

ACT 248

S.B. NO. 1550-86

A Bill for an Act Relating to Liability of Officers or Directors of Nonprofit Corporations.

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

SECTION 1. Act 270, Session Laws of Hawaii 1985, Section 1, is amended by adding a new section to be appropriately designated and to read as follows:

“§ - **Exception to liability.** Any person who serves as an officer or director to the corporation without remuneration or expectation of remuneration shall not be liable for damage, injury, or loss caused by or resulting from the person’s performance of, or failure to perform, duties of the position to which the person was appointed, unless the person was grossly negligent in the performance of, or failure to perform, such duties.”

SECTION 2. Chapter 416, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§416- **Exception to liability.** Any person who serves as an officer or director to a nonprofit corporation without remuneration or expectation of remuneration shall not be liable for damage, injury, or loss caused by or resulting from the person’s performance of, or failure to perform, duties of the position to which the person was appointed, unless the person was grossly negligent in the performance of, or failure to perform, such duties.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 249

H.B. NO. 2102-86

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

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

SECTION 1. Section 202, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (b) to read as follows:

“(b) The provisions of section 76-16, Hawaii Revised Statutes, shall apply to the positions of the first deputy and private secretary to the chairman of the commission. The department may hire temporary staff on a contractual basis not subject to chapters 76, 77, 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, [development,] operating [funds,] fund, or native Hawaiian rehabilitation fund. No contract shall be for a period longer than two years, but individuals hired under contract may be employed for 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. All other positions in the department shall be subject to chapters 76 and 77, Hawaii Revised Statutes.

All vacancies and new positions which are covered by chapters 76 and 77, Hawaii Revised Statutes, shall be filled in accordance with sections 76-23 and 76-31, Hawaii Revised Statutes, provided that the provisions of these sections shall be applicable first to qualified persons of Hawaiian extraction."

SECTION 2. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

"§213. Funds and accounts. (a) There are established in the treasury of the State [seven] two revolving funds, to be known respectively as the Hawaiian home loan fund[, the additional receipts loan fund,] and the Hawaiian home general loan fund[, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund].

(1) Hawaiian home loan fund. [Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:

(A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and

(B) The installments of principal paid by the lessees upon loans made to them from the fund, or payments representing reimbursements on account of advances, but not including interest on such loans or advances,

shall not exceed \$5,000,000.] The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act[.] and for payments provided in section 209 and shall not be expended for any other purpose except as provided in subsection (b)(1) of this section.

[That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts," shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-two per cent to the Hawaiian home education fund; provided that the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000.]

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

[(2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans

or advances, shall be used for the purposes enumerated in section 214 of this Act.

- (3) (2) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, [excluding moneys appropriated] for construction of replacement homes[;], for home repairs or additions, or for the development and operation of a farm, ranch, or aquaculture operation; moneys transferred from [the Hawaiian home interest fund;] other funds; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances, shall be deposited into this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act[.]; provided that loans to lessees for repairs to their existing homes and for additions to such homes shall not be in excess of \$15,000; provided further that, in addition to the conditions enumerated in section 215, farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive, a major portion of the applicant's income from farming; farm 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. Subsidies and grants or cost-sharing funds entitled and received by the lessee for soil and water conservation purposes shall be assigned to the department for the repayment of the outstanding farm indebtedness; and the lessee shall carry out recommended farm management practices approved by a qualified agricultural agency.
- (A) The department may create an account within this fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to a holder of a lease under section 207(a) of this Act or license issued under section 207(c)(1)(B) of this Act.
- (B) The department may create an account within this fund for moneys borrowed from government agencies or private lending institutions to be used for any of the purposes enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees on the loans made to them from this account shall be deposited into the same account; any additional interest or other earnings arising out of investments from this account shall be credited to and deposited into the Hawaiian home receipts fund.
- (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian home interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.

