

SECTION 1. Section 41-6, Hawaii Revised Statutes, is amended to read as follows:

“§41-6 Insurance on public vehicles. Vehicles owned by the State or in the custody and use of any department may be self-insured or insured by purchased insurance against public liability[, in limits not less than \$100,000/300,000, and against property damage in limits not less than \$10,000.] in compliance with chapter 294. The insurance may be effected by the department or other organization having custody or control of the vehicle, or, with the acquiescence of the head of the department or other organization, the vehicle may be insured on a complete or excess coverage basis under a [fleet liability] comprehensive automobile liability insurance policy entered into by the [State.] risk manager. If the vehicles are self-insured, claims for which the State is liable under chapter 294 may be settled and paid by the risk manager or the risk manager's designee from the state insurance fund, notwithstanding the provisions of chapter 662. Any [such] purchased state [fleet liability] comprehensive automobile liability insurance policy shall be administered by and be subject to the control of the [comptroller.] risk manager.”

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 Statutory material to be repealed is bracketed.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

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

(Approved April 22, 1986.)

ACT 84

S.B. NO. 2319-86

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

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

SECTION 1. The Hawaiian Homes Commission Act, 1920, as amended, is amended by adding a new section to be appropriately designated and to read as follows:

“§ . Development by contract; development by project developer agreement. (a) Notwithstanding any law to the contrary, the department is authorized to enter into and carry out contracts to develop available lands for homestead, commercial, and multi-purpose projects; provided that the department shall not be subject to the requirements of competitive bidding if no state funds are to be used in the development of the project.

(b) Notwithstanding any law to the contrary, the department is authorized to enter into project developer agreements with qualified developers for, or in connection with, any homestead, commercial, or multi-purpose project, or portion of any project; provided that prior to entering into a project developer agreement with a developer, the department shall:

- (1) Set by appraisal the minimum rental of the lands to be disposed of on the basis of the fair market value of the lands;
- (2) Give notice of the proposed disposition in accordance with applicable procedures and requirements of section 171-60(a)(3), Hawaii Revised Statutes;
- (3) Establish reasonable criteria for the selection of the private developer; and

S.B. NO. 2315-86

Claims.

of Hawaii:

- (4) Determine within forty-five days of the last day for filing applications the applicant or applicants who meet the criteria for selection, and notify all applicants of its determination within seven days of such determination. If only one applicant meets the criteria for selection as the developer, the department then may negotiate the details of the project developer agreement with the developer; provided that the terms of the project developer agreement shall not be less than those proposed by the developer in the application. If two or more applicants meet the criteria for selection, the department shall consider all of the relevant facts of the disposition or contract, the proposals submitted by each applicant, and the experience and financial capability of each applicant and, within forty-five days from the date of selection of the applicants that met the criteria, shall select the applicant who submitted the best proposal. The department then may negotiate the details of the disposition with the developer, including providing benefits to promote native Hawaiian socio-economic advancement; provided that the terms of the project developer agreement shall not be less than those proposed by the developer in the application.

(c) Any project developer agreement entered into pursuant to this section shall include the following terms and conditions, wherever appropriate:

- (1) A requirement that the developer file with the department a good and sufficient bond conditioned upon the full and faithful performance of all the terms, covenants, and conditions of the project developer agreement;
- (2) The use or uses to which the land will be put;
- (3) The dates on which the developer must submit to the department for approval preliminary plans and final plans and specifications for the total development. No construction shall commence until the department has approved the final plans and specifications; provided that construction on an incremental basis may be permitted by the department;
- (4) The date of completion of the total development, including the date of completion of any permitted incremental development;
- (5) The minimum requirements for off-site and on-site improvements that the developer must install, construct, and complete by the date of completion of the total development. The department may permit incremental development and establish the minimum requirements for off-site and on-site improvements that must be installed, constructed, and completed prior to the date of completion of the total development; and
- (6) Any other terms and conditions deemed necessary by the department to protect the interests of the State and the department.

