

1972

ACT 173

A Bill for an Act Relating to the Reporting of Information on Subleases of State Lands.

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

SECTION 1. Section 222 of the Hawaiian Homes Commission Act is amended to read as follows:

"Sec. 222. Administration. (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 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. 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 of the commission shall give bond in the sum of \$25,000 for the faithful performance of his duties. The sureties upon the bond and the conditions thereof shall be approved annually by the governor.

(b) When land originally leased by the department is, in turn, subleased by the department's lessee or sublessee, the department shall submit, within ten days of the convening of any regular session, a written report to the legislature which shall cover the sublease transactions occurring in the calendar year prior to the regular session and shall contain the names of the 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.

SECTION 2. Section 171-29, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 171-29 Report to legislature on all dispositions. (a) The board of land and natural resources shall submit a written report annually to the legislature within ten days of the convening of each regular session, of all land dispositions made in the preceding year, including sales, leases, leases with options to purchase, licenses, concessions, permits, exchanges, and setting aside of lands by executive orders, the persons to whom made, the size of each disposition, the purpose for which made, the land classification of each, the tax map key number, the per unit price paid or set, and whether the disposition was by auction, by drawing, or by negotiation. When land originally leased by the board is, in turn, subleased by the board's lessee or sublessee, the report shall include, in addition to the foregoing information, the reason for approval

Act 173
ACT 175

1972

H. B. NO. 42

Information on Subleases of

Hawaii:

Homes Commission Act is

ent shall adopt rules and reg-
ovisions of chapter 91, Ha-
ke such expenditures as are
ons vested in the department
as herein provided out of the
awaiian home-development
nd all monies necessary for
th the provisions of this Act,
wed and paid upon the pre-
by the chairman of the com-
port to the legislature of the
on thereof and such special
require. The chairman of the
for the faithful performance
e conditions thereof shall be

artment is, in turn, subleased
artment shall submit, within
a written report to the legis-
ns occurring in the calendar
in the names of the persons
der lease, the purpose of the
se, the tax map key number,
sublease by the department,
o the department, lessee and

sed Statutes, is amended to

positions. (a) The board of
report annually to the legis-
gular session, of all land dis-
sales, leases, leases with op-
exchanges, and setting aside
n made, the size of each dis-
lassification of each, the tax
and whether the disposition
hen land originally leased by
ssee or sublessee, the report
tion, the reason for approval

of the sublease by the board and the estimated net economic result accruing to the State, lessee and sublessee.

(b) Whenever in this chapter any sale, lease, easement, license, executive order, quitclaim, exchange, or other disposition is made subject to disapproval of the legislature, a written report thereof containing the information required in subsection (a) of this section shall be submitted to the legislature in the session next following the date of the disposition within ten days of the convening of the session."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.
(Approved June 2, 1972.)

ACT 174 H. B. NO. 356

A Bill for an Act Relating to Custody of, and Accounting for, Prisoners' Money.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 353-27, Hawaii Revised Statutes, is amended to read:

"353-27 Custody of moneys; accounts for prisoners, etc. All sums collected under chapters 353 and 354 and other authorized sources shall be deposited by the department of social services and housing in an individual trust account to the credit of the prisoner. The department shall maintain individual ledger accounts for each prisoner and shall issue to each prisoner a quarterly statement showing credits and debits."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect on July 1, 1972.
(Approved June 2, 1972.)

ACT 175 H. B. NO. 440

A Bill for an Act Relating to Exchanges of Public Lands.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-50, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Value. The public land exchange shall be of equal value and of use comparable to that of the private land prior to the exchange. Provided, that

*Edited accordingly.

ACT 66

He shall supervise all of the forces comprising the military components of the department of defense of the State. The supervisory power shall include the command, discipline, training, and recruiting of the armed forces of the State, military operations, distribution of troops, inspections, armament, military education and instruction, fiscal operations, administration, and supply.

The adjutant general is authorized to confer the powers of police officers, including the power to arrest, to employees of the department who are engaged as security guards for national guard and civil defense facilities; provided, that such powers shall remain in force and effect only while the security guards are in the actual performance of their duties as security guards."

SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 28- Security guards; appointment and powers. Employees of the department of the attorney general engaged as security guards, upon specific authorization and direction of the attorney general, shall have all of the powers of police officers, including the power of arrest; provided that such powers shall remain in force and effect only while the security guards are in actual performance of their duties as security guards which duties shall include off-duty employment when such employment is for other state departments or agencies."