- (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited into this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$15,000 to lessees for repairs to their existing homes and for additions to such homes.
- (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited into this fund. The moneys in this fund shall be used to make loans in the amount provided in section 215 for the development and operation of a farm, ranch, or aquaculture operation or ninety per cent of the cost of the project, whichever is less, to lessees of agricultural tracts, pastoral tracts, and tracts used for aquaculture leased under section 207 of this Act. In addition to the purposes enumerated in section 214(a) such loans may be made for the following purposes:
 - (A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;
 - (B) The liquidation of indebtedness incurred for any of the foregoing purposes relating to farm loans aged less than five years;
 - (C) The payment of normal and reasonable living expenses of a full-time farmer;
 - (D) The planning, layout, and installation of soil and water conservation practices; or
 - (E) For emergency purposes to provide 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 catastrophies, and for livestock disease, epidemics, crop blights, and serious effects of prolonged shipping and dock strikes.

In addition to the conditions enumerated in section 215 farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive a major portion of his income from farming; 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. Subsidies and grants or cost sharing funds entitled and received by the lessee for soil and water conservation purposes shall be assigned to the department for the repayment of the outstanding farm indebtedness; and the lessee is required to carry out recommended farm management practices approved by a qualified agricultural agency.

- (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian home interest fund, except moneys received by the Hawaiian home administration account, shall be directly deposited into the

Hawaiian home operating fund. The moneys in this fund shall be available:

- (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
- (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
- (C) For operation and maintenance of such improvements constructed from such funds or other funds;
- (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and
- (E) For appraisals, studies, consultants (architects, engineers), or any other staff services including those in section 202(b) required to implement, develop, and operate these projects.

The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000.]

(b) There are established in the treasury of the State [eight] five special funds, to be known respectively as the Hawaiian home [development] operating fund, the Hawaiian home administration account, [the Hawaiian loan guarantee fund,] the Hawaiian home [interest] receipts fund, [the borrowed money fund,] the Hawaiian home trust fund, [the Hawaiian home education fund,] and the native Hawaiian rehabilitation fund.

(1) Hawaiian home [development] operating fund. The interest transferred from the Hawaiian home loan fund, all moneys received by the department from any other source, and moneys transferred from the Hawaiian home receipts fund, shall be deposited into the Hawaiian home operating fund. The moneys in this fund, without the prior written approval of the governor, shall be available:

- (A) For construction and reconstruction of revenue-producing improvements intended to serve principally occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
- (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
- (C) For operation and maintenance of such improvements constructed from such funds or other funds;
- (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to

be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and

- (E) For appraisals, studies, consultants (including architects, engineers), or any other staff services including those in section 202(b) required to plan, implement, develop, or operate these projects.

The moneys in this fund may be supplemented by other funds available for or appropriated by the legislature for the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000. [Moneys transferred to] In addition, moneys of this fund shall be made available with the prior written approval of the governor for offsite improvements and development necessary to serve present and future occupants of Hawaiian home lands; for improvements, additions, and repairs to all assets owned or leased by the department excluding structures or improvements that the department is obligated to acquire under section 209 of this Act; for engineering, architectural, and planning services to maintain and develop properties; for such consultant services as may be contracted for under this Act; for purchase or lease of necessary equipment; for acquisition or lease of real property and interest therein; and for improvements constructed for the benefit of beneficiaries of this Act and not otherwise permitted in the various loan funds[,] or the administration account[, or the operating fund].

- (2) Hawaiian home administration account. The entire receipts derived from any leasing of the available lands defined in section 204 of this Act and transfers from the Hawaiian home [interest] receipts fund shall be deposited into this account. Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into this fund. The moneys in this account shall be expended by the department for salaries and all other administration expenses of the department in conformity with general law applicable to all departments of the State, and no sums shall be expended for structures and other permanent improvements. This account shall be subject to the following conditions and requirements:
- (A) The department shall, when required by the governor but not later than November 15 preceding each regular session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law.
- (B) The department's budget as approved by the governor shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
- (C) 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 [development] operating fund.
- [(3) The Hawaiian loan guarantee fund. There may be created a fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to those holding leases or licenses issued under section 207 of this Act. 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.
- (4) (3) Hawaiian home [interest] receipts fund. All interest moneys from loans or investments received by the department from any fund except as provided for in each respective fund, shall be deposited into this fund. At the end of each quarter, all moneys in this fund [shall] may be transferred to [the Hawaiian home development fund,] the Hawaiian home operating fund, the Hawaiian home administration account, the Hawaiian home trust fund, and any loan fund in accordance with rules adopted by the department. [Moneys transferred to the Hawaiian home administration account shall be used to fund salaries and other administrative expenses related to loan services and delinquent collection activities.
- (5) Borrowed money fund. The department may borrow from government agencies or private lending institutions and deposit borrowed moneys into this fund to be used for the purpose enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees upon loans made to them from this fund shall be deposited into this fund; any additional interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home interest fund.
- (6) (4) Hawaiian home trust fund. All moneys deposited into this fund shall be available for transfers into any other fund or account authorized by the Act or for any public purpose deemed by the commission to further the purposes of the Act. Public purpose, as used herein, includes the formation of an account within the Hawaiian home trust fund as a reserve for loans insured or guaranteed by the Federal Housing Administration, Veterans Administration, 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 programs.
- [(7) Hawaiian home education fund. Moneys transferred to this fund may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such

