way manage such real, personal, or mixed property or any interest therein, in the manner and for the purposes enumerated in the gift. If no conditions are enumerated, the gift may be sold, leased, managed, or disposed of and the income or proceeds there from shall be deposited into the Hawaiian home trust fund.²¹⁴

(4) The real property or any interest therein received by the department through contributions or grants shall not attain the status of Hawaiian home lands as defined in section 201(a) (5).²¹⁴

(5) The department shall cause to be kept suitable books of account wherein shall be recorded each gift, the essential facts of the management thereof, and the expenditure of income.²¹⁴

(6) Any action to be taken with respect to gifts shall be made in a public meeting where any pertinent information and reasons for any decisions shall be fully disclosed.²¹⁴

SEC. 226. QUALIFICATION FOR FEDERAL PROGRAMS.^{403—} The department shall be qualified to participate in any federal program that renders assistance in program areas that the department is mandated by the Act to implement.⁴⁰³

SEC. 227. ENTERPRISE ZONES³. The department is authorized to participate in any federal or state program that permits the establishment of one or more enterprise zones on available lands, provided that participation in the program will result in economic benefits to native Hawaiians. The administration of the program shall be governed by rules adopted by the department in accordance with chapter 91, Hawaii Revised Statutes.⁴⁰⁴

[SEC. 228]⁴⁰⁵

TITLE 3.—AMENDMENTS TO HAWAIIAN ORGANIC ACT.

SEC. 301. Section 26 of the Hawaiian Organic Act is hereby amended to read as follows:

SEC. 26. That the members of the legislature shall receive for their services, in addition to mileage at the rate of 20 cents a mile each way, the sum of \$1,000 for each regular session, payable in three equal installments on and after the first, thirtieth, and fiftieth days of the session, and the sum of \$500 for each special session: *Provided*, That they shall receive no compensation for any extra session held under the provisions of section 54 of this Act.

SEC. 302. Section 55 of the Hawaiian Organic Act is hereby amended by deleting there from that Portion thereof which reads: "*Provided*, That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of one thousand acres, and all real estate acquired or held by such corporation or Association contrary hereto shall be forfeited and escheat to the United States, but existing vested rights in real estate shall not be impaired," and by amending so much of section 55 as reads, "*and* the total indebtedness of the Territory shall not at any time be extended beyond 7 per centum of such assessed value of property in the Territory," to read as follows: "and the total indebtedness of the Territory shall not at any time be extended beyond 10 per centum of such assessed value of property in the Territory.

SEC. 303. Section 66 of the Hawaiian Organic Act is hereby amended to read as follows:

SEC. 66. That the executive power of the government of the Territory of Hawaii shall be vested in a governor, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and shall hold office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall be not less than thirty-five years of age; shall be a citizen of the Territory of Hawaii; shall have resided therein for at least three years next preceding his appointment; shall be commander in chief of the militia thereof; and may grant pardons or reprieves for offenses against the laws of the said Territory and reprieves for offenses against the laws of the United States until the decision of the President is made known thereon.

SEC. 304. The first, second, and third paragraphs of section 73 of the Hawaiian Organic Act are hereby amended to read as follows:

SEC. 73. (a) That when used in this section—

- (1) The term 'commissioner' means the Commissioner of Public Lands of the Territory of Hawaii;
- (2) The term 'land board' means the board of public lands, as provided in subdivision (1) of this section;

(3) The term 'public lands' includes all lands in the Territory of Hawaii classed as government or crown lands previous to August 15, 1895, or acquired by the government upon or subsequent to such date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; except (1) lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, (2) lands set apart or reserved by Executive order by the President, (3) lands set aside or withdrawn by the governor under the provisions of subdivision (g) of this section, (4) sites of public buildings, lands used for roads, streets, landings, nurseries, parks, tracts reserved for forest growth or conservation of water supply, or other public purposes, and (5) lands to which the United States has relinquished the absolute fee and ownership, unless subsequently placed under the control of the commissioner and given the status of public lands in accordance with the provisions of this Act, the Hawaiian Homes Commission Act, 1920, or the Revised Laws of Hawaii of 1915; and

(4) The term 'person' includes individual, partnership, corporation, and association.

