

ACT 017

HOUSE OF REPRESENTATIVES
TWENTIETH LEGISLATURE, 1999
STATE OF HAWAII

H.B. NO. 1114
H.D. 1

A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS
AMENDED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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

3 **§208. Conditions of leases.** Each lease made under the
4 authority granted the department by section 207 of this Act, and
5 the tract in respect to which the lease is made, shall be deemed
6 subject to the following conditions, whether or not stipulated in
7 the lease:

8 (1) The original lessee shall be a native Hawaiian, not
9 less than eighteen years of age. In case two lessees
10 either original or in succession marry, they shall
11 choose the lease to be retained, and the remaining
12 lease shall be transferred, quitclaimed, or canceled in
13 accordance with the provisions of succeeding sections.

14 (2) The lessee shall pay a rental of \$1 a year for the
15 tract and the lease shall be for a term of ninety-nine
16 years; except that the department may extend the term
17 of any lease, provided that the approval of any
18 extension shall be subject to the condition that the
19 aggregate of the initial ninety-nine year term and any

1 extension granted shall not be for more than one
2 hundred ninety-nine years.

3 (3) The lessee may be required to occupy and commence to
4 use or cultivate the tract as the [person's] lessee's
5 home or farm or occupy and commence to use the tract
6 for aquaculture purposes, as the case may be, within
7 one year after the commencement of the term of the
8 lease.

9 (4) The lessee [shall] thereafter, for at least such part
10 of each year as the department shall prescribe by
11 rules, [s~~o~~] shall occupy and use or cultivate the tract
12 on the [person's] lessee's own behalf.

13 (5) The lessee shall not in any manner transfer to, or
14 otherwise hold for the benefit of, any other person or
15 group of persons or organizations of any kind, except a
16 native Hawaiian or Hawaiians, and then only upon the
17 approval of the department, or agree so to transfer, or
18 otherwise hold, the [person's] lessee's interest in the
19 tract[.]; except that the lessee, with the approval of
20 the department, also may transfer the lessee's interest
21 in the tract to the following qualified relatives of
22 the lessee who are at least one-quarter Hawaiian;
23 husband, wife, child, or grandchild. Such interest

1 shall not, except in pursuance of such a transfer to or
2 holding for or agreement with a native Hawaiian or
3 Hawaiians or qualified relative who is at least one-
4 quarter Hawaiian approved of by the department[,] or
5 for any indebtedness due the department or for taxes[,]
6 or for any other indebtedness the payment of which has
7 been assured by the department, including loans from
8 other agencies where such loans have been approved by
9 the department, be subject to attachment, levy, or sale
10 upon court process. The lessee shall not sublet the
11 [person's] lessee's interest in the tract or
12 improvements thereon; provided that a lessee may be
13 permitted, with the approval of the department, to rent
14 to a native Hawaiian or Hawaiians, lodging either
15 within the lessee's existing home or in a separate
16 residential dwelling unit constructed on the premises.

17 (6) Notwithstanding the provisions of paragraph (5), the
18 lessee, with the consent and approval of the
19 commission, may mortgage or pledge the lessee's
20 interest in the tract or improvements thereon to a
21 recognized lending institution authorized to do
22 business as a lending institution in either the State
23 or elsewhere in the United States; provided the loan

1 secured by a mortgage on the lessee's leasehold
2 interest is insured or guaranteed by the Federal
3 Housing Administration, Department of Veterans Affairs,
4 or any other federal agency and their respective
5 successors and assigns, which are authorized to insure
6 or guarantee such loans, or any acceptable private
7 mortgage insurance as approved by the commission. The
8 mortgagee's interest in any such mortgage shall be
9 freely assignable. Such mortgages, to be effective,
10 must be consented to and approved by the commission and
11 recorded with the department.

12 Further, notwithstanding the authorized purposes
13 of loan limitations imposed under section 214 of this
14 Act and the authorized loan amount limitations imposed
15 under section 215 of this Act, loans made by lending
16 institutions as provided in this paragraph, insured or
17 guaranteed by the Federal Housing Administration,
18 Department of Veterans Affairs, or any other federal
19 agency and their respective successors and assigns, may
20 be for such purposes and in such amounts, not to exceed
21 the maximum insurable limits, together with such
22 assistance payments and other fees, as established
23 under section 421 of the Housing and Urban Rural

1 Recovery Act of 1983 which amended Title II of the
2 National Housing Act of 1934 by adding section 247, and
3 its implementing regulations, to permit the Secretary
4 of Housing and Urban Development to insure loans
5 secured by a mortgage executed by the homestead lessee
6 covering a homestead lease issued under section 207(a)
7 of this Act and upon which there is located a one to
8 four family single family residence.

9 (7) The lessee shall pay all taxes assessed upon the tract
10 and improvements thereon. The department may pay such
11 taxes and have a lien therefor as provided by section
12 216 of this Act.

13 (8) The lessee shall perform such other conditions, not in
14 conflict with any provision of this Act, as the
15 department may stipulate in the lease; provided that an
16 original lessee shall be exempt from all taxes for the
17 first seven years after commencement of the term of the
18 lease."

