
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:

1 SECTION 1. Section 215 of the Hawaiian Homes Commission
2 Act, 1920, as amended, is amended to read as follows:

3 "§215. **Conditions of loans.** Except as otherwise provided
4 in section 213(c), each contract of loan with the lessee or any
5 successor or successors to the lessee's interest in the tract or
6 with any agricultural, mercantile, or aquacultural cooperative
7 association composed entirely of lessees shall be held subject to
8 the following conditions whether or not stipulated in the
9 contract loan:

10 (1) At any time, the outstanding amount of loans made to
11 any lessee, or successor or successors in interest, for
12 the repair, maintenance, purchase, and erection of a
13 dwelling and related permanent improvements shall not
14 exceed fifty per cent of the maximum single residence
15 loan amount allowed in Hawaii by the United States
16 Department of Housing and Urban Development's Federal
17 Housing Administration (FHA), for the development and
18 operation of a farm, ranch, or aquaculture operation
19 shall not exceed \$50,000, except that when loans are
20 made to an agricultural or aquacultural cooperative

1 association for the purposes stated in section
2 214(a)(4), the loan limit shall be determined by the
3 department on the basis of the proposed operations and
4 the available security of the association, and for the
5 development and operation of a mercantile establishment shall not
6 exceed the loan limit determined by the department on the basis
7 of the proposed operations and the available security of the
8 lessee or of the organization formed and controlled by lessees;
9 provided that upon the death of a lessee leaving no relative
10 qualified to be a lessee of Hawaiian home lands, or the
11 cancellation of a lease by the department, or the surrender of a
12 lease by the lessee, the department shall make the payment
13 provided for by section 209(a), the amount of any such payment
14 shall be considered as part or all, as the case may be, of any
15 such loan to the successor or successors, without limitation as
16 to the above maximum amounts; provided further that in case of
17 the death of a lessee, or cancellation of a lease by the
18 department, or the surrender of a lease by the lessee, the
19 successor or successors to the tract shall assume any outstanding
20 loan or loans thereon, if any, without limitation as to the above
21 maximum amounts but subject to paragraph (3).

22 (2) The loans shall be repaid in periodic installments,
23 such installments to be monthly, quarterly, semiannual,

1 or annual as may be determined by the department in
2 each case. The term of any loan shall not exceed
3 thirty years. Payments of any sum in addition to the
4 required installments, or payment of the entire amount
5 of the loan, may be made at any time within the term of
6 the loan. All unpaid balances of principal shall bear
7 interest at the rate of [two and one-half per cent a
8 year for loans made directly from the Hawaiian home
9 loan fund, or at the rate of] two and one-half per cent
10 or higher as established by [law for other loans,] rule
11 adopted by the department, payable periodically or upon
12 demand by the department, as the department may
13 determine. The payment of any installment due shall be
14 postponed in whole or in part by the department for
15 such reasons as it deems good and sufficient and until
16 such later date as it deems advisable. Such postponed
17 payments shall continue to bear interest on the unpaid
18 principal at the rate established for the loan.

19 (3) In the case of the death of a lessee the department
20 shall, in any case, permit the successor or successors
21 to the tract to assume the contract of loan subject to
22 paragraph (1). In case of the cancellation of a lease
23 by the department or the surrender of a lease by the

1 lessee, the department may, at its option declare all
2 installments upon the loan immediately due and payable,
3 or permit the successor or successors to the tract to
4 assume the contract of loan subject to paragraph (1).
5 The department may, in such cases where the successor
6 or successors to the tract assume the contract of loan,
7 waive the payment, wholly or in part, of interest
8 already due and delinquent upon the loan, or postpone
9 the payment of any installment thereon, wholly or in
10 part, until such later dates as it deems advisable.
11 Such postponed payments shall, however, continue to
12 bear interest on the unpaid principal at the rate
13 established for the loan. Further, the department may,
14 if it deems it advisable and for the best interests of
15 the lessees, write off and cancel, wholly or in part,
16 the contract of loan of the deceased lessee, or
17 previous lessee, as the case may be, where such loans
18 are delinquent and deemed uncollectible. Such write
19 off and cancellation shall be made only after an
20 appraisal of all improvements and growing crops or
21 improvements and aquaculture stock, as the case may be,
22 on the tract involved, such appraisal to be made in the
23 manner and as provided for by section 209(a). In every