(b) Any term defined or described in section 347 or 351 of the Revised Laws of Hawaii of 1915, except a term defined in subdivision (a) of this section, shall, whenever used in this section, if not inconsistent with the context or any provision of this section, have the same meaning as given it by such definition or description.

(c) The laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land commission awards, except as changed by this Act, shall continue in force until Congress shall otherwise provide. Subject to the approval of the President, all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian government in conformity with the laws of Hawaii between the 7th day of July, 1898, and the 28th day of September, 1899, are hereby ratified and confirmed. In said laws 'land patent' shall be substituted for 'royal patent'; 'board of public lands,' for 'minister of the interior,' 'agent of public lands,' and 'commissioners of public lands,' or their equivalents; and the words 'that I am a citizen of the United States,' or 'that I have declared my intention to become a citizen of the United States, as required by law,' for the words 'that I am a citizen by birth (or naturalization) of the Republic of Hawaii,' or 'that I have received letters of denization under the Republic of Hawaii,' or 'that I have received a certificate of special right of citizenship from the Republic of Hawaii.'

(d) No lease of agricultural lands or of undeveloped arid public land which is capable of being converted into agricultural land by the development, for irrigation purposes, of either the underlying or adjacent waters, or both, shall be granted, sold, or renewed by the government of the Territory of Hawaii for a longer period than fifteen years. Each such lease shall be sold at public auction to the highest bidder after due notice as provided in subdivision (h) of this section and the laws of the Territory of Hawaii. Each such notice shall state all the terms and conditions of the sale. The land, or any part thereof so leased, may at any time during the term of the lease be withdrawn from the operation thereof for homestead or public purposes, in which case the rent reserved shall be reduced in proportion to the value of the part so withdrawn. Every such lease shall contain a provision to that effect. *Provided*, That the commissioner may, with the approval of the governor and at least two-thirds of the members of the land board, omit such withdrawal provision from the lease of any lands suitable for the cultivation of sugar cane whenever he deems it advantageous to the Territory of Hawaii. Land so leased shall not be subject to such right of withdrawal.

(e) All funds arising from the sale or lease or other disposal of public land shall be appropriated by the laws of the government of the Territory of Hawaii and applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation, approved July 7, 1898.

(f) No person shall be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement who, or whose husband or wife, has previously taken or held more than ten acres of land under any such certificate, lease, or agreement made or issued after May 27, 1910, or under any homestead lease or patent based thereon; or who, or whose husband or wife, or both of them, owns other land in the Territory, the combined area of which and the land in question exceeds eighty acres; or who is an alien, unless he has declared his intention to become a citizen of the United States as provided by law. No person who has so declared his intention and taken or held under any such certificate, lease, or agreement shall continue so to hold or become entitled to a homestead lease or patent of the land, unless he becomes a citizen within five years after so taking.

(g) No public land for which any such certificate, lease, or agreement is issued after May 27, 1910, or any part thereof, or interest therein or control thereof, shall, without the written consent of the commissioner and governor, thereafter, whether before or after a homestead lease of patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise, conveyed, mortgaged, leased, or otherwise transferred to, or acquired or held by or for the benefit of, any alien or corporation; or before or after the issuance of a homestead lease or before the issuance of a patent to or by or for the benefit of any other person; or, after the issuance of a patent, to or by or for the benefit of any person who owns, or holds, or controls, directly or indirectly, other land or the use thereof, the combined area of which and the and in question exceeds eighty acres. The prohibitions of this paragraph shall not apply to transfers or acquisitions by inheritance or between tenants in common.

SEC. 305. The fourth and fifth paragraphs of section 73 of the Hawaiian Organic Act are hereby amended by inserting "(h)" at the beginning of the fourth paragraph and "(i)" at the beginning of the fifth paragraph.