SECTION 3. All employees of the department of defense who are engaged as security guards assigned to the Capitol Security Complex shall be transferred to the department of the attorney general without change in civil service status, reduction in salary range, loss of vacation or sick leave allowances, seniority, prior service credits, or other employee benefits or privileges, and without the necessity of examination; provided that subsequent changes in status may be made pursuant to applicable personnel laws.

SECTION 4. All records, equipment, files, supplies, books, papers, documents, maps, and other property, pertaining to or used by the security guards transferred by section 3, shall be transferred to the department of the attorney general without cost to the department of the attorney general.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act shall take effect on July 1, 1973.

(Approved May 8, 1973.)

1973

ACT 66

H. B. NO. 1156

A Bill for an Act Amending the Hawaiian Homes Commission Act, 1920.

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

*Edited accordingly.

SECTION 1. Section 208 of the Hawaiian Homes Commission Act, 1920, is amended to read:

"Sec. 208. Conditions in leases. Each lease made under the authority granted the department by the provisions of section 207 of this title, 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 original lessee shall be a native Hawaiian, not less than twenty-one 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 or cancelled in accordance with the provisions of succeeding sections.

(2) The lessee shall pay a rental of one dollar a year for the tract and the lease shall be for a term of ninety-nine years.

(3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made. The lessee of agricultural lands shall plant and maintain not less than five, ten, fifteen and twenty trees per acre of land leased and the lessee of pastoral lands shall plant and maintain not less than two, three, four, and five trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of lease. Such trees shall be of types approved by the department and at locations specified by the department's agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the department free of charge.

(4) The lessee shall thereafter, for at least such part of each year as the department shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf.

(5) The lessee shall not in any manner transfer to, or mortgage, pledge, 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, mortgage, pledge, or otherwise hold, his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Hawaiian or Hawaiians approved of by the department, or for any indebtedness due the department or for taxes, or for any other indebtedness the payment of which has been assured by the department, including loans from governmental agencies where such loans have been approved by the department, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon.

(6) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The department may in its discretion pay such taxes and have a lien therefor as provided by section 216 of this act.

(7) The lessee shall perform such other conditions, not in conflict with any provision of this title, as the department may stipulate in the lease: provided, however, that an original lessee shall be exempt from all taxes for the first seven years from date of lease.

(8) The department may assure the repayment of loans to lessees from

H. B. NO. 1156

Homes Commission Act, 1920.

ate of Hawaii:

ACT 66
ACT 67

1973

governmental agencies where such loans have been approved by the department, up to the limits prescribed in section 215; provided that the lessee has no indebtedness due the department and the department shall not make any loans to the lessee while loans from governmental agencies are outstanding; provided further that upon receipt of notice of default in the payment of such loans, the department may, upon failure of the lessee to cure the default within 60 days, cancel the lease and thereupon use its best efforts to redispense of the tract to a qualified and responsible native Hawaiian or Hawaiians as a new lessee who will assume the obligation of the outstanding debt thereby assured, and make payments to the governmental agency from available funds either for the monthly payments as they become due and payable or for the amount of the debt. In no event shall the aggregate amount assured by the department exceed \$2,000,000."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1973.)

ACT 67

S. B. NO. 140

A Bill for an Act Relating to Assistance to Displaced Persons.

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

SECTION 1. Chapter 111, Hawaii Revised Statutes, is amended in the following particulars:

1. By amending section 111-3 to read:

"**Sec. 111-3 Relocation payments.** (a) Except as provided in subsection (f) below, if any state agency displaces persons described herein, it shall make fair and reasonable relocation payments to such displaced persons as required by this chapter.

(b) A relocation payment to a displaced person shall be for his or its actual and reasonable moving expenses.

(c) Optional payments (dwelling). Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (b) of this section may receive: (1) a moving expense allowance determined according to a schedule established by the state agency involved not to exceed \$200; and (2) a dislocation allowance in the amount of \$100.

(d) Optional payments (business and farm operations). Any displaced person who moves or discontinues his business or farm operations who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section may receive a fixed relocation pay-

*Edited accordingly.

1973

court is situated, from any part of the State;

- (4) Perpetuate testimony under the rules and orders of the family court, and issue commissions for the perpetuation of testimony to be used on controversies pending before them;
- (5) Grant continuances in proceedings before them;
- (6) Enforce decrees of the family court of its judicial circuit; and punish contempts according to law;
- (7) In a criminal case, alter, set aside, or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of a sentence; and
- (8) Appoint guardians ad litem for minors or incompetents or attorneys to represent parties in accordance with law.

(b) Every witness duly subpoenaed as provided in this section shall be allowed the same attendance and mileage fees allowed witnesses subpoenaed before the circuit courts.

