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Hawaii (Terr.) Legislative Reference Commission

HAWAIIAN HOMES COMMISSION

- Policy Manual -

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TABLE OF CONTENTS

	<u>Page</u>
I. Organization of the Hawaiian Homes Commission.	1
A. Members, officers and committees	1
1. Commission; compensation; responsibility	1
2. Chairman; vice-chairman.	2
3. Committees	2
4. Executive officer.	3
B. Meetings	4
1. Time of meetings	4
2. Special meetings	4
3. Agenda	5
4. Quorum	5
5. Conduct of meetings; open to public; minutes	6
C. Public relations	7
1. Press releases	7
2. Attendance of meetings by press.	7
II. General Policy	9
A. Basic policy	9
1. General purposes	9
2. Leases	9
3. Services	9
B. Statement of long range goals.	9
C. Prospective plans for next five years.	9
III. Leases	11
A. Types of leases granted.	11
1. Acreage limitations per type	11
2. Number of tracts per lessee.	11
B. Term of the lease; rental; benefits.	11
1. Term; on transfer.	11
2. Rental	11
3. Tax exempt for 5 years	12
C. General rules of priority in awarding leases	12
1. Residence and agricultural lots.	12
2. Pastoral lots.	13
D. Minimum qualifications of applicants	14
1. Leases to native Hawaiians only.	14
2. Age of original lessee	14
3. Leases to persons singularly	14
4. Adequate resources defer priority for residence lot.	15
5. Adequate resources defer priority for farm or ranch.	15
6. Education or experience requirements	15
7. Membership in cooperative.	15
E. Application for leases	15
1. Active file; deferred file	15
F. Limitations on lessees	16
1. Classes of leases; commercial use; erection of buildings	16
2. Time of occupancy; leave of absence.	17
3. Transfers, mortgages, pledges, etc.	17
4. Planting of trees required	18
5. Planting, crop, or grazing agreement	18

	<u>Page</u>
6. Development of water supply	18
7. Alcoholic beverages	18
8. Compliance with ordinances and regulations	19
9. Payment of taxes	19
10. Limitations as conditions of lease	19
G. Designation of successors to lessees	20
1. Relatives who may be designated to succeed	20
2. Manner of designation	20
3. Appraisal upon death of lessee with no relative qualified to succeed	20
H. Cancellation, surrender of leases	21
1. Cancellation upon violation of condition of lease	21
2. Voluntary surrender	21
3. Appraisal upon cancellation or surrender	21
4. Cancelled or surrendered tracts available for transfer or new award	22
I. Transfers	22
1. After cancellation	22
2. By lessee	22
3. When approval granted by Commission	22
4. Term of lease of transferee	23
5. When appraisal not necessary	23
IV. Loans	25
A. Purposes for which loans may be made	25
1. To lessee or successor for designated purposes	25
2. Money to be used only for purposes of loan	25
B. Purposes for which loans will not be made	25
1. Proposed plans not feasible	25
2. Personal property	25
3. When loan funds inadequate	25
4. No guarantee of loans to private corporation	25
C. Loan budget	25
1. Allocation among counties	25
2. Quarterly allotments	25
D. Priorities between individuals	26
1. Order of priority	26
2. Preference when in same category of priority	26
E. Requirements and disqualification for loans	26
1. No right to loan	26
2. No loans to lessees with adequate resources	26
3. Ability to repay	27
4. Loans for construction by contractor; exceptions	27
5. Insurance on loan	27
F. Amount of loans	27
1. Original loans for residence lots--\$6,000 maximum	27
2. Original loans for agricultural or pastoral land-- \$12,000 maximum	27
3. Loans for appraised value	28
4. Other loans--\$3,000 maximum	28
5. Loans for new residences in excess of \$6,000	28

	<u>Page</u>
G. Method of presenting request for and evidencing loan. . . .	28
1. Loan request form	28
2. Presentation of request to Commission	28
3. No loan until presented to and approved by Commission .	28
4. Loan contract	29
H. Method of repayment; interest rates on loans.	29
1. Monthly installments.	29
2. Change in amount of installments.	29
3. Maximum term 30 years	29
4. Additional payments	29
5. Interest 2½ per centum per annum.	29
I. Payment of money by the Commission on loans	30
1. Approval of plans, contracts, etc	30
2. No payment of funds or purchase order in excess of loan authorized.	30
3. Performance bond; contractors	30
4. Approval of contractor's claims by lessee	30
5. Payment by Commission to contractors, etc., upon approval.	30
6. No purchases made for contractors	31
J. Cancellation of loans	31
1. Loans not used; unused portions	31
2. Voluntary surrender of loans authorized	32
3. Forfeiture upon violation of a loan	32
4. Payments due upon cancellation; lien.	32
K. Reduction, postponement, and cancellation of unpaid balances due on loan accounts	33
1. Grounds for reduction, postponement or cancellation . .	33
V. Advances to lessees	35
1. Payments by the Commission constituting advances. . . .	35
VI. Licenses.	36
A. Licences which may be granted	36
1. To churches, hospitals, public schools, etc	36
2. 21 year term licenses to public utilities	36
3. 5 year term licenses to United States	36
B. Qualifications and limitations on the granting of licenses.	36
1. No perpetual licenses or rights-of-way.	36
2. Restrictions.	36
3. Fees.	37
VII. Hawaiian Homes Commission Funds and Property.	38
A. Funds	38
1. Revolving funds, special funds.	38
2. Investment by Treasurer of Territory.	38
B. Buildings; other property	38
1. Covered by territorial insurance fund	38
C. Community pastures.	38
1. Rules for operation	38
D. Commission equipment.	38
1. Approval for use by other agencies.	38
2. Rental to lessees	39
3. Purchase of additional equipment.	39