SEC. 306. The sixth paragraph of section 73 of the Hawaiian Organic Act is hereby amended to read as follows:

(j) The commissioner, with the approval of the governor, may give to any person (1) who is a citizen of the United States or who has legally declared his intention to become a citizen of the United States and hereafter becomes such, and (2) who has, or whose predecessors in interest have, improved any parcel of public lands and resided thereon continuously for the ten years next preceding the application to purchase, a preference right to purchase so much of such parcel and such adjoining land as may reasonably be required for a home, at a fair price to be determined by three disinterested citizens to be appointed by the governor. In the determination of such purchase price the commissioner may, if he deems it just and reasonable, disregard the value of the improvements on such parcel and adjoining land. If such parcel of public lands is reserved for public purposes, either for the use of the United States or the Territory of Hawaii, the commissioner may with the approval of the governor grant to such person a preference right to purchase public lands which are of similar character, value, and area, and which are situated in the same land district. The privilege granted by this paragraph shall not extend to any original lessee or to an assignee of an entire lease of public lands.

SEC. 307. The seventh paragraph of section 73 of the Hawaiian Organic Act is hereby amended by inserting "(k)" at the beginning thereof.

SEC. 308. The eighth paragraph of section 73 of the Hawaiian Organic Act is hereby amended to read as follows:

(1) No sale of lands for other than homestead purposes, except as herein provided, and no exchange by which the Territory shall convey lands exceeding either forty acres in area or \$5,000 in value shall be made. No lease of agricultural lands exceeding forty acres in area, or of pastoral or waste lands exceeding two hundred acres in area, shall be made without the approval of two-thirds of the board of public lands, which is hereby constituted, the members of which are to be appointed by the governor as provided in section 80 of this Act, and until the legislature shall otherwise provide said board shall consist of six members, and its members be appointed for a term of four years: *Provided, however,* That the commissioner shall, with the approval of said board, sell to any citizen of the United States, or to any person who has legally declared his intention to become a citizen, for residence purposes lots and tracts, not exceeding three acres in area, and that sales of Government lands may be made upon the approval of said board whenever necessary to locate thereon railroad rights of way, railroad tracks, side tracks, depot grounds, pipe lines, irrigation ditches, pumping stations, reservoirs, factories, and mills and appurtenances thereto, including houses for employees, mercantile establishments, hotels, churches, and private schools; and all such sales shall be limited to the amount actually necessary for the economical conduct of such business or undertaking: *Provided further,* That no exchange of Government lands shall hereafter be made without the approval of two-thirds of the members of said board, and no such exchange shall be made except to acquire lands directly for public uses.

SEC. 309. The ninth paragraph of section 73 of the Hawaiian Organic Act is hereby amended by inserting "(in)" at the beginning thereof.

SEC. 310. The tenth paragraph of section 73 of the Hawaiian Organic Act is hereby amended to read as follows:

(n) It shall be the duty of the commissioner to cause to be surveyed and opened for homestead entry a reasonable amount of desirable agricultural lands and also of pastoral lands in the various parts of the Territory for homestead purposes on or before January 1, 1911, and he shall annually thereafter cause to be surveyed for homestead purposes such amount of agricultural lands and pastoral lands in various parts of the Territory as there may be demand for by persons having the qualifications of homesteaders. In laying out any homestead the commissioner shall include in the homestead lands sufficient to support thereon an ordinary family, but not exceeding eighty acres of agricultural lands and two hundred and fifty acres of first-class pastoral lands or five hundred acres of second-class pastoral lands; or in case of a homestead, including pastoral lands only, not exceeding five hundred acres of first-class pastoral lands or one thousand acres of second-class pastoral lands. All necessary expenses for surveying and opening any such lands for homesteads shall be paid for out of any funds of the Territorial treasury derived from the sale or lease of the public lands, which funds are hereby made available for such purposes

(o) The Commissioner, with the approval of the governor, may by contract or agreement authorize any person who has the right of possession, under a general lease from the Territory, of agricultural or pastoral lands included in any homestead, to continue in possession of such lands after the expiration of the lease until such time as the homesteader takes actual possession thereof under any form of homestead agreement. The commissioner may fix in the contract or agreement such other terms and conditions as he deems advisable.