(c) Except as otherwise provided in this chapter or in chapter 666, a summons or other writ issued by a district family court may be served only in the judicial circuit in which the district family court is situated."

SECTION 2. Chapter 571, Hawaii Revised Statutes, is further amended to substitute the words "district family judge" or "district family judges" wherever the word "referee" or "referees" appears therein.

SECTION 3. The first sentence of section 571-5, Hawaii Revised Statutes, is amended by inserting the words "and district family judges" before the phrase "is hereby created."

SECTION 4. Section 571-7, Hawaii Revised Statutes, is hereby repealed.

SECTION 5. The requirement that district family judges be attorneys licensed to practice before the Supreme Court of Hawaii shall not apply to incumbent referees.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1973.)

1973

ACT 220

S. B. NO. 993

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

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

SECTION 1. Section 213(b) of the Hawaiian Homes Commission Act, 1920, as amended, is further amended to read:

"(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or

need no
there st
lessees
or as p
pursuar
vances.
as prov
and sha
vided in
T
sugarca
and ab
which i
deposi
fund ur
cluding
from m
been m
has not
to thes
the loa
and int
whethe
as state
fund of
E
the 'Ad
the Ha
amende
F
the 'Ad
revolvit
nance c
home la
by the
further
the foll
and any
(1
(2

need not be reimbursed) shall equal \$5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209(1), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in paragraph (c) and (d) of this section.

Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called 'Additional Receipts', shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Development Fund Portion', is to be transferred to the Hawaiian home development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Loan Fund Portion,' shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased, with loans by the department or by financial institutions, governmental or private. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

- (1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;
- (2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$25,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of \$25,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions

of section 215(3);

- (3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or other governmental agencies may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home loan fund, Hawaiian home operating fund or Hawaiian home development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department;
- (4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or financial institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;
- (5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by financial institutions to native Hawaiians is higher, pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;
- (6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from financial institutions, governmental or private, and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Re-

- ceipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;
- (7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee the repayment of or otherwise underwrite, the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;
- (8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans by financial institutions made to Hawaiians under this program. 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 the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 20, 1973.)

*Edited accordingly.

1974

ACT 170

A Bill for an Act Relating to the Establishment of Revolving Funds and Special Funds under the Hawaiian Homes Commission Act, 1920.

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

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is further amended to read:

"Sec. 213 Hawaiian home-loan fund; Hawaiian home-development fund; Hawaiian home-operating fund; administration account; Hawaiian home-farm loan fund; Hawaiian home-commercial loan fund; Hawaiian home-repair loan fund; Anahola-Kekaha loan fund; Hawaiian loan guarantee fund; and the Papakolea home-replacement loan fund. (a) There are hereby established in the treasury of the State seven revolving funds to be known as the Hawaiian home-loan fund, the Hawaiian home-operating fund, the Hawaiian home-farm loan fund, the Hawaiian home-commercial loan fund, the Hawaiian home-repair loan fund, the Anahola-Kekaha loan fund, the Papakolea home-replacement loan fund, and three special funds to be known as the Hawaiian home-development fund, the Hawaiian home-administration account, and the Hawaiian loan guarantee fund.

(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209(1), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in paragraphs (c) and (d) of this section.

Thirty percent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called 'Additional Receipts,' shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the

special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Development Fund Portion,' is to be transferred to the Hawaiian home-development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Loan Fund Portion,' shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased, with loans by the department or by financial institutions, governmental or private. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinafter:

- (1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;
- (2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$25,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of \$25,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions of section 215(3);
- (3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or other governmental agencies may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home-loan fund, Hawaiian home-operating fund or Hawaiian home development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the

l, moneys borrowed under (6) interest paid by borrowers upon whether from the Additional extent as stated hereinafter, the general fund of the State upon yment.

Additional Receipts, hereinafter at Fund Portion,' is to be trans- fund, to be used in accordance) of this section.

onal Receipts, hereinafter called n,' shall be retained in the special nection with the repair or main- ovement of dwellings on either home lands, whether owned or by financial institutions, govern- purposes herein, the department with moneys from the Additional orrowed moneys under (6) here-

benefits of the special revolving is defined in the Act; rantee the repayment of or other- an, up to a maximum of \$25,000; ath of a lessee living on Hawaiian ives qualified to be a lessee on cellation of a lease by the lessee, d to make payment and to permit \$25,000 under and in accordance 15(1), subject, as stated, to the

ian home lands, anything in the ng, either the department or other e loans, and the loans made in intenance or purchase or erection all be subject to, all applicable but not limited to the provisions 215, 216, and 217, and to such Act herein or hereafter enacted, not change the qualifications of or impairment of the Hawaiian -operating fund or Hawaiian home require the consent of the United y governmental agencies shall be id the department may assure the l that the department shall reserve ers: the right of succession to the

lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the depart- ment;

- (4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or financial institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;
- (5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by financial institutions to native Hawaiians is higher, pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;
- (6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from financial institutions, governmental or private, and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;
- (7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee the repayment of or otherwise under- write, the loans, and accept the assignment of any notes and mort- gages or other securities in connection therewith;
- (8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Re- cepts—Loan Fund Portion or with funds borrowed under (6) here- inabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans by financial

institutions made to Hawaiians under this program. 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 the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.