	<u>Page</u>
E. Water	39
1. No free water, exception	39
F. Sale of stores	39
1. Molokai, for convenience of lessees.	39
VIII. Rules Governing Charges and Accounts	40
A. Schedule of Commission charges	40
1. Water	40
2. Pasturage on Molokai	40
3. Rental of heavy equipment on Molokai	40
4. Gravel on Hawaii	40

HAWAIIAN HOMES COMMISSION

- Policy Manual -

I. Organization of the Hawaiian Homes Commission.

A. Members, officers and committees.

1. The Commission is composed of seven members appointed by the Governor with the advice and consent of the Senate of the Territory of Hawaii. Acting members appointed to serve during the temporary absence or illness of a regular member have the same powers and duties of regular members, but their membership on any committee must be expressly designated by the chairman.
 - a. Members of the Commission serve without pay, but actual expenses incurred by them in the discharge of their duties are paid for or reimbursed by the Hawaiian Homes Commission. "Actual expenses" include travel expenses and necessary food and lodging costs in attending Commission meetings, similar expenses for other travel authorized by the Commission, and such other expenses as are authorized or confirmed by the Commission.
 - b. It is the responsibility of each member to attend all meetings of the Commission and participate in Commission deliberations and decisions, unless excused; to undertake all duties assigned to him by the Commission; and to keep himself generally informed of all matters pertinent to the determination of policy by the Commission and the effectuation thereof. Except for oversight of administration by the chairman, all directions to the Hawaiian Homes Commission staff concerning effectuation of policy and the conduct of the affairs of the Hawaiian Homes Commission shall be given by the Commission; and except in unusual circumstances, no member may individually direct administrative action or countermand administrative orders.

2. The chairman of the Commission is the member designated by the Governor as chairman.
 - a. The chairman presides over all meetings of the Commission, signs all vouchers, checks and assignments of funds to be received under pineapple or grazing contracts and, after approval of the Commission, signs all licenses, leases, loan contracts, assignments of pineapple and grazing contracts, contracts with other governmental agencies, requests to the Governor for permission to expend development fund moneys, and Commission resolutions.

The chairman consults with the Hawaiian Homes Commission staff on problems involving policy and has general oversight of administration.
 - b. A vice-chairman is selected from among its members by the Commission to preside at meetings of the Commission during the absence or illness of the chairman. The vice-chairman has such other powers and duties of the chairman, when serving as chairman, as the Commission prescribes.
3. The chairman may appoint special committees and prescribe their powers and duties. He shall appoint the following standing committees:
 - a. Finance committee. The finance committee consists of one member, its chairman. If directed by the chairman of the Commission, the chairman of the finance committee signs all summary vouchers issued by the Commission. The finance committee is charged with the responsibility of keeping itself informed of the financial condition of the Hawaiian Homes Commission and the state of its various funds. The finance

committee shall be consulted during the preparation of the Hawaiian Homes Commission's budget and when modifications are proposed during the course of its execution. All financial reports prepared by the Hawaiian Homes Commission staff shall be submitted to the finance committee prior to their being submitted to the Commission for its information or approval.

b. Selection committee. The selection committee consists of four members: the commissioners from Hawaii, Maui, and Kauai, and one of the commissioners from Oahu. The selection committee is charged with the responsibility of continuously reviewing the adequacy of the priorities established by this manual for the awarding of leases and the granting of loans in carrying out the basic policy of the Commission, and of recommending changes therein. When the Hawaiian Homes Commission staff suggests the award of a lease upon the basis of emergency need, the facts substantiating such need and the reasons why the applicant is to be given priority over other applicants also classed as in need shall be communicated to the committee before the meeting at which this award will appear upon the agenda. The committee shall make its recommendations thereon to the Commission at such meeting.

4. The executive officer is appointed by the Commission to serve at its pleasure. He shall reside habitually at the major Hawaiian Homes Settlement, which is . He shall give bond in the sum of \$25,000 for the faithful performance of his duties.

a. The executive officer shall attend all meetings of the Commission.

- b. The executive officer is in full charge of and responsible for administration in executing all actions approved by the Commission and in effectuating Commission policy.
- c. All personnel on the Hawaiian Homes Commission staff are under the direction of and are responsible to the executive officer. The executive officer, or a staff member designated by him, shall select and discharge personnel for the Hawaiian Homes Commission staff. No personnel may be employed or discharged by the executive officer without the prior consent of the Commission, except as the Commission may otherwise specifically provide.
- d. When changes in this policy manual are ordered by the Commission or the Commission takes action which in effect changes or supplements the policy as established herein, the executive officer shall prepare a revision of the pertinent portion or portions of this manual in accordance therewith. All such revisions shall be submitted to the Commission for its approval before incorporation in this manual.

B. Meetings.

- 1. Meetings are held in Honolulu on the second Thursday of every month starting at 7:00 p.m., unless a different time, place or date is fixed by the Commission for the holding of a regular meeting. No notice need be given to members regarding the holding of regular meetings.
- 2. Special meetings may be called by the chairman. The executive officer shall notify the members of the Commission of the time, place and purpose of the special meeting.

3. Agenda.

- a. The order of materials on the agenda at a regular meeting is as follows:
 - (1) Minutes of the previous meetings submitted for approval;
 - (2) Finance committee report, including summary of all vouchers issued in the previous month;
 - (3) Report of the executive officer including all matters deferred until the current meeting and all new business submitted by the executive officer and the commissioners.
- b. The agenda shall be prepared under the direction of the executive officer.
- c. The agenda with supporting data necessary thereto shall be distributed or mailed to each commissioner at least five days before a regular meeting. A supplementary agenda shall be prepared for urgent matters added subsequent thereto, and shall be ready for distribution by the time of the meeting.
- d. Persons desiring to appear at Commission meetings shall give notice of the matters on which they desire to be heard sufficiently in advance of the meeting to permit note thereof to appear on the agenda.

