

The Hawaiian Homes Commission Act
Most Don't Read It, Every Beneficiary Should! It's NOT Complicated

Section 201. Definition. Defines certain words and phrases used throughout the Act.

Section 202. DHHL & Commission. Establishes the DHHL agency, a governing board known as the Hawaiian Homes Commission, how commissioners are appointed and eligibility. States that civil service positions shall be filled in compliance with HRS provided that first to qualify are Hawaiians.

Section 203. Establishes Original Inventory of Trust Lands

Hawaii Island – 114,050 Acres, Maui – 31,000 Acres, Molokai – 33,300 Acres, Oahu – 9,012, Kauai – 22,500

**HHLRA of 1995 conveyed federal lands to the trust to compensate for trust lands taken since 1959 (ie, Wailua on Kauai, Barbers Point on Oahu were conveyed) plus State required to pay trust \$600 million for lands taken by State.*

Section 204. Lands NOT REQUIRED by Hawaiians May be Leased to the General Public.

This section established that lands still under the control of BLNR until leases expired, could continue to be managed by BLNR under leases to the general public with revenues paid to the Land Trust, or it gave the option for the lands to be transferred to DHHL to be managed, with a condition.....that DHHL can only issue lands to the general public if they are not required for homesteading by Hawaiians, and further, that Hawaiians may have an opportunity to lease the lands before the general public.

This section also authorizes land exchanges with the approval of the Secretary of DoI. It also empowers DHHL to be a developer by assembling lands for residential and other development.

Section 205. Lands Sold or Leased. Describes that lands sold or leased must be done within the parameters of the Act or as may be necessary to complete any valid agreements on lands at the time of enactment.

Section 206. State BLNR Not to Control Trust Lands. States that the Governor and the BLNR do not have the same authority over Hawaiian Home Lands, except where expressly authorized under the Act.

Section 207. Leases and Licenses to Hawaiians. (a) & (b) leases to native Hawaiians for homesteading (homes, up to 40 acre farms and 100 to 1000 acre ranches);

(c) licenses for land to nonprofits (schools, churches, clinics, etc) OR

(c) licenses for land for mercantile to native Hawaiians and organizations controlled by native Hawaiians for theatres, markets, stores, service stations, etc

Essentially, Section 207 is the heart of the purpose of the HHCA – to give land only to native Hawaiians for homes, farms, ranches and mercantile use, or to give land to nonprofits. There are



no conditions on these land dispositions, whereas issuing land to the General Public under Section 204 has a clear condition that land cannot be given out if it is required for homesteading.

Section 208. Terms of Homestead Leases to Hawaiians. Defines who is eligible for homestead and mercantile, the lease term, transfer eligibility, successor eligibility, ability to rent to other Hawaiians, and the ability to mortgage with approved lenders. Also describes responsibilities with taxes on improvements.

Section 209. Homestead Lease Disposition in the Event of Death of Hawaiian Lessee. Describes options for successorship upon the death of a lessee, options for disposition of improvement value, options if a successor is not named, and the process of valuation and payment.

Section 210. Cancellation of Homestead Lease due to Violation of Section 8 or 9. Describes when homestead leases can be cancelled and possession is taken by DHHL.

Section 211. Community Pastures. States that a community pasture can be established in districts where homesteading agricultural lands are issued.

Section 212. Allows Lands to be Managed by BLNR and Managed as Public Lands. States that any lands not issues to native Hawaiians under section 207 (homesteading and mercantile) or to nonprofits, can be returned to the control of BLNR and leased by BLNR to the public with a withdrawal clause, upon DHHL notification of needing the lands.

Section 213. Trust Fund Accounts of Hawaiians. This section governs several trust fund accounts, how funds can be spent and for what purposes to advance native Hawaiians. For example, this section states the criteria for farm loans, how interest payments are invested, requires 30% of state govt revenue from former sugar lands (DLNR, ADC, etc) to be deposited to the NHRF fund for native Hawaiians, families and homestead communities, including educational, economic, political, social and cultural well being.

This section also describes a trust fund account for Act 14 monies and requires annual reports to the legislature and beneficiaries.

Section 214. Availability of Loans to Hawaiians. Loans may be made available from Hawaiian trust funds or other sources to Hawaiians for homes, for ranches, for farms, refinancing existing debt, conservation practices, relief to farms and ranches experiencing natural disasters or livestock disease, etc, and to Hawaiians in the operation or erection of mercantile establishments that shall be owned by native Hawaiians or by associations controlled by native Hawaiians.

Section 215. Conditions or Terms of Loans. Establishes loan limits, eligibility of borrowers, repayment terms, and delinquencies.

Section 216. Insurance Requirements and Loan Acceleration. Describes insurance requirements, action on loan violations, lien position required.

Section 217. Ejectment for Non Payment. Describes authority of DHHL to evict or bring legal action.