SEC. 311. The eleventh and twelfth paragraphs of section 73 of the Hawaiian Organic Act are hereby amended by inserting " (p) " at the beginning of the eleventh paragraph and "(q)" at the beginning of the twelfth paragraph.

SEC. 312. The fourth paragraph of section 80 of the Hawaiian Organic Act is hereby amended to read as follows:

All officers appointed under the provisions of this section shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment.

SEC. 313. Section 86 of the Hawaiian Organic Act is hereby amended to read as follows:

SEC. 86. (a) That there shall be established in the said Territory a district court, to consist of two judges, who shall reside therein and be called district judges, and who shall each receive an annual salary of \$7,500. The said court while in session shall be presided over by only one of said judges. The two judges shall from time to time, either by order or rules of the court, prescribe at what times and in what class of cases each of them shall preside. The said two judges shall have the same powers in all matters coming before said court.

(b) The President of the United States, by and with the advice, and consent of the Senate of the United States, shall appoint two district judges, a district attorney, and a marshal of the United States for the said district all of whom shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment. Said judges, attorney, and marshal shall hold office for six years unless sooner removed by the President.

(c) The said court shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizable in a circuit court of the United States, and shall proceed therein in the same manner as a circuit court; and the said judges, district attorney, and marshal shall have and exercise in the Territory of Hawaii all the powers conferred by the laws of the United States upon the judges, district attorneys, and marshals of district and circuit courts of the United States.

(d) Writs of error and appeals from the said district court shall be had and allowed to the circuit court of appeals for the ninth judicial circuit in the same manner as writs of error and appeals are allowed from circuit courts to circuit courts of appeal as provided by law, and appeals and writs of error may be taken to the Supreme Court of the United States from said district court in cases where appeals and writs of error are allowed from the district and circuit courts of the United States to the Supreme Court, and the laws of Appeals, writs of the United States relating to juries and jury trials shall be applicable to said district court. The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. Regular terms of said court shall be held at Honolulu on the second Monday in April and October, and special terms may be held at such times and places in said district as the said judges may deem expedient. The said district judges shall appoint a clerk of said court at a salary of \$4,200 per annum and shall appoint a reporter of said court at a salary of \$3,000 per annum. The clerk of the district court with the approval of the judges thereof may appoint two deputy clerks at salaries of \$2,500 each per annum.

SEC. 314. Section 92 of the Hawaiian Organic Act is hereby amended to read as follows:

SEC. 92. That the following officers shall receive the following annual salaries, to be paid by the United States: The governor, \$10,000; the secretary of the Territory, \$5,400; the chief justice of the Supreme Court of the Territory, \$7,500; the associate judges of the Supreme Court, \$7,000 each; the judges of the circuit courts, \$6,000 each; the United States district attorney, \$5,000; the United States marshal, \$5,000. The governor shall receive annually from the United States, in addition to his salary, (1) the sum of \$1,000 for stationery, postage, and incidentals, and (2) his traveling expenses while absent from the capital on official business. The governor is authorized to employ a private secretary who shall receive an annual salary of \$3,000, to be paid by the United States.

SEC. 315. The Hawaiian Organic Act is hereby further amended by adding at the end thereof three additional sections to read as follows:

SEC. 105. That no person shall be employed as a mechanic or laborer upon any public work carried on in the Territory of Hawaii by the Government of the United States, whether the work is done by contract or otherwise, unless such person is a citizen of the United States or eligible to become such a citizen.

