

## HAWAII ADMINISTRATIVE RULES

TITLE 10

## DEPARTMENT OF HAWAIIAN HOME LANDS

## CHAPTER 3

NATIVE HAWAIIAN REHABILITATION PROGRAM

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Historical Note: Chapter 3 of Title 10, Hawaii Administrative Rules, is based substantially upon Parts IV, V, VI, VII, VIII, and XI, Rules and Regulations, Department of Hawaiian Home Lands. [Eff 8/18/72; am 10/25/73; am 4/10/76; am 11/14/77; am 11/18/79; 4/15/79; R 7/30/81]

SUBCHAPTER 1  
APPLICATIONS FOR HOMESTEAD LEASES

**§10-3-1 Application forms.** Applications for residential, agricultural, or pastoral lot leases shall be made on forms provided by the department and shall be made under oath. Deliberate falsification of a material fact on an application form shall be grounds for removal of the applicant's name from the waiting list, or cancellation of any lease awarded the applicant, and may subject the applicant to prosecution for perjury. [Eff 7/30/81; am and comp 10/26/98]  
(Auth: HHC Act §222; HRS §91-2) (Imp: HHC Act §207)

**§10-3-2 Qualifications of applicants.** (a)  
Applicants for residential, agricultural, or pastoral lot leases shall provide the department with documented proof that the applicant is:

- (1) At least eighteen years of age; and
- (2) A native Hawaiian.

(b) In addition to the qualifications required in subsection (a), a person applying for an agricultural or pastoral lease may be required to comply with

section 10-3-24 before a lease award for an agricultural or pastoral lot can be made. [Eff 7/30/81; am 1/20/86; comp 10/26/98] (Auth: HHC Act §222; HRS §91-2) (Imp: HHC Act §207)

**§10-3-3 Application processing. (a)**

Applications shall be dated and signed by the applicant and by an authorized department representative. The department shall acknowledge in writing receipt of all properly completed applications. An incomplete application shall be returned to the applicant with instructions necessary to complete the application properly. Completed applications shall be time stamped, and if accepted, assigned a numerical designation, and filed in the order of receipt. Additions, corrections, or deletions may be made only with the approval of the applicant and the chairman or the chairman's designee. A copy of the application shall be given to the applicant. Except as otherwise provided in this chapter, a numerical designation shall not be reassigned to any other person.

(b) Within thirty days after the submission and filing of the completed application and all such other documents as the department shall require of the applicants, and any investigation the department shall require of the applicants, and any investigation the department may conduct, the chairman or chairman's designee shall make a determination as to whether the applicant qualifies as an applicant. The determination shall be based upon the application form, birth, marriage, and death certificates, such other documents as the department may require the applicant to produce, and any investigation the department may conduct. An applicant who disagrees with any action taken by the department shall have thirty days from receipt of written notice of such action within which to petition the department for appearance before the next regular meeting of the commission concerning the action taken on the application. [Eff 7/30/81; am and comp 10/26/98]

(Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-4 Residential lot application.** (a) The department shall establish and maintain an island-wide residential lot waiting list for each of the islands of Hawaii, Kauai, Maui, Molokai, and Oahu.

(b) A person may submit only one application for a residential lot lease.

(c) A person may apply for a residential lot lease and an agricultural or pastoral lot lease, but not for both agricultural and pastoral lot leases. [Eff 7/30/81; am 1/20/86; comp 10/26/98] (Auth: HHC Act §222; HRS §91-2) (Imp: HHC Act §207)

**§10-3-5 Agricultural or pastoral lot application.**

(a) Applications for an agricultural or pastoral lot lease may be made for any island of the State where lands are designated for those purposes. For application purposes, the department shall establish and maintain an island-wide agricultural lot waiting list for each of the islands of Hawaii, Kauai, Maui, Molokai, and Oahu, and an island-wide pastoral lot waiting list for each of the islands of Hawaii, Kauai, Maui, and Molokai.