4. Quorum.

- a. Four members of the Commission constitute a quorum. Except as otherwise specified herein, any action adopted by a majority at a meeting where a quorum is present constitutes the will of the Commission and is legally binding.
- b. An extraordinary majority of four members is necessary for the postponing or cancelling, in whole or in part, of any payments by homesteaders of principal or interest due on loans.

5. Conduct of meetings.

a. Persons permitted to attend.

- (1) Meetings shall be attended by all commissioners, the executive officer, and such members of the Hawaiian Homes Commission staff as are instructed to attend by the executive officer.
- (2) Meetings are open to the public.

b. Minutes.

- (1) A running account of all proceedings of each meeting of the Commission shall be kept in shorthand in as complete detail as is possible. Minutes, comprising a summary account of the proceedings and containing only as much detail as is necessary to indicate the course of the proceedings and the actions taken by the Commission, shall be transcribed under the direction of the executive officer.
- (2) Copies of the transcribed minutes shall be mailed or delivered to each commissioner and to the office of each project manager prior to the meeting at which they are to be submitted for approval. Copies shall also be kept on file at the Honolulu office of the Hawaiian Homes Commission.
- (3) The transcribed minutes shall be submitted by the executive officer for approval at the next regular meeting. Upon approval, the executive officer shall sign and enter the date of approval upon the minutes. He shall also note thereon any changes ordered prior to approval and shall communicate them to the project managers. All minutes, both prior and subsequent to approval, are available for inspection by any interested persons.

(4) An index shall be kept of all matters recorded in the minutes under the direction of the executive officer.

- c. A formal motion is necessary for the making of an award to a lessee, granting of a loan, approving a transfer, accepting a surrender, approving an assignment of a pineapple or grazing contract, authorizing advances on insurance premiums, approving major Hawaiian Homes Commission improvements and developments, and for any other action for which the Commission may require adoption by formal motion. In preparing the transcribed minutes of a meeting, orders or suggestions of the chairman concurred in by a majority of the quorum present, even though without formal motion and vote, have the force and effect of Commission action and shall be recorded as such although no formal adoption of such order or suggestion was moved.
- d. An executive session may be held whenever the Commission deems it necessary. An executive session is not public, and only such persons may attend as the Commission permits to be present.

C. Public Relations.

1. No press releases or announcement of policy of the Commission shall be made by the Commission or members of the Commission staff without the official approval of the Commission.
2. Members of the press may attend meetings and are free to report all proceedings of the Commission in open meetings.

II. General Policy.

A. Basic policy.

1. General purposes.

- a. It is the basic policy of the Commission to encourage the rehabilitation of the Hawaiian race.

2. Leases.

- a. It is the basic policy of the Commission to encourage the settlement of families on Hawaiian homes lands all the members of which are native Hawaiians under the Hawaiian Homes Commission Act and all of whom may succeed to the lands leased. The granting of a leasehold to any individual, even though personally in need of rehabilitation, is subordinate to this basic policy.
- b. It is the basic policy of the Commission to discourage the sale or traffic in Hawaiian homes leases or improvements thereon, so that they are used solely as homes for lessees and their heirs.

3. Services.

B. Statement of long range goals.

C. Prospective plans for the next 5 year period.

III. Leases.

A. Types of leases granted.

1. The Commission leases tracts of Hawaiian homes lands within the following acreage limits per lessee:
 - a. Not less than one nor more than forty acres of agricultural lands;
 - b. Not less than one hundred nor more than five hundred acres of first-class pastoral lands;
 - c. Not less than two hundred and fifty nor more than one thousand acres of second-class pastoral lands;
 - d. Not more than one acre of any class of land to be used as a residence lot, with the exception of Molokai as provided by law.
2. Ordinarily a lessee may receive only one tract of land. However a lease granted to a lessee may include two detached farm lots located on the same island and within a reasonable distance of each other, one to be designated by the Commission and occupied by the lessee as his home. The gross acreage of both lots shall not exceed the maximum acreage of an agricultural or pastoral lot, as the case may be.

B. Term of the lease; rental; benefits.

1. A lease is for a term of ninety-nine years. When a lease is transferred or is succeeded to upon the death of the lessee, the person taking the lease holds only for the balance of the term.
2. The lessee shall pay a rental of \$1 per year for the tract. The rental is due at the beginning of each calendar year, unless otherwise provided in the lease.

3. The lessee is exempt from the payment of real property taxes for the first five years of the lease. Transfers from one lessee to another do not start the exemption period anew.

C. General rules of priority in awarding leases.

1. Residence and agricultural lots. In the selection of an applicant for award of a residence or agricultural lot, the following rules determine priority:

a. When there are two or more applicants for a residence or agricultural lot, first preference is given to the married applicant whose spouse is also qualified as a native Hawaiian under the Hawaiian Homes Commission Act who either has children (including stepchildren) dependent upon such applicant or spouse who will be able to succeed or may have issue who will be able to succeed to the lot. To determine this, a woman over the age of fifty years is presumed not able to bear issue. Second preference is given to the applicant who has children (including stepchildren) dependent upon him or her who will be able to succeed or to the married applicant whose spouse does not qualify as a native Hawaiian but who either has children dependent upon such applicant or spouse who will be able to succeed or may have issue who will be able to succeed. To determine this, a woman over the age of fifty years is presumed not able to bear issue. Third preference is given to all others, but they are not awarded leaseholds unless the Commission concludes that to do so will further the basic policy of the Commission as provided in this policy manual.

b. When two or more applicants are equal after consideration of all the factors under (a), above, preference is given to the applicant who is in emergency need of housing. "Emergency need" as

used herein means the lack of housing meeting minimum standards of decency coupled with the applicant's financial inability to obtain adequate housing.