educational projects as shall be developed and directed by the department of education and department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.

- (8) (5) Native Hawaiian rehabilitation fund.
 - (A) Pursuant to Article XII, Section 1, of the State Constitution, thirty per cent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include, but not be limited to, the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.
 - (B) Any payment of principal, interest, or other earnings arising out of the loan or investment of money from this¹ fund shall be credited to and deposited into this fund.
 - (C) Sections 214, 215, 216, and 217 of this Act shall not apply to administration of this fund. The department is authorized to adopt rules necessary to administer and carry out the purposes of this fund."

SECTION 3. Section 214, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

"§214. Purposes of loans; authorized [[]actions[]]. (a) The department may make loans from revolving funds to any lessee or native Hawaiian to whom, or any cooperative association to which, a lease has been issued under section 207(a) of this Act or a license has been issued under section [207] 207(c)(1)(B) of this Act. Such loans may be made for the following purposes:

- (1) The repair or maintenance or purchase or erection of dwellings on any tract, and the undertaking of other permanent improvements thereon;
- (2) The purchase of livestock, swine, poultry, fowl, aquaculture stock, and farm and aquaculture equipment;
- (3) Otherwise assisting in the development of tracts and of farm, ranch, and aquaculture operations[;], including:
 - (A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;
 - (B) The liquidation of indebtedness incurred for any of the foregoing purposes relating to farm loans aged less than five years;
 - (C) The payment of normal and reasonable living expenses of a full-time farmer;
 - (D) The planning, layout, and installation of soil and water conservation practices; and
 - (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;

- (4) The cost of breaking up, planting, and cultivating land and harvesting crops, the cost of excavating or constructing aquaculture ponds and tanks, the purchase of seeds, fertilizers, feeds, insecticides, medicines, and chemicals for disease and pest control for animals, fish, shellfish, and crops, and the related supplies required for farm, ranch, and aquaculture operations, the erection of fences and other permanent improvements for farm, ranch, and aquaculture purposes and the expense of marketing; and
 - (5) To assist [lessees] licensees in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by [lessees of the department] native Hawaiians or by organizations formed and controlled by [the lessees.] native Hawaiians.
- (b) In addition the department may:
- (1) Use moneys in the [development and] Hawaiian home operating [funds,] fund, 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 such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for such projects or works;
 - (2) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof, up to a maximum of \$50,000 to lessees in accordance with section 215;
 - (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;
 - (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of such loans; provided that upon receipt of notice of default in the payment of such 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 provided further that the department shall reserve the following rights: the right of succession to the lessee's interest and assumption of the contract of loan; the right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;
 - (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 paragraphs (2), (3), and (4) of this section, shall at no time exceed \$21,000,000; 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;

- (6) Use available loan fund moneys or other funds specifically available for such purposes as cash guarantees when required by lending agencies;
- (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, the protecting of security interest, and after foreclosures, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage.”

SECTION 4. Section 220, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

“§220. [[] Development projects; appropriations by legislature[:]; bonds issued by legislature.[]] (a) The department is 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 homesteaders, 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 department[:]; provided[, however,] that roads through or over Hawaiian home lands, other than federal-aid highways and roads, shall be maintained by the county or city and county in which [said] the particular road or roads to be maintained are located.

(b) The legislature is authorized to appropriate out of the treasury of the State such sums as it deems necessary to augment the [Hawaiian home-loan fund, the Hawaiian home-development fund, the Hawaiian home-operating fund, and the Hawaiian home-administration account,] funis of the department and to provide the department with funds sufficient to execute and carry on such projects and activities. 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 department shall provide, as set forth in section [213(d).] 213.