(b) A lessee of a residence lot may apply for an agricultural or pastoral lot lease only on the island on which the lessee resides. [Eff 7/30/81; am 8/1/85; am and comp 10/26/98] (Auth: HHC Act §222; HRS §91-2) (Imp: HHC Act §207)

**§10-3-6 Island-wide waiting lists.** (a) The department shall maintain area waiting lists until the lists are exhausted. Applicants on a waiting list for any area will be placed on the respective island-wide residential lot, agricultural lot, or pastoral lot

waiting list according to the date of application. Applicants on a waiting list for an area will be considered first for award of any lots in the area. Applicants on the island-wide waiting list shall be considered for award according to the date of application.

(b) Applicants wishing to transfer their completed application on one island-wide waiting list to another island-wide waiting list may do so. Upon the completion of the transfer, the transfer date will replace the original date of application. No applications will be accepted for any area waiting list. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-7 Priority and preference for award of leases.** (a) Applicants shall be considered for award in the order in which their completed applications were received by the department; provided that awards shall first be made according to ranking in existing priority I, II, and III waiting lists in that order until those waiting lists are exhausted. Thereafter, awards shall be based on numerical designation by date of completed application on the area waiting list, then on the island-wide waiting list, except as otherwise provided in this chapter.

(b) In making awards, the department shall give preference to an applicant who is not a lessee, or whose spouse is not a lessee.

(c) An applicant who is a lessee, or whose spouse is a lessee, shall be placed on a deferred status until each applicant given preference as provided by subsection (b) has been offered a lot; provided that an applicant who is a lessee, or whose spouse is a lessee, shall not be placed on a deferred status and may be offered a lot if the applicant or the applicant's spouse states in writing that the applicant or the applicant's spouse, as the case may be, will transfer an existing lease or surrender an existing lease to the

department before, and as a condition for, the award of a new lease.

(d) An exception to subsection (c) may be made if the lessee of a residential lot or the spouse of a lessee of a residential lot is awarded a new agricultural or pastoral lot which is unimproved and on which a residence cannot be constructed. In this case, the transfer or surrender of the residential lease may be postponed until such time as the new agricultural or pastoral lot is improved and a residence can be constructed on the new lot. [Eff 7/30/81; am 1/20/86; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-8 Transfer of application rights.** (a) An applicant may designate an individual relative who is at least eighteen years of age and a native Hawaiian from among the following to succeed to the applicant's application rights upon the death of the applicant:

- (1) Husband or wife;
- (2) Child;
- (3) Grandchild;
- (4) Father or mother;
- (5) Widow or widower of a child;
- (6) Brother or sister;
- (7) Widow or widower of a brother or a sister; or
- (8) Niece or nephew.

To the extent possible applicants shall designate a successor at the time that the application is filed at the department; provided that the designation shall be filed in writing at the department and the department shall acknowledge the designation in order for the designation to be deemed filed. An applicant may change the designation of successor at any time; provided that the applicant shall file the change of designation in writing at the department and the department shall acknowledge the change of designation in order for the change of designation to be deemed filed. The department shall determine whether a designated successor is qualified to be an applicant

for a Hawaiian home lands lease. A designated successor shall be required to provide proof to the department that the individual is at least eighteen years of age, a native Hawaiian, and a relative as identified in this subsection.

(b) If an applicant dies without designating a successor as provided in subsection (a), the commission may designate a successor applicant from only the following relatives of the applicant who are at least eighteen years of age, native Hawaiian, and who made a request to succeed to the application rights as provided in subsection (d):

- (1) Husband or wife; or
- (2) If no husband or wife requests, then a child; or
- (3) If no husband, wife, or child requests, then a grandchild; or
- (4) If no husband, wife, child or grandchild requests, then from among the following relatives of the applicant who are native Hawaiian and at least eighteen years of age: father and mother, widows or widowers of the children, brothers and sisters, widows or widowers of brothers and sisters, or nieces and nephews.