- c. When two or more applicants are equal after consideration of all the factors under (a) and (b), above, or (b) is inapplicable preference is given to the applicant who is a resident of the island upon which the lot to be awarded is located.
 - d. When two or more applicants are equal after consideration of all the factors under (a), (b), and (c), above, preference is given to the applicant who first made application for a lot.
2. Pastoral lots. In the selection of an applicant for award of a pastoral lot, the following rules determine priority:
- a. First preference is given to the applicant with superior ranching experience, second preference to the applicant with some ranching experience, and third preference to the applicant with little or no ranching experience.
 - b. When two or more applicants fall within the same category of ranching experience, first preference is given to the married applicant whose spouse is also qualified as a native Hawaiian under the Hawaiian Homes Commission Act who either has children (including stepchildren) dependent upon such applicant or spouse who will be able to succeed or may have issue who will be able to succeed to the lot. To determine this, a woman over the age of fifty years is presumed not able to bear issue. Second preference is given to the applicant who has children (including stepchildren) dependent upon him or her who will be able to succeed or to the married applicant whose spouse does not qualify as a native Hawaiian but who either has children

dependent upon such applicant or spouse who will be able to succeed or may have issue who will be able to succeed. To determine this, a woman over the age of fifty years is presumed not able to bear issue. Third preference is given to all others, but they are not awarded leaseholds unless the Commission concludes that to do so will further the basic policy of the Commission as provided in this policy manual.

3. New Developments.

- a. Whenever any completely new development is undertaken by the Commission, the foregoing rules of priority are followed unless the Commission specifically provides to the contrary.

D. Minimum qualifications of applicants.

1. Leases are only made to native Hawaiians, defined by the Hawaiian Homes Commission Act as any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.
 - a. The Commission will accept the applicant's statement as to blood qualification when it is submitted under oath, as on the application for lease form which is sworn to under oath. In case of doubt, the applicant shall furnish proof of blood qualification. Such doubt shall be raised before the Commission in writing.
2. An original lessee shall not be less than twenty-one years of age.
3. Leases are only made to persons singularly, and a leasehold shall not be held by joint lessees.
 - a. If two persons each holding a lease of Hawaiian homes lands desire to marry, prior to or within 60 days after marriage they shall elect in writing to the Commission the lease to be retained. The remaining lease shall be surrendered to the

Commission or transferred to another lessee upon such terms and within such period of time as are approved by the Commission.

4. The ownership of a home or possession of financial resources adequate to purchase and maintain a home do not disqualify a person from applying for a lease of a residence lot. However, the ownership of a home or such financial resources affects an applicant's priority, and the application shall be placed in a deferred file apart from other applications given first consideration for a residence lot.
 5. A person possessing adequate economic resources to obtain and operate a farm or ranch is not disqualified from applying for a lease of an agricultural or pastoral lot. However, the ownership of such resources affects an applicant's priority, and the application shall be placed in a deferred file apart from other applications given first consideration for an agricultural or pastoral lot.
 6. An applicant for a lease need not meet any educational or experience requirements. However, experience will affect the applicant's priority for obtaining a lease of a pastoral lot.
 7. Membership in a cooperative is not required as a condition to becoming a lessee or maintaining a lease.
- E. Applications for leases; administrative action to effectuate granting leases.
1. Applications are kept in two files--an active file, and a deferred file.
 - a. Active file. All applicants are kept in one general active file, unless deferred.

- (1) The application of any applicant in the active file who, subsequent to filing, purchases a home or obtains sufficient financial resources, is placed in the deferred file.
- (2) When an applicant owning a home must move from one area to another and upon the sale of his present home would not have sufficient resources to purchase and maintain another home, his application is placed on active file, and is not deferred.

b. Deferred file.

- (1) When an applicant owns a home and has financial resources adequate to maintain it, his application when received is placed in the deferred file.
- (2) When an applicant who does not own a home has ample financial resources to purchase and maintain a home, his application is placed in the deferred file.
- (3) Upon any change of status whereby an application is transferred from the deferred file to the active file, the date of application for determining priority is the date of transfer into the active file.

F. Limitations on lessees.

1. Hawaiian Homes Commission leaseholds are of three classes: farm, pastoral and residence, and are to be used within reasonable limits for the purposes designated by the types thereof.
 - a. No leasehold, or portion thereof, shall be used for commercial (retail or wholesale) or industrial purposes without written authority from the Commission.
 - b. Buildings and structures designed for use for dwellings or to shelter transportation and farming equipment or livestock or

agricultural products may be erected or constructed on any leasehold without written approval of the Commission. All other buildings or structures require written approval of the Commission, both as to design and materials and location on the lot.

2. The lessee shall occupy and commence to use or cultivate his lease as his home, farm or ranch within one year after the lease is made. He shall thereafter continue to occupy and use or cultivate the tract on his own behalf unless he receives a leave of absence from the Commission. The Commission grants leaves of absence to a lessee upon good reason existing.
 - a. No absences of less than a total of 60 days in any one year require approval of the Commission. Absences exceeding 10 days shall be reported by the lessee to the Commission's local authorized representative, indicating both expected dates of departure and return.
3. 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 upon the approval of the Commission, or agree so to transfer, mortgage, pledge, or otherwise hold, his interest in the leasehold.
 - a. The lessee's interest shall not, except in pursuance of such transfer, mortgage, or pledge to or holding for or agreement with a native Hawaiian or Hawaiians approved of by the Commission, or for any indebtedness due the Commission or for taxes, or for any other indebtedness the payment of which has been assured by the Commission, be subject to attachment, levy, or sale upon court process.