SEC. 106. The board of harbor commissioners of the Territory of Hawaii shall have and exercise all the powers and shall perform all the duties which may lawfully be exercised by or under the Territory of Hawaii relative to the control and management of the shores, shore waters, navigable streams, harbors, harbor and water-front improvements, ports, docks, wharves, quays; bulkheads, and landings belonging to or controlled by the Territory, and the shipping using the same, and shall have the authority to use and permit and regulate the use of the wharves, piers, bulkheads, quays, and landings belonging to or controlled by the Territory for receiving or discharging passengers and for loading and landing merchandise, with a right to collect wharfage and demurrage thereon or therefor, and, subject to all applicable provisions of law, to fix and regulate from time to time rates for services rendered in mooring vessels, charges for the use of moorings belonging to or controlled by the Territory, rates or charges for the services of pilots, wharfage, or demurrage, rents or charges for warehouses or warehouse space, for office or office space, for storage of freight, goods, wares, and merchandise, for storage space for the use of donkey engines, derricks, or other equipment belonging to the Territory, under the control of the board, and to make other charges, including toll or tonnage charges on freight passing over or across wharves, docks, quays, bulkheads, or landings. The board shall likewise have power to appoint and remove clerks, wharfingers and their assistants, pilots and pilot-boat crews, and all such other employees as may be necessary, and to fix their compensation; to make rules and regulations pursuant to this section and not inconsistent with law; and generally shall have all powers necessary fully to carry out the provisions of this section.

All moneys appropriated for harbor improvements, including new construction, reconstruction, repairs, salaries, and operating expenses, shall be expended under the supervision and control of the board, subject to the provisions of law. All contracts and agreements authorized by law to be entered into by the board shall be executed on its behalf by its chairman.

The board shall prepare and submit annually to the governor a report of its official acts during the preceding year, together with its recommendations as to harbor improvements throughout the Territory.

SEC. 107. That this Act may be cited as the 'Hawaiian Organic Act.'

TITLE 4.—MISCELLANEOUS PROVISIONS.

SEC. 401. All Acts or parts of Acts, either of the Congress of the United States or of the Territory of Hawaii, to the extent that they are inconsistent with the provisions of this Act, are hereby repealed.

SEC. 402. If any provision of this Act, or the application of such provision *to* certain circumstances, is held unconstitutional, the remainder of the Act and the application of such provision to circumstances other than those as to which it is held unconstitutional shall not be held invalidated thereby.

Approved, July 9, 1921.

[REPEALED]⁴⁰⁶

REPEALED PROPOSED AMENDMENTS.

Act 112, 1981, Haw. Sess. Laws.

Act 75, 1985, Haw. Sess. Laws.

AMENDMENTS TO OTHER LAWS IMPACTING THE HHCA

Land Exchanges (68 Stat. 259): Authorizing the exchange of certain public lands in the vicinity of Waimea, county of Hawaii, in the Territory of Hawaii for certain privately owned lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any limitations imposed by section 73 of the Hawaiian Organic Act, as amended, to the contrary notwithstanding, the Commissioner of Public Lands, with the approval of the Governor and two-thirds of the members of the board of public lands, is hereby authorized and empowered to transfer and convey to Richard Smart, a United States citizen, in exchange and return for the transfer and conveyance in fee simple of all or any portion of the lands owned by said Richard Smart described in section 2, all or any portion of the public land described by the following metes and bounds, but subject to minor variations therein:

Being a portion of the land of Lalamilo at Waimea, South Kohala, Hawaii.

Beginning at a pipe at the southeast corner of this piece of land on the west side of Mamalahoa Highway and on the boundary between the lands of Lalamilo and Waikoloa, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 7907.51 feet North and 9579.87 feet East, thence running by azimuths measured clockwise from true South:

1. 61° 19' 379.12 feet along the land of Waikoloa to a pipe at fence;
2. 95° 47' 449.04 feet along fence, along the remainder of the land of Lalamilo;