Any individual who requests to succeed to the decedent's application rights shall provide proof to the department that the individual is at least eighteen years of age, a native Hawaiian, and a relative as identified in this subsection.

(c) Once every calendar year, the department shall publish a notice setting forth a list of the names of all applicants whom the department has reason to believe have died without designating a successor and whose names do not appear in a list previously published by the department. The notice shall also state briefly that individuals requesting to succeed to the application shall submit a request within the deadline established in subsection (d). The notice shall be published in a newspaper of general



circulation in the State, once in each of two successive weeks.

(d) Requests for succession to application rights shall be made to the department in writing not later than one hundred eighty days after the date of the last publication of the applicant's name; otherwise, the application will be canceled and the applicant's name shall be removed from the respective waiting list or lists, as the case may be. The commission, for good cause, may extend the time beyond one hundred eighty days in which requests for succession to an application may be made.

(e) The department shall determine whether an individual is qualified to succeed to the applicant's application not later than three hundred sixty five days following the one hundred eighty days after the date of the last publication of the applicant's name. The department shall submit a recommendation to the commission regarding the designation of a successor. If an individual who has requested to succeed to an application disagrees with the commission's designation of a successor, the individual may request a contested case hearing as provided in section 10-5-31. The department, for good cause, may extend the time beyond three hundred sixty five days in which it is to determine whether an individual is qualified to succeed to an application. [Eff 7/30/81; am 8/1/85; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-9 Posting lease awards.** The department shall post in district offices in the area where awards are made, the names and application dates of all who receive lease awards within two weeks after awards are made. The notice shall remain posted for a period of two months. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-10 Requirement for current information; placement on deferred status.** (a) An applicant for a homestead lease shall notify the department, in writing, of any change in address within fifteen calendar days of such change. Whenever the department initiates action to award leases, all applicants whose addresses are not current and who cannot be contacted by mail shall be placed on a deferred status.

(b) The department shall contact applicants at least once every two years to request updated information. Whenever an applicant does not respond to any two successive requests from the department for updated information, the department shall place the applicant on a deferred status until such time as updated information is received.

(c) A list of all applicants placed on deferred status and the reasons therefor shall be submitted to the commission, which shall act upon the matter at the meeting next following. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

§§ 10-3-11 to 10-3-20 (Reserved)

## SUBCHAPTER 2 LEASES TO NATIVE HAWAIIANS

**§10-3-21 Award of leases.** (a) Whenever homestead lots are available, the department shall award leases to applicants who meet the qualification requirements of section 10-3-2 and are selected in accordance with section 10-3-7.

(b) The department may hold an orientation meeting to inform applicants of the lots to be awarded and the lot selection procedures, before the lot selection meeting. The department shall notify applicants of the date, time, and place of the orientation meeting and of the lot selection meeting.

The department shall place applicants who fail to appear at the lot selection meeting or who fail to select a lot on a deferred status. [Eff 7/30/81; am 1/20/86; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-22 Award of leases with outstanding indebtedness.** No award of a residential, agricultural, or pastoral lot lease shall be made to an applicant who has not submitted sufficient evidence to the satisfaction of the department that the applicant is financially able to assume any indebtedness outstanding against the premises after the lease is awarded. [Eff 7/30/81; am 1/20/86; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-23 Awards to previous lessees, when.** No award of a residence lot lease shall be made to an applicant who at the time of application has previously been a lessee of a Hawaiian home lands residence lot; or who at the time of consideration for award had become a lessee of a Hawaiian home lands residence lot through transfer or successorship; provided, that exceptions to this limitation may be made in the following conditions:

- (1) Award of a residence lot lease to an applicant who had been a lessee may be made if the department determines that the transfer or surrender of the previous lease was made under compelling circumstances and that denial of award of another residence lot lease would be unreasonably unfair to the applicant.
- (2) Transfer of a residence lot lease through successorship may be made to an otherwise qualified designated successor who had been a lessee if at the time of the designation the former lessee had already transferred or

surrendered the lease and if the designation was filed with and approved by the department.