- b. The lessee shall not sublet his interest in the leasehold or improvements thereon nor part with the possession or control thereof.
4. The lessee of agricultural lands shall plant and maintain not less than 5, 10, 15, 20 trees per acre of land leased, and the lessee of pastoral lands shall plant and maintain not less than 2, 3, 4, 5 trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of lease. Trees planted shall be of types approved by the Commission and at locations specified by the staff. Planting and maintenance shall be by or under the immediate control and direction of the lessee. Trees will be furnished by the Commission free of charge.
 5. A lessee of Hawaiian homes lands shall not enter into any planting, crop or grazing agreement, nor any extension, alteration or amendment thereof, without first having obtained the written approval thereto of the Commission.
 - a. The Commission examines all such agreements to assure the lessee being adequately compensated, the terms of the agreement are not unreasonable or too onerous on the lessee, and that the Hawaiian Homes Commission Act and Commission policy are being complied with.
 6. A lessee shall not develop nor maintain, or attempt to so develop or maintain, a source of water supply, other than that serving the community in which his leasehold is located, by means of any boring, well, tunnel, ditch or otherwise, without first obtaining the written consent of the Commission therefor.
 7. Beer, wine, distilled liquor or other alcoholic beverage shall not be manufactured or sold on or in any land or property within any

lease given by the Commission or any other land or property controlled by the Commission without permission of the Commission.

8. All lessees shall comply with all territorial, city and county, and county ordinances and regulations applicable to health and sanitation.
 - a. Lessees of residential lots shall at all times keep their lots clean and free from brush, litter, and rubbish of all kinds, and in strict accordance with the rules and regulations of the Territorial Board of Health and such ordinances of the county or city and county in which these are located, as are applicable. This regulation also applies to those portions of public streets, roads, and lanes immediately adjoining lots and which would normally be included in sidewalk areas. No brush, weeds, grass or refuse of any kind shall be burned by any lessee without permission of proper authority and then only at such times and in such quantities and in such manner as will safeguard adjoining areas and property from injury or annoyance.
9. The lessee shall pay all taxes assessed upon the leasehold and improvements thereon. It is against Commission policy to pay taxes for the lessee.
10. All limitations specified by these rules are part of the conditions of each lease to the same extent as if set forth in full therein.
 - a. The Commission may stipulate any other conditions to be performed by a lessee and incorporate them in the terms of the lease. Such stipulations shall not be in conflict with any provisions of the Hawaiian Homes Commission Act.
 - b. Violations of any of the limitations provided by these rules or conditions stipulated by the Commission constitute cause for

forfeiture of the lessee's interest in his lease and for cancellation of the lease.

G. Designation of successors to lessees.

1. A successor shall be designated from the following relatives to succeed to the interest in a tract upon the death of a lessee: husband or wife, children (including stepchildren), widows or widowers of children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews.
 - a. The successor must qualify as a lessee of Hawaiian homes lands.
 - b. The successor need not be twenty-one years of age.
2. Manner of designation.
 - a. The lessee shall designate his successor on the forms provided by the Commission. A successor may not be designated in any other manner.
 - (1) The Commission requires such designation in writing before execution of a lease. The lessee, however, may change his beneficiary at any time, but only by notifying the Commission in writing, provided the beneficiary is among the above group of relatives who may qualify.
 - (2) The designation of a successor shall be filed with and approved by the Commission. A duplicate copy shall be issued to the lessee.
 - b. In the absence of an effective designation, the Commission selects a successor upon the death of a lessee from the above relatives in the order named.
3. In the case of death of a lessee leaving no relative qualified to be a lessee, the Commission has the value of all improvements and growing crops appraised.

- a. The amount of the appraisal value is paid to the legal representative of the deceased lessee.
- b. The tract involved resumes the status of unleased Hawaiian homes lands available for a new award by the Commission. Payments made by the Commission to the legal representative of the deceased lessee are considered an advance and the Commission is reimbursed by the new lessee of the tract.

H. Cancellation, surrender of leases.

1. The Commission may declare a lease forfeited and cancel the lease when the lessee violates any condition in respect to the leasing of such tract. The following procedure is observed:
 - a. A lessee is given due notice and an opportunity to answer the charge and be heard before action is taken by the Commission.
 - b. If a lessee, after receiving notice that his lease is to be cancelled, fails to appear before the Commission as requested, the lease is cancelled without further hearing.
2. A lessee may voluntarily surrender his interest in a lease of Hawaiian homes lands. Voluntary surrenders shall be made in writing and accepted by the Commission.
 - a. A lessee may surrender a lease on condition that it will be divided and he will be awarded that part designated at the time of the surrender.
3. Upon the cancellation or the surrender of a lease, the Commission appraises the value of all improvements and growing crops and pays to the lessee whose lease was cancelled or surrendered the amount of appraisal, deducting any indebtedness to the Commission and any other indebtedness the payment of which has been assured by the Commission.

4. All cancelled or surrendered tracts are available for transfer or a new award by the Commission. Payments made by the Commission to the lessee are considered an advance and the Commission is reimbursed by the transferee or successor to the tract involved.