(c) Hawaiian home-development fund. Twenty-five per cent of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund. The moneys in said development fund shall be available, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands, and for other non-revenue producing improvements.

With respect to the Additional Receipts—Development Fund Portion, fifteen per cent thereof shall be used, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands and for other nonrevenue-producing improvements, and the remaining eighty-five per cent shall be segregated into a special account which 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 after consultation with the University of Hawaii and the 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.

Only so much of the Additional Receipts—Development Fund Portion not encumbered at the time of appropriate legislative action directing repayment, shall be repaid to the general fund of the State.

(d) Hawaiian home-operating fund. All moneys received by the department from any other source, except moneys received from the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in said fund shall be available (1) for construction and reconstruction of revenue-producing improvements, including acquisition therefor of real property and interests therein, such as water rights or other interest; (2) for payment into the treasury of the State of such amounts as are necessary to meet the following charges for state bonds issued for such revenue-producing improvements, to wit, the interest on such bonds, and the principal of such

1974

der this program. The functions it not be limited to, the purchasing, foreclosing, buying upon fore-
nt or otherwise underwriting, of terest, and after foreclosure, the ation and sale of the property , to achieve the purposes of this etary and other interests of the

Portion, less any amounts thereof s, discounts, premiums, necessary eses authorized in this legislative e general fund upon appropriate or partial repayment.

d. Twenty-five per cent of the an home-loan fund annually shall evelopment fund. The moneys in ith the prior written approval of ry sewerage facilities, for the onaiian home lands, and for other

pts—Development Fund Portion, th the prior written approval of itary sewerage facilities, for the waiian home lands and for other the remaining eighty-five per cent which may be drawn upon from on, with prior written approval of as shall be developed and directed nsultation with the University of home lands; provided that such e educational improvement of the d primarily at the preschool and

eipts—Development Fund Portion e legislative action directing repay- f the State.

All moneys received by the depart- neys received from the Hawaiian osited in a revolving fund to be fund. The moneys in said fund e reconstruction of revenue-produce- r therefor of real property and r other interest; (2) for payment amounts as are necessary to meet ed for such revenue-producing im- bonds, and the principal of such

serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from said funds or other funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies, or equipment and for services, to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in said fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, said fund, with the approval of the governor, may be supplemented by transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000. No projects or activities shall be undertaken hereunder except as authorized by sections 220 and 221 or the other provisions of this Act.

(e) Match moneys. The department is authorized and empowered to use moneys in the development and operating funds, with the prior written approval of the governor, to match federal, state or county funds available for the same purposes and to that end is authorized to 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 match funds for such projects or works.

(f) Hawaiian home-administration account. The entire receipts derived from any leasing of the available lands defined in section 204 shall be deposited into the Hawaiian home-administration account. The moneys in said account shall be expended by the department for salaries and all other administrative expenses of the department, not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

- (1) The department shall, at such time as the governor may prescribe, but not later than November 15, preceding each (annual) session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next ensuing (fiscal period) in the manner and form and as required by state law of state departments and establishments.
- (2) The department's budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
- (3) Upon approval by the legislature of the department's budget estimate of expenditures for the ensuing (fiscal period) the amount thereof shall be available to the department for the (fiscal period) and shall be expendable by the department for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of \$200,000, shall be available for such expenditures; any amount of money in said account in excess of the amount approved by the legislature for the (fiscal period) or so

made available shall be transferred to the Hawaiian home-development fund, such transfer to be made immediately after the amount of moneys deposited in said administration account shall equal the amount approved by the legislature or so made available.

(4) The money in said administration account shall be expended by the department in accordance with state laws, rules, and regulations and practices.

(g) Hawaiian home-farm loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the 'farm loan fund.' The moneys in this fund shall be used to make loans to lessees of agricultural tracts leased under the provisions of section 207 of this Act. Such loans shall be subject to restrictions imposed by sections 214 and 215 of this Act.