3. 126° 30' 2104.59 feet along the remainder of the land of Lalamilo to a concrete post marked + ;
4. 126° 30' 1160.00 feet along the land of Lihue, Grant 1157 to G. W. Macy and James Louzada to a concrete post marked + ;
5. 124° 39' 15" 1937.06 feet along the remainder of the land of Lalamilo;
6. 151° 55' 2665.00 feet more or less along the remainder of the land of Lalamilo to the South side of the Kamuela-Mahukona Road, Federal Aid Project No. E-11-A;
7. 275° 22' 110.00 feet along the South side of the Kamuela-Mahukona Road, Federal Aid Project E-11-A;
8. 274° 51' 267.20 feet along same;
9. 4° 51' 375.90 feet along Executive Order 1554 (Public Works Department Corporation Yard);
10. 274° 51' 270.00 feet along Executive Order 1554 (Public Works Department Corporation Yard);
11. 184° 51' 187.46 feet along Executive Order 1554 (Public Works Department Corporation Yard);
12. 274° 51' 693.50 feet along County Garage Lot, Executive Order 1190;
13. 184° 51' 188.44 feet along same; Thence along the South side of the Kamuela-Mahukona Road, Federal Aid Project No. E-11A on a curve to the left with a radius of 6030 feet, the chord azimuth and distance being,
14. 274° 29' 34" 75.20 feet;
15. 4° 51' 78.20 feet along Grant 10307 to Win. S. Lindsey, et al.;
16. 274° 51' 213.60 feet along same;
17. 184° 51' 84.65 feet along same; Thence along the South side of the Kamuela-Mahukona Road, Federal Aid Project No. E-11-A on a curve to the left with a radius of 6030 feet, the chord azimuth and distance being,
18. 270° 37' 39" 310.95 feet;
19. 269° 09' 562.60 feet along the South side of the Kamuela-Mahukona Road, Federal Aid Project No. E-11-A;
20. 359° 09' 350.00 feet along Grant 11059, Apana 1 to A. W. Carter, Trustee;
21. 269° 09' 894.40 feet along same;
22. 179° 09' 282.10 feet along same;
23. 280° 27' 228.40 feet along the South side of the Kamuela-Mahukona Road, Federal Aid Project No. E-11-A; Thence still along the South side of the Kamuela-Mahukona Road, Federal Aid Project No. E-11-A on a curve to the right with a radius of 970 feet, the chord azimuth and distance being,

24. 285° 31' 171.30 feet;
25. 290° 35' 267.07 feet along the South side of the Kamuela-Mahukona Road, Federal Aid Project No. E-11-A;
26. 33° 12' 756.60 feet along the Northwest side of 40 foot road reservation and same extended to the north bank of the Waikoloa Stream; Thence following along the north bank of the Waikoloa Stream in all its turns and windings, along General Lease No. 3365, the direct azimuth and distance being,
27. 313° 30' 30" 799.50 feet;
28. 319° 30' 240.00 feet along General Lease No. 3381;
29. 70° 30' 157.55 feet along Grant 10171 to A. W. Carter, Trustee, to a concrete post marked + ;
30. 65° 31' 721.59 feet along L. C. Aw. 3202-B to Jose Bowers to a concrete post marked + ;
31. 338° 57' 456.70 feet along same to a concrete post marked +;
32. 58° 05' 30" 691.00 feet along L. C. Aw. 8513-B to Kuamoo Hoolulu to a concrete post marked + ;
33. 323° 10' 396.00 feet along same to a concrete post marked +;
34. 313° 24' 865.00 feet along same to a concrete post marked +;
35. 219° 26' 798.50 feet along same to a concrete post marked +;
36. 226° 34' 30" 323.30 feet along same to a concrete post marked 4;
37. 317° 24' 30" 797.30 feet along General Lease No. 3381;
38. 308° 40' 140.00 feet along same;
39. 276° 10' 700.00 feet along same;
40. 250° 30' 580.00 feet along same;
41. 265° 00' 200.00 feet along same;
42. 290° 50' 250.00 feet along same;
43. 11° 00' 97.20 feet along Mamalahoa Highway;
44. 31° 37' 442.35 feet along same;
45. 77° 00' 248.56 feet along the land of Waikoloa to a concrete post marked + ;
46. 347° 06' 252.36 feet along the land of Waikoloa;
47. 31° 37' 255.94 feet along Mamalahoa Highway;