19 SECTION 2. The provisions of the amendments made by this
20 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
21 declared to be severable, and if any section, sentence, clause,
22 or phrase, or the application thereof to any person or
23 circumstance, is held ineffective because there is a requirement

1 of having the consent of the United States to take effect, then
2 that portion only shall take effect upon the granting of consent
3 by the United States and the effectiveness of the remainder of
4 these amendments or the application thereof shall not be
5 affected.

6 SECTION 3. Statutory material to be repealed is bracketed.
7 New statutory material is underscored.

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

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APPROVED BY THE
GOVERNOR ON

APR 15 1999

BENJAMIN J. CAYETANO
GOVERNOR
STATE OF HAWAII



RAYNARD C. SOO:
INTERIM CHAIRMAN
HAWAIIAN HOMES COMMISSION

JOEIE M. K. M. YAMAC
DEPUTY TO THE CHAIRMAN

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

February 2, 1999

To: The Honorable Paul T. Oshiro, Chair
House Committee on Judiciary and Hawaiian Affairs

From: Raynard C. Soon, Interim Chairman
Hawaiian Homes Commission

Subject: Testimony On H.B. 1114 Relating to the Hawaiian Homes
Commission Act, 1920, As Amended

Chair Oshiro and members of the House Committee On Judiciary and Hawaiian Affairs. Thank you for the opportunity to testify on H.B. 1114. This Administration bill would authorize a homestead lessee to transfer his leasehold interest to a spouse, child or grandchild who is at least one-quarter Hawaiian.

Section 209(a) of the HHCA currently allows a homestead lessee to designate a husband, wife, child, or grandchild who is at least one-quarter Hawaiian to succeed to the leasehold interest upon the death of the lessee. The proposed amendment would extend the homestead lessee's transfer rights to also include a spouse, children or grandchildren who are at least one-quarter Hawaiian. This amendment will enable lessees to transfer their homestead rights to eligible relatives who are at least one-quarter Hawaiian while the lessee is still living.

The amendment proposed in this bill will help insure that the homestead lease remains in the family of the original lessee. Support for this change was expressed by many beneficiaries who attended statewide public hearings on proposed changes to DHHL's administrative rules.

We urge your favorable passage of H.B. 1114.

LATE TESTIMONY

KAWAIIHAE HAWAIIAN HOMES COMMUNITY ASSOCIATION
P.O. BOX 44337
KAWAIIHAE, HAWAII 96743
PHONE/FAX: (808) 326-7182

To: House Sergeant-At-Arms
Fax No.: 1-800-535-3859
Meeting Date: 2/2/99
Time: 2:00 p.m.
Re: H.B. 1114. RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.
Authorizes that a homestead lessee may transfer the leasehold interest in a tract to a spouse, child, or grandchild who is at least one-quarter Hawaiian.

Aloha and Mahalo for allowing KHHCA to express our views on this issue. My name is Jojo Tanimoto and I am the president of this grassroots association since 1991.

This is not a new issue, and perhaps this has already been approved by Congress. We respectfully request that some research verify this approval.

The purpose for this proposal is to include the "grandchild" to section 209(a)(1) of the Hawaiian Homes Commission Act, 1920, as amended.

THEREFORE, KHHCA SUPPORTS this measure and hopes that these Committee members will support these efforts also.

Respectfully submitted,

Jojo Tanimoto
Jojo Tanimoto
President

LATE TESTIMONY

TO: Rep Paul T. Oshiro, Chair
Rep Eric Hama-kawa, Vice Chair
All Committee Members

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date/Time: Tuesday, February 2, 1999 2:00 p.m.

FROM: M Kapuniai
President & Legislative Committee Chair
Waimea Hawaiian Homesteaders' Association, Inc
Director
Waimea Hawaiian Civic Club
Sonny Kaniho
Spokesman for the Aged Hawaiians

SUBJECT: HB 1114 RELATING TO HAWAIIAN HOMES COMMISSION ACT
1920, AS AMENDED

We SUPPORT passage of HB 1114.

This change will allow transfer of lease to:

- 1) A Successor before death
- 2) A Successor who is younger
- 3) A Successor who is most probably, gainfully employed
- 4) A Successor who qualifies for financing to improve or build anew

Thank you!!

M Kapuniai

Phone (808) 885-8336
Fax (808) 885-4998

LATE TESTIMONY

REP. PAUL OSHIRO, CHAIR
COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

HB 1114 RELATING TO CRIMINAL BEHAVIOR

Tuesday, February 2, 1999
2:00 PM
Conference Room 325
State Capitol
415 South Beretania Street

Aloha!

My name is Randolph Hack, and I am with United Self-Help and Vice-Chair of the State Council On Mental Health.

I was formerly homeless and have been under treatment for mental illness for 33 years. Being homeless is an invitation to collision with the police and law enforcement.

We are strongly against this bill. Many homeless people have mental illness and commit misdemeanors on a regular basis because of their illness. Creating a new class of felons is unacceptable. Homeless and mentally ill people are prone to violate any probation and may wind up serving five years in prison. Our correctional facilities, already overburdened, would be further overcrowded.

Rather, we should divert this type of offender to a mental health treatment facility. If the person has no housing, there should be enough transitional housing available to properly house them.

Please hold this bill in committee.

Mahalo,



Randolph Hack
United Self-Help
State Council On Mental Health