(c) 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 department is authorized, with the approval of the governor, to [grant]:

- (1) Grant to the [[] board of land and natural resources[]], or to any other agency of the government of the State 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 exchange]

- (2) Exchange available lands for public lands, as provided in section [204(4)] 204 of this [title,] Act, for sites for reservoirs and subsurface water development wells and shafts; [to request]
- (3) Request any such irrigation agency to organize irrigation projects for Hawaiian home lands and to transfer irrigation facilities constructed by the department to any such irrigation agency; [to agree]
- (4) Agree to pay the tolls and assessments made against community pastures for irrigation water supplied to such pastures; and [to agree]
- (5) Agree to pay the costs of construction of projects constructed for Hawaiian home lands at the request of the department, in the event the assessments paid by the homesteaders upon lands are not sufficient to pay such costs[: Provided,];

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 State. Such payments shall be made from, and be a charge against the Hawaiian [home-operating] home operating fund."

SECTION 5. Section 222, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) The department shall adopt rules and regulations and policies in accordance with [the provisions of] chapter 91, Hawaii Revised Statutes. The department may make such expenditures as are necessary for the efficient execution of the functions vested in the department [[]by[]] this Act. All expenditures of the department[, as herein provided out of the Hawaiian home-administration account, the Hawaiian home-development fund, or the Hawaiian home-operating fund,] and all [monies] monies necessary for loans made by the department, in accordance with the provisions of this Act, [from the Hawaiian home-loan fund,] shall be allowed and paid upon the presentation of itemized vouchers [therefor,] approved by the chairman of the commission[.] or the chairman's designated representative. The department shall make an annual report to the legislature of the State upon the first day of each regular session [thereof] and such special reports as the legislature may from time to time require. The chairman and members of the commission shall give bond as required by law. The sureties upon the bond and the conditions thereof shall be approved annually by the governor."

SECTION 6. The state comptroller and the chairman of the Hawaiian homes commission are authorized to take such actions as may be necessary to implement the funding structure provided for by this Act, including the following actions:

- (1) Transfer the June 30, 1986, balances of the Hawaiian home replacement loan fund, Hawaiian home repair loan fund, Hawaiian home farm loan fund, Hawaiian loan guarantee fund, and the borrowed money fund to the Hawaiian home general loan fund;
- (2) Transfer the June 30, 1986, balances of the Hawaiian home development fund to the Hawaiian home operating fund; and
- (3) Transfer the June 30, 1986, balances of the Hawaiian home interest fund and the Hawaiian home education fund to the Hawaiian home receipts fund.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. The provisions of the amendments made by this Act to the Hawaiian Homes Commission Act, 1920, as amended, are declared to be severable, and if any section, sentence, clause, or phrase, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then that portion only shall take effect upon the granting of consent by the United States and effectiveness of the remainder of these amendments or the application thereof shall not be affected.

SECTION 9. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

Note

- 1. Prior to amendment, "the" appeared here.

ACT 250

H.B. NO. 105

A Bill for an Act Relating to Names.

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

SECTION 1. Section 574-5, Hawaii Revised Statutes, is amended by amending subsections (a) and (e) to read as follows:

1. Subsection (a) is amended to read:

“(a) It shall be unlawful to change any name adopted or conferred under this chapter, except:

- (1) Upon an order of the lieutenant governor;
- (2) By a final order, decree, or judgment of the family court issued as follows:

(A) When in an adoption proceeding a change of name of the person to be adopted is requested and the court includes the change of name in the adoption decree; [or]

(B) When in a divorce proceeding either party to the proceeding requests to resume the surname used by him or by her prior to the marriage or a surname declared and used during any prior marriage and the court includes the change of name in the divorce decree; or

(C) When in a proceeding for a change of name of a legitimate or legitimated minor initiated by one parent, the family court, upon proof that the parent initiating the name change has made all reasonable efforts to locate and notify the other parent of the name change proceeding but has not been able to locate, notify, or elicit a response from the other parent, and after an appropriate hearing, orders a change of name determined to be in the best interests of the minor;

(3) Upon marriage pursuant to section 574-1; [or]

(4) Upon legitimation pursuant to section 338-21[.]; or

(5) By an order or decree of any court of competent jurisdiction within any state of the United States, the District of Columbia,