Section 218. Repealed

Section 219. General Assistance & Experts. Describes that DHHL is to provide assistance to beneficiaries to maximize land utilization for homesteading, mercantile and nonprofit purposes, including the provision of experts in agriculture, aquaculture, livestock and other operations. Also states that DHHL can form an insurance company or association or pool if necessary to serve beneficiaries.

Section 220. Developer Agreements, Projects & Bonds. Section describes water development requirements, authority of DHHL to develop trust lands that advance economic and social welfare of beneficiaries, to derive revenue from non-homesteaders for products and services. Describes legislature authority to appropriate funds and/or bonds.

Section 221. Water. Makes it law that all water licenses in the state are subject to the condition that water deemed necessary by Hawaiian home lands to supply livestock, farm operations or domestic needs of homesteading shall be granted free of charge. Establishes a superior water right for beneficiaries over any water licensee upon demand of DHHL. Also authorizes DHHL to use free of charge water tributary to the Waimea River on Kauai for irrigation purposes.

Section 222. DHHL Administration. Allows State to make expenditures and adopt rules. Requires State to issue an annual report of finances to the legislature. Also must report to the legislature annually, the disposition of lands and to whom.

Section 223. Federal Oversight. The Congress reserves the right to alter, amend, or repeal provisions of this title.

Section 224. Sanitation and Reclamation Expert. DoI designee to live in the state with expertise in sanitation, rehabilitation and reclamation.

Section 225. Investment Eligibility and Accounting Requirements. Describes what investments are allowed, how receipts are to be handled, donations and other fiscal actions.

Section 226. Qualification for Other Federal Programs. Establishes that DHHL is eligible to participate in any federal program that renders assistance in HHCA areas mandated to be implemented.

Section 227. Enterprise Zones. Allows participation in federal or state enterprise zones only if program will result in economic benefits to native Hawaiians.

The Hawaii Admissions Act of 1959 ~ Section 4
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Section 4 – As a compact with the United States relating to the management and disposition of Hawaiian Home Lands, the HHCA shall be adopted as a provision of the constitution of the new state.....and may only be amended or repealed with the Consent of the Federal Government.

HHCA Amendments without Federal Consent. The sections of the HHCA that may be amended without consent of the Federal Government are Sections 202, 206, 212, 213, 219, 220, 222, 224, 225 and paragraph 2 of Section 204....basically, administrative tasks in the HHCA.

**Still requires Federal Review to determine if consent is required or not.*

HHCA Amendments that require Federal Consent. Amendments to trust fund accounts shall not be reduced or impaired by any amendment without consent of the Federal Government. Amendments that increase the benefits to lessees of Hawaiian Home Lands may be made, but the qualifications of lessees shall not be changed except with the consent of the Federal Government.

**Requires Federal Review plus Federal Approval.*

Proceeds and Income from Trust Lands. All proceeds and income from trust lands shall be used ONLY in carrying out the provisions of the HHCA.

Section 5 (b) – The U.S. grants to the State of Hawaii effective upon its admission into the Union, title to all public lands.....and to all lands defined by section 203 of the HHCA.....

Section 5 (f) – lands granted to the State of Hawaii.....together with proceeds from the sale or other disposition and income.....shall be held in a public trust for 1) public schools; 2) betterment of the condition of native Hawaiians as defined in the HHCA; 3) farming; 4) homeownership; and 5) public use.

Such lands, proceeds, and income shall be managed.....in such a manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States.

The Hawaiian Home Lands Recovery Act of 1995
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In summary, Senator Akaka introduced this law to require the federal government to convey federal lands or cash value for trust lands that the federal government was using after August 21, 1959.....known as Lost Use. This law is how the Wailua, Kalailoa, etc became trust lands.

Section 201 Title as Hawaiian Home Lands Recovery Act.

Section 202 Definition of Words. Defines certain words used throughout the Act.

Section 203 Settlement of Claims (Lost Use of Lands by Beneficiaries from 1959). Lays out how valuation of trust lands taken or under use of the federal government will be done, and how other federal lands will be conveyed to the land trust up to the value determined. This section also requires consultation with beneficiaries and organizations representing beneficiaries, and it requires progress reports on a regular basis to such organizations.

Section 204 Procedures for HHCA Amendments. This section provides direct instructions on the language in the 1959 Hawaii Admissions Act that states federal oversight is retained, as well as certain amendments requiring federal approval. It specifically requires DHHL to notify the Federal Govt (the Secretary at DoI) after an amendment has been made by the legislature. The DoI will make a determination on whether the change requires Congressional action, and if so, submit to the Congressional Committee with oversight of the HHCA.

Section 205 Land Exchanges. This section authorizes land exchanges instead of land conveyances or compensation, wherein the Hawaiian Homes Commission Chair can seek approval of the Federal Government when DHHL wants to exchange lands.