I. Transfers.

1. After the cancellation of a lease by the Commission or the surrender of a lease by a lessee, the Commission may transfer a lease instead of issuing a new lease. A new lease is issued in all cases in which unusual circumstances do not counter-indicate such action.
2. The lessee may transfer his interest to a person qualified to receive benefits under the Hawaiian Homes Commission Act. The transfer may be made to a minor. The approval of the Commission is required for all transfers and agreements of transfer. The Commission may withhold approval of a transfer unless the indebtedness of the lessee to the Commission is paid.
3. The Commission approves a transfer when the transferee is related by blood or marriage to the lessee, provided such relative is a husband, wife, child (including stepchildren), widow or widower of a child, grandchild, brother, sister, widow or widower of a brother or sister, niece or a nephew of the lessee.
 - a. When the proposed transferee is not one of these relatives, the Commission will not approve the transfer until it is shown that the terms of the transfer are bona fide and that no applicant, or if the proposed transferee is an applicant, that no applicant with a higher priority, is willing and able to accept the terms of the transfer.
 - (1) When there are applicants willing and able to accept the terms of the transfer, the same rules for determining priority of a new lessee govern the selection of a

transferee. If no prospective transferee is found among the active file of applicants, a transferee shall be selected from the deferred file of applicants, following again the same rules for determining priority for the specific type of lot involved as if a new lessee were being selected.

- b. If there is no applicant willing and able to accept the terms of the transfer, the Commission may approve the transfer to the person designated as transferee by the lessee.
4. Under a transfer, the transferee is entitled only to a lease for the balance of the original lessee's term of ninety-nine years.
5. No appraisal of improvements is required by the Commission to be made as a prerequisite for the granting of approval of a transfer where a consideration passes between the lessee and transferee and no payments are required to be made by the Commission.

IV. Loans.

A. Purposes for which loans may be made.

1. The Commission may make loans to a lessee or his successor. Loans are made for the following purposes:
 - a. The erection of dwellings on any leasehold and the undertaking of other permanent improvements thereon;
 - b. The purchase of livestock and farm equipment; and
 - c. Otherwise assisting in the development of leaseholds.
2. No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.

B. Purposes for which loans will not be made.

1. A proposed plan of expenditure shall accompany all applications for loans. A loan is not made in any case where the proposed plan is not feasible nor for any purpose not contained in the plan.
2. Loans are not made for the purchase of furniture or similar personal property to be used in the home.
3. Until adequate loan funds are available, loans are not made for any purpose other than the construction of residences.
4. The Commission does not guarantee loans made to a private corporation operating under a license on Hawaiian homes lands.

C. Loan budget.

1. Based upon the estimates of loan funds to be available, the Commission shall adopt a yearly loan budget, allocating the loan funds anticipated among the various counties. Funds allocated for use in one county may be reallocated for the making of loans to lessees in other counties as directed by the Commission.
2. The yearly loan budget shall provide for maximum amounts which may be expended in each three month period during the course of the

year. The staff of the Hawaiian Homes Commission shall be guided by these quarterly allotments in bringing loan requests to the attention of the Commission for Commission approval.

D. Priorities between individuals.

1. Loans to lessees are made in the following order of priority:

- a. For reimbursement of the Commission for advances of the appraised value made at the time of surrender or cancellation of a lease or to the legal representative upon the death of a lessee having no qualified successor.
- b. For original construction by new homesteaders.
- c. For all necessary additions to maintain the safety and sanitation of existing structures.
- d. For the convenience of a transferee to apply to the selling price under the terms of a transfer from a lessee.
- e. For the purchase of other improvements.

2. Where two or more lessees are in the same category of priority, preference is given in the following order:

- a. The lessee who demonstrates he can use the loan within ninety days of its grant; and if none or more than one, then
- b. The lessee who shows the greatest need of a loan to enjoy the benefit of his homestead, and if more than one lessee demonstrate approximately the same degree of need, then
- c. The lessee who first applied for a loan.

E. Requirements and disqualification for loans.

1. No homesteader has a right to a loan, nor to a loan in any minimum or maximum amount. The making of any loan is conditioned upon need therefor.
2. Loans are not made to lessees having adequate resources to undertake the purposes for which a loan is sought.

- a. Possession of assets or earning capacity sufficient to obtain a loan from a financial institution for the purposes for which a loan is sought from the Commission disqualifies such lessee from receiving a Commission loan.
3. Ability to repay is a requirement for the granting of a loan.
 - a. Loans may be made to persons receiving public assistance where it is sufficient to assure repayment.
 4. Loans for the purpose of financing construction are made only where the work is to be performed by a contractor, except as provided herein:
 - a. A lessee who himself is a contractor or who produces proof that he is a skilled carpenter with experience adequate to undertake the construction of a residence may be granted a loan.
 - b. A loan not exceeding \$500 for repairs or additions to an existing structure may be granted to a lessee if the lessee produces proof that the purposes of the loan may be accomplished without contracting out the work.
 5. The Commission requires all borrowers to insure all livestock and permanent improvements upon their leasehold purchased or constructed out of moneys loaned by the Commission in the amount of the loan, running to the advantage of the Commission.
- F. Amount of loans.
1. Original loans to lessees of residence lots shall not exceed \$6,000, the maximum allowed by law.
 2. Original loans to lessees of agricultural or pastoral land shall not exceed \$12,000, the maximum allowed by law. However, until adequate loan funds are available, loans to such lessees are limited to residence purposes and shall not exceed \$6,000.