(d) Any project developer agreement entered into pursuant to this section may provide for options for renewal of the term of the project developer agreement; provided that the term of any one project developer agreement shall not exceed sixty-five years; and provided further that any lands disposed of under a project developer agreement shall be subject to withdrawal at any time during the term of the agreement, with reasonable notice; and provided that the rental shall be reduced in proportion to the value of the portion withdrawn and the developer shall be entitled to receive from the department the proportionate value of the developer's permanent improvements so taken in the proportion that they bear to the unexpired term of the agreement, or the developer, in the

of the last day for filing applications who meet the criteria for selection, termination within seven days of the applicant meets the criteria for the department then may negotiate the agreement with the developer; the project developer agreement shall not be the developer in the application. If the criteria for selection, the department-relevant facts of the disposition or stated by each applicant, and the identity of each applicant and, within the selection of the applicants that met the applicant who submitted the best project may negotiate the details of the agreement including providing benefits to economic advancement; provided the project developer agreement shall not be less than the developer in the application.

entered into pursuant to this section in any situation, wherever appropriate: the applicant shall file with the department a copy of the full and faithful performance, and conditions of the project

land will be put; the applicant must submit to the department the final plans and specifications for construction shall commence until the final plans and specifications; provided that a conditional basis may be permitted by

development, including the date of incremental development; the off-site and on-site improvements shall be constructed, and complete by the date of completion. The department may permit the applicant to establish the minimum requirements that must be installed, and the date of completion of the

deemed necessary by the department, the State and the department. If the applicant entered into pursuant to this section the term of the project developer agreement shall be such that any lands disposed of shall be subject to withdrawal at any time upon reasonable notice; and provided that the value of the portion withdrawn and the department the proportionate payments so taken in the proportionate agreement, or the developer, in the

alternative, may remove and relocate the developer's improvements to the remainder of the lands occupied by the developer.

(e) The project developer agreement may permit the developer, after the developer has completed construction of any required off-site improvement, to assign or sublease with the department's approval portions of the leased lands in which the construction of any required off-site improvement has been completed to a purchaser or sublessee who shall assume the obligations of the developer relative to the parcel being assigned or subleased, including the construction of any on-site improvement. The department may permit a developer to share in the lease rent from the assigned lease for a fixed period in order to recover costs and profit.

(f) Whenever the department enters into a project developer agreement to develop a homestead project, the department shall provide for the purchase of the completed project or that portion of a completed project developed for disposition to native Hawaiians, and shall dispose of the lands in accordance with this Act; provided that the project developer agreement shall not encumber any existing homestead lease in the project area.

(g) As used in this section, the following words and terms shall have the following meanings unless the context indicates another or different meaning or intent:

"Commercial project" means a project or that portion of a multi-purpose project, including single-family or multiple-family residential, agricultural, pastoral, aquacultural, industrial, business, hotel and resort, or other commercial uses designed and intended to generate revenues as authorized by this Act;

"Developer" means any person, partnership, cooperative, firm, nonprofit or for-profit corporation, or public agency possessing the competence, expertise, experience, and resources, including financial, personal, and tangible resources, required to carry out a project;

"Homestead project" means a project or that portion of a multi-purpose project, including residential, agricultural, pastoral, or aquacultural uses designed and intended for disposition to native Hawaiians under this Act; provided that this term shall also include community facilities for homestead areas.

"Multi-purpose project" means a combination of a commercial project and a homestead project;

"Project" means a specific undertaking to develop, construct, reconstruct, rehabilitate, renovate, or to otherwise improve or enhance land or real property;

"Project developer agreement" means any lease, sublease, conditional leasing agreement, disposition agreement, financing agreement, or other agreement or combination of agreement, entered into under this section by the department, for the purpose of developing one or more projects.

(h) The department is authorized to adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to implement and carry out the purposes of this section."

SECTION 2. The provisions of this amendment are declared to be severable, and if any subsection, sentence, clause, or phrase, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of this amendment or the application thereof shall not be affected.

ACT 85

SECTION 3. New statutory material is underscored.¹

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

(Approved April 22, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 85

S.B. NO. 2320-86

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

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

SECTION 1. Section 214, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (b) to read as follows:

“(b) In addition the department may:

- (1) Use moneys in the development and operating funds, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for such projects or works;
- (2) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof, up to a maximum of \$50,000 to lessees in accordance with section 215;
- (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;
- (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of such loans; provided that upon receipt of notice of default in the payment of such assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provided further that the department shall reserve the following rights: the right of succession to the lessee's interest and assumption of the contract of loan; the right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;
- (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and paragraphs (2), (3), and (4) of this section, shall at no time exceed \$21,000,000;