(h) Hawaiian home-commercial loan fund. The department is authorized to create a fund out of which loans may be made to those holding leases issued under Section 207 of this Act. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by said lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(i) Hawaiian home-repair loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the Hawaiian home-repair loan fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$5,000 to lessees for repairs to their existing homes and for necessary additions to such homes due to increase in family size. Such loans may be made for periods not to exceed five years and shall bear interest at two and one-half per cent a year.

(j) Anahola-Kekaha fund. The department shall create a fund of \$121,500 out of moneys heretofore appropriated to it by the legislature to be known as the Anahola-Kekaha fund. The moneys in this fund shall be used to make loans to lessees who are to be residents of Anahola and Kekaha on the island of Kauai to construct homes upon homestead lots. Such loans shall be for a period not to exceed 20 years, shall bear interest at two and one-half per cent a year and shall be for sums not to exceed \$20,000.

(k) The Hawaiian loan guarantee fund. The department is authorized to create a fund out of which loans made by governmental agencies or lending institutions to those holding leases or licenses issued under section 207 of this Act may be guaranteed. This guarantee may be for home, farm and commercial loan purposes. The loan guarantees shall be subject to the restrictions imposed by sections 208, 214 and 215 of this Act.

(l) Papakolea home-replacement loan fund. The department shall create a fund of \$200,000 out of moneys heretofore appropriated to it by the legislature to be known as the Papakolea home-replacement loan fund. The moneys in this fund shall be used to make loans to lessees who are residents of Papakolea on the island of Oahu to construct replacement homes upon the leased lots. Such loans shall be made at the interest rate of two and one-half per cent a year and shall not exceed the loan amount specified for a residence lot under section 215 of this Act."

1974

Act 170

ACT 171

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 7, 1974.)

ACT 171

S.B. NO. 10

A Bill for an Act Relating to Housing.

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

SECTION 1. **Findings and Purpose.** The legislature finds that a critical housing shortage still exists in the State and that a major percentage of our citizens are unable to acquire housing. The legislature has determined that certain technical and substantive amendments to chapters 356 and 359G of the Hawaii Revised Statutes will aid in the production of housing units for low income families. It is the purpose of this Act to provide as effective a mechanism as possible to achieve the goal of shelter for our citizens.

SECTION 2. Section 356-5, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 356-5 Housing authority to be public corporation; commissioners. An authority to be known as the Hawaii housing authority is created. The authority shall be a public body and a body corporate and politic with perpetual existence, and shall consist of eight commissioners of whom six shall be public members appointed by the governor with the consent of the senate. Not more than three of the public members shall be members of the same political party. Two of the public members of the commission shall be appointed at large, one shall be appointed from the city and county of Honolulu and one from each of the counties of Hawaii, Maui and Kauai. The director of social services shall be an ex officio voting member of the housing authority as provided for in section 26-14, but shall not be an ex officio chairman. The special assistant for housing appointed pursuant to section 359G-2 shall be an ex officio voting member of the housing authority.

A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. Four commissioners shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the authority. The governor shall file with the lieutenant governor a certificate of the appointment or reappointment of any commissioner and the certificate shall be conclusive evidence of the due and proper appointment of the commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

*Edited accordingly.

1974

ACT 172

as provided in chapter 101. The exchange of land shall be in accordance with section 171-50; provided that the public land to be exchanged need not be of like use to that of the private land; and provided further, that if the use of the private land prior to the exchange is intensive agricultural, the authority shall determine the agricultural productivity of the private land and, whenever and wherever possible, exchange so much state land as shall be sufficient to approximate or equal the productivity of the private land so acquired by the State.

Except as hereinafter set forth in this paragraph, the authority may also develop state lands but not federal lands, state monuments or historical sites or parks and subject to the prior approval of the land use commission in the case of agricultural land and the prior approval of the board of land and natural resources in the case of conservation land. Whenever it proposes to develop public lands it shall file with the department of land and natural resources a petition setting forth such purpose and such petition shall be conclusive proof that the use to which the property is sought to be put is a superior public use to that to which it has already been appropriated. The fair market value of the public land may be paid by the authority and computed as cost or subsidized by the State subject to reimbursement under section 359G-9. The authority shall not, however, possess the power to develop, or develop, any public lands where the possession of such power or such development (1) would endanger the receipt of any federal grant or impair the eligibility of any public body for a federal grant or prevent the participation by the federal government in any governmental program or (2) would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or such county, department or board."

SECTION 24. **Severability.** If any provision or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 25. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 26. **Effective date.** This Act shall take effect upon its approval.

(Approved June 7, 1974.)