Section 206 Administration by the Federal Government. This section mandates that the DoI Secretary shall designate an individual within DoI to administer the responsibilities of the federal government under the HHLRA and the HHCA.

This section also defines the responsibilities - 1) advancing the interests of HHCA beneficiaries and 2) assisting beneficiaries and DHHL in obtaining assistance from DoI programs and other federal agencies in the areas of homesteading, economic self-sufficiency and social well-being.

Section 207 Adjustment to July 1, 1932 Act. Amends Act to state that the Secretary shall adjust or eliminate charges, defer collection of construction costs, and make no assessment on behalf of such charges for beneficiaries that hold leases on Hawaiian home lands, to the same extent as permitted for Indians or tribes of Indians.

Section 208 Reporting. This section lays out the required report from DHHL to determine all of the lands and lost use data, so that the DoI Secretary can make a determination of compensation.

Section 209 Appropriation Authorization. States that funds are authorized to be paid to DHHL for the value of lost use of lands, and if paid, the funds may only be used for the purposes of homesteading for Hawaiians.

**Suggestions From Beneficiaries Provided to Policy Center
on the First Set of Federal Rules & Regulations to Start With**

1. **Land Exchanges – HHCA Section 204.** To establish a step by step process known to all, especially beneficiaries, when the State DHHL intends to exchange trust lands. To stop inside State government political operatives from making deals, such as the 50 acres for Rail between Lingle/Kane and Hanneman that was done without beneficiary consultation.
2. **HHCA Amendments – Hawaii Admissions Act Section 4.** To establish a step by step process known to all, especially beneficiaries, whether an amendment enacted by the State Legislature impacts the rights of beneficiaries. To stop the inside State government political operatives from making determinations on whether an amendment benefits beneficiaries or not.

**Suggestions From Beneficiaries Provided to Policy Center
on Additional Federal Rules & Regulations to Protect HHCA Beneficiaries**

1. **Breach of Trust – HHCA Section 223 & Hawaii Admissions Act Section 5(f).** Consortium of statewide Homestead Leaders request regulations to establish the process by which beneficiaries can engage the Department of Justice to investigate and file suit against the State for Breach of Trust.
2. **Trust Lands to the General Public – HHCA Section 204.** Consortium of statewide homestead leaders have requested regulations be put in place that mandate the following of this section of the law.....that the general public MAY NOT lease our trust lands if the lands are REQUIRED for homes, ranches or farms for Hawaiians. If there is a single Hawaiian on the waitlist, the answer is NO to issuing lands to the General Public. At a minimum, put into regulations the process for a native Hawaiian to access 204 lands prior to the General Public.
3. **Issuance of Farm & Ranch Homestead Awards – HHCA Section 207.** Kauai Homestead Leaders have requested regulations be put in place to require annual farm and ranch homestead awards to protect Hawaiians from dying on the waitlist.
4. **Issuance of Mercantile Land Licenses to Hawaiians – HHCA Section 207.** Statewide Consortium of Homestead Leaders requests regulations to mandate the implementation of mercantile lands to beneficiaries as described in this section.
5. **Orgs Controlled by Beneficiaries – HHCA Section 204 & 207/HHLRA Section 203.** Consortium of statewide Homestead Leaders have requested regulations to define an organization or association controlled by beneficiaries.



6. **Community Pastures – HHCA Section 211.** Native Hawaiian Charter School High School Students have requested regulations to implement access to establishing a community pasture as allowed under this section.
7. **Audits of Beneficiary Trust Funds – HHCA Section 213.** Big Island Homestead Leaders have requested regulations for DoI audits of trust fund accounts managed by the State DHHL, in particular, the \$600M Act 14 Fund. Consortium of Homestead Leaders have requested regulations to improve transparency and accountability by establishing reporting criteria for the State DHHL to issue inform Beneficiaries.
8. **Loans to Farmers, Ranchers and Mercantile – HHCA Section 214.** Maui Homestead Leaders have requested regulations be put in place to require the State DHHL to establish a loan program for beneficiary farmers, ranchers and mercantile licensees as well as to orgs controlled by beneficiaries, and to cease the use of interest revenues of \$4M a year to pay for State DHHL staffing costs.
9. **Evictions and Lease Cancellations – HHCA Section 216 & 217.** Oahu Homestead Leaders have requested regulations to specify that beneficiaries may not be evicted for loan delinquency without the benefit of state and federal mitigation requirements afforded to other citizens. The regulations requested are to provide mandatory steps to be taken by the State DHHL prior to recommending evictions and lease cancellations.
10. **Water Rights – HHCA Section 221.** Consortium of statewide Homestead Leaders have requested regulations to implement with strength this section of the Law, and through regulations, for all to know what the State DHHL must do to protect our interests and implement this all-important water right of Hawaiians.