3. When payments of the appraised value of improvements and growing crop are made to the legal representative upon the death of a lessee leaving no qualified successor, or upon surrender or cancellation, a loan to the successor may be made in such amount even though it exceeds the maximum above provided.
4. All other loans shall not exceed \$3,000.
5. Ordinarily no loans shall be made for new residence construction if the cost of such construction is estimated to exceed \$6,000. However, the Commission will waive this provision in those cases where extenuating circumstances warrant the construction of a more expensive residence.

G. Method of presenting request for and evidencing loan.

1. Applications for a loan shall be made on the loan request form provided by the Commission.
2. When and as loan funds are available, the executive officer shall present to the Commission requests for loans meeting the requirements fixed by the Commission and by law. The executive officer shall also present a statement of his findings and recommendations with regard to the priority of the loan, need for the loan, and the maximum amount of loan which should be authorized.
3. No loan is granted until presented to and approved by the Commission.
 - a. Commission approval is an authorization for the executing of a loan not exceeding the maximum for which the loan is approved. However, no lessee has a right to such maximum, and if the purposes for which the loan is made may be accomplished with a lesser sum, the loan contract as executed shall be in such lesser sum.

I. Payment of money by the Commission on loans.

1. All plans for improvements, and contracts for construction thereof, to be financed in whole or in part by Commission loans shall be submitted to the staff of the Hawaiian Homes Commission for approval. No funds authorized to be loaned shall be expended for improvements not so approved.
2. No payment of funds shall be made nor purchase order issued in excess of the loan authorized.
 - a. Whenever the plans and contracts submitted call for the expenditure of more funds than authorized to be loaned by the Commission, before any funds authorized to be loaned may be expended, the excess over such authorized loan shall be paid to the Commission. The excess is held in trust for the purpose of meeting the contractual obligation. All such trust accounts are separated from loan accounts of lessees. Payments are first made out of trust accounts and after they are exhausted, out of the loan accounts of the respective lessees.
3. All contractors building homes for homesteaders shall post a performance bond guaranteeing faithful performance of their contract. A contract not calling for payment until completion of the house is an adequate substitute.
4. Before any payment of funds authorized to be loaned are made to a contractor, his claim must be approved by the lessee with whom he contracted for the construction of the improvements for which claim is made.
5. The Commission does not pay any funds authorized to be loaned to any lessee, or to any person contracting with the lessee, for the construction of any improvements upon Hawaiian homes lands until

showing has been made to the satisfaction of the staff of the Hawaiian Homes Commission that the legitimate claims of all subcontractors, laborers and materialmen in respect of such improvements have been satisfactorily paid or adjusted, or that satisfactory arrangements for the adjustment of such claims have been made.

a. The Commission waives this rule in individual cases, as the Commission deems advisable under the particular facts of such cases.

6. No purchases shall be made for contractors from funds authorized to be loaned to a lessee.

a. In cases where lessees are authorized to construct their own improvements, the Commission will purchase materials for the lessee. In such event, the lessee shall present a list of materials needed with the prices listed thereon. If warranted, a purchase order will be issued and the lessee's loan commitment account shall be debited immediately upon the issuance of the purchase order.

J. Cancellation of loans.

1. Any loans not used, or any portion of loans not used, may be cancelled by the Commission.

a. When the purposes for which a loan was made are not undertaken within ninety days, the loan may be cancelled by the Commission. The executive officer shall bring to the attention of the Commission all such loans, and all pertinent facts with relation thereto.

b. Where a portion of a loan remains unused after completion of construction, or any other purpose for which the loan was granted, such portion shall be cancelled.

- (1) The homesteader shall not use such unused portion of a loan for any purpose other than that for which the loan was granted.
2. A lessee may voluntarily surrender his right to a loan, after the loan has been authorized. This is accomplished by notifying the Commission in writing.
3. When the lessee violates any condition in respect to a loan, the Commission declares the loan forfeited and cancels it only after following the procedure prescribed.
 - a. Recommendation that a loan be cancelled shall be made by the executive officer or a commission member.
 - b. The lessee to whom the loan has been granted shall be given due notice and an opportunity to answer the charge and be heard before action is taken by the Commission. If a lessee, after receiving notice that his loan is to be cancelled, fails to appear before the Commission as requested, the loan may be cancelled without further hearing.
4. When the cancellation of an outstanding loan is due to the violation of conditions of the loan, the Commission may declare all principal and interest of the loan immediately due and payable, notwithstanding any provision in the contract of loan to the contrary. The Commission has a first lien upon the lessee's interest in his tract, growing crops, dwellings or other permanent improvements, and livestock to the amount of all principal and interest due and unpaid, of all advances paid by the Commission, and of all indebtedness of the lessee, the payment of which has been assured by the Commission.

K. Reduction, postponement, and cancellation of unpaid balances due the Commission on loan accounts.

1. Grounds for reduction, postponement, or cancellation.

a. With the concurrence therein of at least four out of seven members of the Commission, the payment of any loan installment due may be postponed in whole or in part by the Commission and until such later date as it deems advisable. Sufficient reason for such postponement includes loss of income and serious illness or other similar drains upon income and assets. Such postponed payments continue to bear interest at the rate of $2\frac{1}{2}$ per centum per annum on the unpaid principal.

b. In case of the cancellation of a lease by the Commission or the surrender of a lease by the lessee, the Commission 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 contract of loan.

(1) In case of the death of a lessee, the Commission permits the successor or successors to the tract to assume the contract of loan.

(2) With the concurrence therein of at least four out of seven members, in cases where the successor or successors to the tract assume the contract of loan the Commission may waive the payment, wholly or in part, of interest already due and delinquent upon the loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments continue to bear interest at the rate of $2\frac{1}{2}$ per centum per annum on the unpaid principal.

c. With the concurrence therein of at least four out of seven members, the Commission may write-off and cancel, wholly or in part, the contract of loan of a deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write-off and cancellation are made only after an appraisal of all improvements and growing crops on the tract involved. In every such case, the amount of the appraisal, or any part thereof, is considered as part or all, as the case may be, of any loan to a successor or successors.