ACT 172

H.B. NO. 2188-74

A Bill for an Act Relating to the Hawaiian Home-Commercial Loan Fund, Established under Section 213(h), Hawaiian Homes Commission Act 1920, As Amended.

*Edited accordingly.

ACT 172

ACT 173

1974

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

SECTION 1. Section 213, Hawaiian Homes Commission Act 1920, as amended, is amended by amending subsection (h) to read:

“(h) Hawaiian home-commercial loan fund. The department is authorized to create a fund out of which loans may be made to those holding licenses issued under section 207 of this Act. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by said lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1974.)

ACT 173

H.B. NO. 2253-74

A Bill for an Act Relating to Conditions of Loans Made by the Department of Hawaiian Home Lands under the Hawaiian Homes Commission Act, 1920, As Amended.

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

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

“**Sec. 215. Conditions of loans.** Except as otherwise provided in section 213(i), each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural or mercantile cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract of loan:

(1) At any one time, the outstanding amount of loans made to any lessee, or successor or successors in interest, for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed \$25,000, for the development and operation of a farm or a ranch shall not exceed \$25,000, except that when loans are made to an agricultural cooperative association for the purposes stated in paragraph (4) of section 214, 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; provided, that where, upon the death of a lessee

*Edited accordingly.

of Hawaii:
Homes Commission Act 1920,
tion (h) to read:

fund. The department is au-
may be made to those holding li-
The loans shall be for theaters,
other mercantile establishments
y organizations formed and con-
ject to the restrictions imposed

repealed is bracketed. New ma-
revisor of statutes need not in-
the underscoring.*
upon its approval.

H.B. NO. 2253-74

Loans Made by the Department of
Hawaiian Homes Commission Act,

of Hawaii:
Hawaiian Homes Commission Act,

pt as otherwise provided in sec-
see or any successor or successors
cultural or mercantile cooperative
all be held subject to the follow-
the contract of loan:
amount of loans made to any les-
for the repair, maintenance, pur-
ed permanent improvements shall
rd operation of a farm or a ranch
loans are made to an agricultural
stated in paragraph (4) of section
the department on the basis of the
rity of the association, and for the
establishment shall not exceed the
n the basis of the proposed opera-
see or of the organization formed
where, upon the death of a lessee

leaving no relative qualified to be a lessee of Hawaiian home lands, or the
cancellation of a lease by the department, or the surrender of a lease by the
lessee, the department shall make the payment provided for by section 209(1),
the amount of any such payment made to the legal representative of the de-
ceased lessee, or to the previous lessee, as the case may be, shall be considered
as part or all, as the case may be, of any such loan to the successor or suc-
cessors, without limitation as to the above maximum amounts; provided, fur-
ther, that in case of the death of a lessee, or cancellation of a lease by the de-
partment, or the surrender of a lease by the 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 to paragraph (3)
of this section.

(2) The loans shall be repaid in periodic installments, such installments
to be monthly, quarterly, semi-annual, or annual as may be determined by the
department in each case. The term of any loan shall not exceed thirty years.
Payments of 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 two
and one-half per cent a year for loans made directly from the Hawaiian home-
loan fund, or at the rate the State has established for other loans, payable
periodically or upon demand by the department, as the department may deter-
mine. The payment of any installment due shall be postponed in whole or in
part by the department 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 on the unpaid principal at the rate established for
the loan.

(3) In the case of the death of a lessee the department shall, in any case,
permit the successor or successors to the tract to assume the contract of loan
subject to paragraph (1) of this section. In case of the cancellation of a lease
by the department or the surrender of a lease by the lessee, the department
may, at its option declare all installments upon the loan immediately due and
payable, or permit the successor or successors to the tract to assume the con-
tract of loan subject to paragraph (1) of this section. The department may, 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 de-
linquent upon said 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 on the unpaid principal at
the rate established for the loan. Further, the department may, if it deems ad-
visable 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 on the tract involved, such appraisal to be
made in the manner and as provided for by section 209(1). 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 paragraph (1) of this section.

(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 his interest shall comply with such other conditions, not in conflict with any provision of this title, as the department may stipulate in the contract of loan.

(6) The borrower or the successor to his interest shall comply with the conditions enumerated in section 208, and with the provisions of section 209 of this title in respect to the lease of any tract.

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

SECTION 2. The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause or phrase of these legislative amendments or any of them, or the application thereof to any person or circumstances is held ineffective because the prior consent of the United States is required, then that portion only shall take effect upon or according to the grant of such consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 7, 1974.)

ACT 174

H.B. NO. 2255-74

A Bill for an Act Relating to a Revolving Fund, Designated as the Anahola-Kekaha Fund, Established under the Hawaiian Homes Commission Act, 1920, As Amended.