48. 54° 51' 131.43 feet along the land of Waikoloa to a concrete post marked + ;

49. 14° 05' 83.80 feet along the land of Waikoloa to a concrete post marked + ;

50. 347° 24' 47.88 feet along the land of Waikoloa; Thence along the West side of Mamalahoa Highway on a curve to the left with a radius of 1180.92 feet, the chord azimuth and distance being,

51. 15° 44' 03" 399.33 feet;

52. 6° 00' 106.86 feet along the West side of Mamalahoa Highway to the point of beginning and containing a gross area of 292.50 acres and a net area of 288.00 acres after deducting therefrom L. C. Aw. 989 to John Davis (4.50 acres).

SEC. 2. Subject to minor variations therein the aforementioned lands owned by Richard Smart are described by the following metes and bounds:

PARCEL I

Being a portion of the land of Waikoloa situated on the west side of Mamalahoa Highway (Federal Aid Project No. 10-D) at Waimea, South Kohala, Hawaii.

Beginning at a pipe at the northeast corner of this piece of land, on the west side of Mamalahoa Highway (80 feet wide) Federal Aid Project No. 10-D, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 7694.64 feet north and 9552.47 feet east, thence running by azimuths measured clockwise from true south:

1. 6° 00' 1798.44 feet along the west side of Mamalahoa Highway (80 feet wide) Federal Aid Project No. 10-D;

2. 96° 00' 2400.00 feet along the remainder of the land at Waikoloa;

3. 244° 17' 1448.44 feet along the land of Lalamilo to a concrete post marked ± ;

4. 214° 54' 343.30 feet along the land of Lalamilo to a concrete post marked ± ;

5. 230° 44' 508.10 feet along the land of Lalamilo to a concrete post marked + ;

6. 213° 20' 204.60 feet along the land of Lalamilo to a concrete post marked + ;

7. 229° 50' 99.00 feet along the land of Lalamilo to a concrete post marked + ;

8. 241° 19' 212.90 feet along the land to Lalamilo to a pipe at fence;

9. 275° 47' 306.77 feet along fence, along the remainder of the land of Waikoloa to the point of beginning and containing an area of 49.93 acres.

PARCEL II

Being all of the land of Lihue Grant 1157 to G. V. Macy and James Louzada situated at Waimea, South Kohala, Hawaii.

Beginning at a concrete post marked + at the most easterly corner of this piece of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 8359.31 feet north and 7238.68 feet east, thence running by azimuths measured clockwise from true south:

1. 43° 12' 3436.45 feet along the land of Lalamilo to a concrete post marked + ;
2. 104° 09' 30" 1666.40 feet along the land of Lalamilo to a concrete post marked + ;
3. 184° 47' 10" 3706.80 feet along the land of Lalamilo to a concrete post marked + ,
4. 259° 13' 1225.00 feet along the land of Lalamilo to middle of stonewall;
5. 350° 19' 925.00 feet along the middle of stonewall, along the land of Lalamilo to a pipe in the middle of stonewall, thence following up along the middle of stonewall along the land of Lalamilo, the direct azimuth and distance being,
6. 250° 31' 1318.00 feet to a concrete post marked +;
7. 306° 30' 1160.00 feet along the land of Lalamilo to a concrete post marked + ;
8. 349° 20' 675.00 feet along the land of Lalamilo to the point of beginning and containing an area of 258 acres more or less.

SEC. 3. The lands transferred and conveyed by the Territory in exchange shall contain in the transfer and conveyance reservations to the Territory of appropriate easements for pipelines and utilities.

SEC. 4. The exchange which is provided for in this Act shall not be effected by the Commissioner of Public Lands unless and until the values of the lands involved in the proposed exchange are first determined by appraisals to be made by three competent appraisers to be appointed by the Governor of the Territory of Hawaii showing that the lands belonging to Richard Smart are of equal or greater value than the public lands above mentioned.

SEC. 5. The lands received by the Territory hereunder shall have the same status and be subject to the same laws as the lands transferred and conveyed in exchange for them.⁴⁰⁷