- (3) Award of a residence lot lease may be made to a present lessee of a residence lot if the department determines an emergency situation as follows:

- (A) Due to circumstances beyond the control of and not caused by the lessee, the lessee's health, safety, and welfare are endangered by continued occupancy of the premises, or the further rehabilitation of the lessee is highly improbable without relocation to another residence lot;
- (B) The lessee has agreed to surrender the present lease and has waived all rights to the appraisal value of all improvements on the presently leased residence lot;
- (C) The lessee has agreed and is financially able to pay all expenses for the move to the residence lot to be leased;
- (D) The lessee is financially able to assume:
  - (i) The indebtedness outstanding against the residence lot to be leased; or
  - (ii) The indebtedness that must be incurred to enable the lessee to occupy the residence lot within one year after the lease is awarded; or
- (E) The circumstances of the present lessee indicate sufficient need for relocation to justify the department's withholding of the residence lot to be leased from availability to qualified applicants, if any, for leases in that area and the department's awarding of a lease of that residence lot to the relocating lessee.

- (4) Exceptions to this limitation shall be made only after notice of the department's

consideration of such action has been given through the posting of the agenda and after full disclosure of the material facts has been made in a public meeting. [Eff 7/30/81; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-24 Agricultural and pastoral leases.** (a) When agricultural or pastoral lots become available for award, the applicant shall be contacted in accordance with section 10-3-7.

(b) The department shall notify applicants of the date, time, and place of lot selection. The department shall defer applicants who fail to appear or select.

(c) Not later than three months following lot selection, the applicant shall submit a plan for the development of the lot. The plan shall include but not be limited to:

- (1) Crops to be grown or livestock to be raised;
- (2) Estimated expenses;
- (3) Estimated gross income;
- (4) Method of financing;
- (5) Market plan;
- (6) Timetable for operation;
- (7) Purpose of farm - subsistence, supplemental, commercial, or otherwise; and
- (8) Other assistance needed in terms of:
  - (A) Labor, number of individuals, tasks to be performed; and
  - (B) Technical assistance.
- (d) Decision for award shall be based upon:
  - (1) Review and acceptance of the plan's feasibility; and
  - (2) Evaluation of the general knowledge and experience of the applicant or the experienced individual who will assist in the development of the lot. That general knowledge or experience or combination thereof may include but not be limited to the following:

- (A) Member of the Hawaii young farmer association or a future farmer of America graduate with two years of training with farming projects;
- (B) Satisfactory vocational agriculture course in high school;
- (C) Satisfactory completion of an agricultural curriculum at a university or community college leading to a bachelor of science or an associate degree in agriculture;
- (D) One year full-time work experience on a farm or ranch;
- (E) Completion of study at classes conducted by the University of Hawaii extension service; or
- (F) Persons who have had at least two years experience as part-time farmers or ranchers.

(e) In recognition of the shortage of available lands on the island of Oahu in relation to available lands in the State, an award of an agricultural lot on Oahu shall be made to applicants who are residing on the island of Oahu at time of application; provided further that a lessee of an agricultural lot on Oahu shall not be allowed to hold any other homestead lease. [Eff 7/30/81; am 2/3/83; am 8/1/85; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-25 Award of additional acreage.** (a) A lessee of an agricultural or pastoral lot may apply for additional acreage of the same class.

(b) A lessee shall be contacted for an award in accordance with section 10-3-24(a).

(c) A lessee shall be eligible for lot selection provided the lessee has actively cultivated and used the agricultural or pastoral lot and is in compliance with all terms and conditions of existing leases.

(d) Following determination that a lessee is eligible for lot selection, the lessee shall be notified as provided in section 10-3-24(b).