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

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (j) to read:

*Edited accordingly.

1974

“(j) Anahola-Kekaha fund. The department shall create a fund of \$121,500 out of moneys heretofore appropriated to it by the legislature to be known as the Anahola-Kekaha fund. The moneys in this fund shall be used to make loans to lessees who are to be residents of Anahola and Kekaha on the island of Kauai to construct homes upon homestead lots. Such loans shall be for a period not to exceed 20 years, shall bear interest at two and one-half per cent a year and shall not exceed the loan amount specified for a residence lot in section 215 of this Act.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1974.)

ACT 175

H.B. NO. 2256-74

A Bill for an Act Amending the Hawaiian Homes Commission Act, 1920, As Amended, to Enable Guarantee of Loans Made by Private Lending Institutions.

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

SECTION 1. Section 208 of the Hawaiian Homes Commission Act, 1920, as amended, is amended to read:

“Sec. 208. Conditions of leases. Each lease made under the authority granted the department by the provisions of section 207 of this title, 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 original lessee shall be a native Hawaiian, not less than twenty-one 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 or cancelled in accordance with the provisions of succeeding sections.

(2) The lessee shall pay a rental of one dollar a year for the tract and the lease shall be for a term of ninety-nine years.

(3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made. The lessee of agricultural lands shall plant and maintain not less than five, ten, fifteen and twenty trees per acre of land leased and the lessee of pastoral lands shall plant and maintain not less than two, three, four, and five trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of lease. Such trees shall be of types approved by the department and at locations specified by the department's agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the department free of charge.

*Edited accordingly.

(4) The lessee shall thereafter, for at least such part of each year as the department shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf.

(5) The lessee shall not in any manner transfer to, or mortgage, pledge, 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, mortgage, pledge, or otherwise hold, his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Hawaiian or Hawaiians approved of by the department, or for any indebtedness due the department or for taxes, or for any other indebtedness the payment of which has been assured by the department, including loans from governmental agencies where such loans have been approved by the department, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon.

(6) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The department may in its discretion pay such taxes and have a lien therefor as provided by section 216 of this act.

(7) The lessee shall perform such other conditions, not in conflict with any provision of this title, as the department may stipulate in the lease: provided, however, that an original lessee shall be exempt from all taxes for the first seven years from date of lease.

(8) The department may assure the repayment of loans made by governmental agencies or by private lending institutions, defined as banks, building or savings and loan associations, trustees, guardians, trust companies, insurance companies, fiduciaries, and all other persons or organizations having moneys to invest, to lessees when such loans have been approved by the department, up to the limits prescribed in section 215; provided that the lessee has no indebtedness due the department and the department shall not make any loans to the lessee while such assured loans are outstanding; provided further 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 60 days, cancel the lease and thereupon use its best efforts to re-dispose of the tract to a qualified and responsible native Hawaiian or Hawaiians as a new lessee who will assume the obligation of the outstanding debt thereby assured, and make payments to the governmental agency or the private lending institution from available funds either for the monthly payments as they become due and payable or for the amount of the debt. In no event shall the aggregate amount assured by the department exceed \$8,000,000."

SECTION 2. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (b) to read:

"(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which

1974

ast such part of each year as the occupy and use or cultivate the

transfer to, or mortgage, pledge, or person or group of persons or Hawaiian or Hawaiians, and then or agree so to transfer, mortgage, tract. Such interest shall not, ex- ge, or pledge to or holding for or ians approved of by the depart- ment or for taxes, or for any other en assured by the department, where such loans have been ap- chment, levy, or sale upon court est in the tract or improvements

sed upon the tract and improve- scretion pay such taxes and have this act. r conditions, not in conflict with it may stipulate in the lease: pro- be exempt from all taxes for the

payment of loans made by gov- ; institutions, defined as banks, , trustees, guardians, trust com- id all other persons or organiza- en such loans have been approved bed in section 215; provided that artment and the department shall ch assured loans are outstanding; : of default in the payment of such ailure of the lessee to cure the de- hereupon use its best efforts to re- nsible native Hawaiian or Hawai- obligation of the outstanding debt e governmental agency or the pri- ls either for the monthly payments e amount of the debt. In no event department exceed \$8,000,000."

Homes Commission Act, 1920, as ion (b) to read:

y per cent of the state receipts de- cane lands under any other provi- deposited into the Hawaiian home- he fund (including in said amount advances, and all transfers which

have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209(1), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in paragraphs (c) and (d) of this section.

Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called 'Additional Receipts', shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Development Fund Portion', is to be transferred to the Hawaiian home development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Loan Fund Portion,' shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

- (1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;
- (2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$25,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in

excess of \$25,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions of section 215(3);

- (3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department, other governmental agencies, or private lending institutions may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home loan fund, Hawaiian home operating fund or Hawaiian home development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies or private lending institutions shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department.
- (4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department, other governmental agencies, or private lending institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;
- (5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by other governmental agencies or by private lending institutions to native Hawaiians is higher, the department may pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;
- (6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and

accordance with the provisos of section 215(3);
 Hawaiian home lands, anything in the Act, including but not limited to sections 207, 208, 209, 210, 215, 216, and 217, do not change the qualifications or impairment of the Hawaiian home operating fund or Hawaiian home lands, and where moneys borrowed by the department or loans made by other governmental agencies or by private lending institutions to native Hawaiians may pay from the special revolving fund—Loan Fund Portion or the Loan Fund Portion or the Loan Fund Portion in interest rates;
 and deposit into the special revolving fund for the purpose of acquiring or maintaining or purchasing interests in Hawaiian home lands and

Hawaiian home lands, anything in the Act, including but not limited to sections 207, 208, 209, 210, 215, 216, and 217, do not change the qualifications or impairment of the Hawaiian home operating fund or Hawaiian home lands, and where moneys borrowed by the department or loans made by other governmental agencies or by private lending institutions to native Hawaiians may pay from the special revolving fund—Loan Fund Portion or the Loan Fund Portion or the Loan Fund Portion in interest rates;
 and deposit into the special revolving fund for the purpose of acquiring or maintaining or purchasing interests in Hawaiian home lands and

interest rate or rates at two and one-half percent per annum in connection with authorized loans on Hawaiian home lands, and where moneys borrowed by the department or loans made by other governmental agencies or by private lending institutions to native Hawaiians may pay from the special revolving fund—Loan Fund Portion or the Loan Fund Portion or the Loan Fund Portion in interest rates;
 and deposit into the special revolving fund for the purpose of acquiring or maintaining or purchasing interests in Hawaiian home lands and

non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from governmental agencies or private lending institutions and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;

- (7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities covering loans made by other governmental agencies or by private lending institutions to native Hawaiians or guarantee the repayment of or otherwise underwrite the loans and accept the assignment of any notes and mortgages or other securities in connection therewith;
- (8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans made by other governmental agencies or by private lending institutions to native Hawaiians. 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 the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment."

SECTION 3. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (k) to read:

"(k) The Hawaiian loan guarantee fund. The department is authorized to create a fund to support, if necessary, its guarantee of repayment of loans made by governmental agencies or by private lending institutions to those holding leases or licenses issued under section 207 of this Act. The loan guarantees shall be subject to the restrictions imposed by section 208, 214, and 215 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."

Act 175

ACT 176

1974

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 1974.)

ACT 176

H.B. NO. 2626-74

A Bill for an Act Relating to the Hawaiian Homes Commission Act.

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

SECTION 1. Originally, the Keaukaha-Panaewa Hawaiian home lands were used and intended for residential purposes. However, the land was rezoned, without Hawaiian homes permission, for use as a light industrial area. During the years that it was zoned industrial, nothing was allocated for the repair, renovation, and replacement of homes. Accordingly, many homes deteriorated into barely liveable, substandard structures. The rezoning has since reverted back to residential and no funds are available for the replacement of these homes. Therefore, it is the purpose of this Act to establish a Keaukaha-Waiakea home-replacement loan fund and a construction loan fund under the Hawaiian Homes Commission Act.

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

"Sec. 213 Hawaiian home-loan fund; Hawaiian home-development fund; Hawaiian home-operating fund; administration account; Hawaiian home-farm loan fund; Hawaiian home-commercial loan fund; Hawaiian home-repair loan fund; Anahola-Kekaha loan fund; Hawaiian loan guarantee fund; and the Keaukaha-Waiakea home-replacement loan fund; Keaukaha-Waiakea home construction fund. (a) There are hereby established in the treasury of the State eight revolving funds to be known as the Hawaiian home-loan fund, the Hawaiian home-operating fund, the Hawaiian home-farm loan fund, the Hawaiian home-commercial loan fund, the Hawaiian home-repair loan fund, the Anahola-Kekaha loan fund, the Keaukaha-Waiakea home-replacement loan fund, and the Keaukaha-Waiakea home construction fund, and three special funds to be known as the Hawaiian home-development fund, the Hawaiian home-administration account, and the Hawaiian loan guarantee fund.

(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in such amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys,

*Edited accordingly.