- 1 case, the amount of such appraisal, or any part
2 thereof, shall be considered as part or all, as the
3 case may be, of any loan to such successor or
4 successors, subject to paragraph (1).
- 5 (4) No part of the moneys loaned shall be devoted to any
6 purpose other than those for which the loan is made.
- 7 (5) The borrower or the successor to the borrower's
8 interest shall comply with such other conditions, not
9 in conflict with any provision of this Act, as the
10 department may stipulate in the contract of loan.
- 11 (6) The borrower or the successor to the borrower's
12 interest shall comply with the conditions enumerated in
13 section 208, and with section 209 of this Act in
14 respect to the lease of any tract.
- 15 (7) Whenever the department shall determine that a borrower
16 is delinquent in the payment of any indebtedness to the
17 department, it may require such borrower to execute an
18 assignment to it, not to exceed, however, the amount of
19 the total indebtedness of such borrower, including the
20 indebtedness to others the payment of which has been
21 assured by the department of all moneys due or to
22 become due to such borrower by reason of any agreement
23 or contract, collective or otherwise, to which the

1 borrower is a party. Failure to execute such an
2 assignment when requested by the department shall be
3 sufficient ground for cancellation of the borrower's
4 lease or interest therein."

5 SECTION 2. Statutory material to be repealed is bracketed.
6 New statutory material is underscored.

7 SECTION 3. This Act shall take effect upon its approval by
8 the governor of the State of Hawaii with the consent of the
9 United States.

APPROVED BY THE
GOVERNOR ON

MAY 22 2000

BENJAMIN J. CAYETANO
GOVERNOR
STATE OF HAWAII



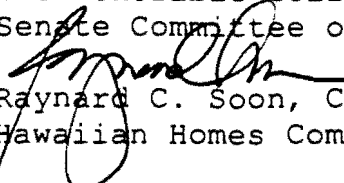
RAYNARD C. SOON
CHAIRMAN
HAWAIIAN HOMES COMMISSION

JOBIE M. K. M. YAMAGUCHI
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P.O. BOX 1879
HONOLULU, HAWAII 96805

March 17, 2000

To: The Honorable Colleen Hanabusa, Chair
Senate Committee on Water, Land, and Hawaiian Affairs

From: 
Raynard C. Soon, Chairman
Hawaiian Homes Commission

Subject: Testimony On H.B. 2501, H.D. 2 Relating to the
Hawaiian Homes Commission Act, 1920, As Amended

Chair Hanabusa and members of the Senate Committee On Water, Land, and Hawaiian Affairs. Thank you for the opportunity to testify on H.B. 2501, H.D. 2. This Administration bill is the companion to S.B. 2842 that was heard and passed out by the committee earlier in the session. It would authorize the Department of Hawaiian home lands (DHHL) to adjust, by administrative rule, the interest rate on loans from the Hawaiian home loan fund and other loan sources based on interest rates in the marketplace and the need and financial qualifications of the lessee.

The Hawaiian home loan fund is used to provide loans to the successor lessees of surrendered or cancelled leases. Section 215(2) of the Hawaiian Homes Commission Act, 1920, as amended, (HHCA) established an interest rate of two and one-half percent on loans made from this fund. As a result, DHHL is required to offer the successor lessee a loan from the Hawaiian home loan fund at the two and one-half percent interest rate, regardless of the lessee's ability to pay.

This bill will provide DHHL with the flexibility to set, by administrative rule, the interest rate on loans from the Hawaiian home loan fund and other loan sources. Rates would be established based on interest rates in the marketplace and the need and financial qualifications of the lessee.

Testimony On H.B. 2501, H.D. 2
March 17, 2000

The House proposed two amendments to this bill. The first, on page 3, line 14, would allow the interest rates to be established at "zero percent or higher". The original bill proposed interest rates of "two and one half percent or higher". We do not oppose the amendment proposed by the House, but would prefer the original language in the bill.

The second amendment occurs on page 6, lines 9-16, and line 19, adding a severability clause in Section 2 and providing in Section 4 that the Act take effect upon approval. If this measure is enacted, we believe that congressional consent will be required, since it amends provisions relating to the Hawaiian home loan fund. Moreover, the U.S. Department of Interior has taken the position that any proposed amendment to the Hawaiian Homes Commission Act that contains a severability clause requires congressional consent. In view of this, we believe that the language proposed in Section 4 of the bill may create confusion regarding the effective date of the Act. We recommend that Section 4 be amended to read as follows: "This Act shall take effect upon approval of the governor of the State of Hawaii with the consent of the United States congress".

We urge your favorable passage of H.B. 2501, with the amendments proposed above.