V. Advances to lessees.

A. Advances.

1. Payments by the Commission constituting advances.

- a. The Commission may directly take out insurance on livestock and permanent improvements upon leaseholds to secure moneys loaned by the Commission, and advance the cost thereof.
- b. The Commission may in its discretion pay taxes assessed upon the leasehold and improvements of the lessee and have a lien therefore. Commission policy precludes such advances.
- c. Payments made to a previous lessee or his legal representative after cancellation or surrender of a lease amounting to the appraised value of improvements and growing crops are considered an advance reimbursable out of payments made by the successor to the tract involved.

VI. Licenses.

A. Licenses which may be granted by the Commission.

1. The Commission may grant licenses for lots to churches, hospitals, and public schools. The Commission may also grant licenses to theaters, garages, service stations, markets, stores, and other mercantile establishments if owned by lessees of the Commission or by organizations formed and controlled by such lessees.
 - a. A license granted for any of the above purposes is non-transferable, revocable upon six months notice, with the privilege of removing any and all physical improvements from the premises.
2. Licenses for a term not to exceed twenty-one years in each case may be granted to public utility companies as easements for railroads, telephone lines, electric power lines, gas mains, and the like.
3. The Commission, with the approval of the Governor, may grant licenses to the United States for a term not to exceed five years, for reservations, roads, and other rights-of-way, water storage and distribution facilities, and practice target ranges. These licenses may be extended for a maximum of three years with the approval of the Governor. No such license is granted if it restricts the areas required by the Commission in carrying on its duties or interferes in any way with the Commission's operation.

B. Qualifications and limitations on the granting of licenses.

1. The Commission does not grant perpetual licenses or rights-of-way.
2. The Commission may grant licenses subject to reasonable restrictions.
 - a. The sale, manufacture, or use of liquor on the premises covered by a license is prohibited unless the Commission specifically grants a license with the privilege to sell liquor.

3. The Commission may charge a license fee in connection with the granting of a license.

a. A fee is charged when the license is for a commercial purpose, or when Commission buildings or similar property are used by the licensee. The amount of the license fee is fixed by the Commission.

VII. Hawaiian Homes Commission Funds and Property.

A. Funds.

1. The moneys of the Commission are kept in the revolving funds and special funds in the territorial treasury as is provided by law.
2. The Treasurer of the Territory is requested to make all necessary arrangements with mainland depositories selected by him in order that securities acquired as an investment of moneys in the Hawaiian home loan fund may be kept in the same manner as securities of the sinking fund of the Territory. Such arrangements shall provide for the presentment of such securities for payment and collection and remittance of the proceeds and interest thereof. All expenses attributable to the safekeeping, collection and remittance of the securities and proceeds, and interest thereof, shall be paid from the Hawaiian home administration account.

B. Buildings; other property.

1. Buildings of the Commission on lands under its control, which may be injured or destroyed by fire or other casualty, are covered by the territorial insurance fund.

C. Community pastures.

1. The staff of the Hawaiian Homes Commission shall prepare rules for the operation of community pastures. When approved by the Commission, they shall govern the conduct of community pastures.
 - a. Until the preparation of such rules for community pastures, the rules adopted on June 29, 1945, govern the community pastures on Molokai.

D. Commission equipment, etc.

1. Commission equipment is not rented or loaned to governmental or non-governmental agencies without Commission approval.

2. Commission equipment is not loaned to lessees and is rented only as provided in the schedule of Commission charges.
3. No additional equipment for use on the various homestead projects shall be purchased without the prior approval of the Commission.

E. Water.

1. No free water is furnished by the Commission other than to the Molokai Community Hospital.

F. Sale of stores by Commission.

1. The sale of stores is a matter of convenience to the lessees on Molokai. To make it more convenient for them, the Commission maintains a small supply of materials and supplies needed in the homestead area. When they may be readily obtained elsewhere, the sale of stores shall be discontinued.

VIII. Rules Governing Charges and Accounts.

A. Schedule of Commission charges.

1. Water: Lessees on Hawaiian homes lands on Molokai are charged 20¢ per 1000 gallons of water. All other persons are charged 25¢ per 1000 gallons of water.

2. Pasturage on Molokai:

a. \$15.00 per head per year.

b. \$2.50 breeding fee to be charged for each live calf dropped.

3. Rental of heavy equipment on Molokai:

D-7 tractor	\$6.50 per hour
D-6 tractor	5.00 per hour
D-4 tractor	4.00 per hour
Grader	5.00 per hour
Farmall "H" tractor and attachments	4.00 per hour
Attachments only:	
Post hole digger	1.00 per hour
Corn harvester	1.00 per hour
Potato planter	1.00 per hour
Sprayer	1.00 per hour
Dump truck	2.50 per hour
Cattle truck:	
Homesteaders--hauling cattle from Commission pastures to home or slaughter house	1.50 per head
Other than homesteaders--	
Hauling cattle from Hoolehua to Kawiloloa,	
if 3 head or less	6.00 per load
if more than 3 head	2.00 per head
Hauling cattle from other district,	
if 3 head or less	10.00 per load
if more than 3 head	3.00 per head

These rates include labor, maintenance and fuel for the equipment.

Time spent in transit is charged the same rates as above.

4. Gravel on Hawaii:

Hauling charge is as follows:

2½ ton truck	\$2.50 per load
2 ton truck	2.00 per load