(e) Following lot selection, the lessee shall submit a plan as required in section 10-3-24(c) incorporating into the plan, all existing acreage.

(f) Decision for award shall be based upon the provisions of section 10-3-24(d). [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §207)

**§10-3-26 Residence permitted on agricultural and pastoral lot.** (a) Upon award of an agricultural or pastoral lot, the applicant shall reside on the island on which the leasehold is located.

(b) Residences shall be permitted on agricultural or pastoral lots. Only one residence shall be permitted per lessee on Hawaiian home lands. In addition, a workers' quarters may be permitted per lessee subject to the following conditions:

- (1) The lessee has actively cultivated or developed at least two-thirds of the agricultural or pastoral tracts at all times;
- (2) The lessee shall submit a plan justifying the construction of a workers' quarters including but not limited to production processes and projections, number of workers and labor requirements, jobs to be performed, site and plot plan, house construction plans, and benefits accrued by the addition of a workers' quarters;
- (3) Approval by the commission;
- (4) Conformance to all state and county zoning and building requirements;
- (5) Adequate infrastructure, i.e., water, power, etc., shall be available to service the workers' quarters;
- (6) The lessee shall finance the construction of the workers' quarters and the department

- shall not loan or guarantee funds for construction of workers' quarters;
- (7) Removal of workers' quarters and related access and utility improvements at the expense of the lessee upon cancellation or surrender of agricultural or pastoral leases;
- (8) Upon transfer of agricultural or pastoral leases with workers' quarters, the transferee must justify the continued use of the workers' quarters, otherwise, removal of the workers' quarters and related access and utility improvements will be required at the expense of the transferor;
- (9) Not more than one workers' quarters shall be allowed per lessee, notwithstanding the size of the lot or lots, or the number of leases; and
- (10) Workers' quarters shall not be allowed for subsistence farming operations.

(c) A lessee possessing a residence lot lease may construct a residence on the lessee's agricultural or pastoral lot provided that the lessee complies with the following conditions:

- (1) The lessee makes prior arrangements to surrender or transfer the resident lot lease upon the completion of construction of the residence on the lessee's agricultural or pastoral lot. Should it be feasible, the lessee may relocate the present house;
- (2) The lessee is financially able to assume the cost of relocation or construction of the new residence plus any related expenses necessary to maintain the agricultural or pastoral lot. The department may assist the Lessee under sections 10-3-41 to 10-3-52; and
- (3) In the event the lessee surrenders the residence lot lease, the net proceeds thereof shall be first credited to any loan granted by the department for the construction of a home on the agricultural or pastoral lot;

and all other conditions imposed by this section and section 10-3-34.



(d) The department shall not be liable for expenses incurred by the lessee for amenities brought to the lot. The department shall not provide nor be required to provide any amenities, except as it may determine in the planned development of its lands.

(e) Upon cancellation or surrender of the agricultural or pastoral lot, the lessee shall relinquish the entire leasehold interest including the residence.

(f) Subdivision and transfer of a portion of agricultural or pastoral lot lease may be permitted upon commission approval for the remaining term of the lease to any individual who qualifies under the act, subject to the following conditions:

- (1) Upon such transfer, each resultant subdivided lot meets department criteria for designation as agricultural or pastoral;
  - (2) The department shall not be obliged to finance the construction of a residence on any transferred portion;
  - (3) Plans for all residences to be constructed on transferred portions of leases shall be submitted to and approved by the department before construction thereof;
  - (4) The department shall not be obliged to pay for any costs incurred in the processing and obtaining of the subdivision;
  - (5) The department shall not be liable for expenses incurred by the lessee for amenities brought to the lot. The department shall not provide nor be required to provide any amenities except as it may determine in the planned development of its lands; and
  - (6) A farm plan may be required by transferees for all transfers involving the subdivided agricultural or pastoral lots. Where required, the farm plan shall be submitted to, reviewed and accepted by the department.
- [Eff 7/30/81; am 9/24/83; am 11/17/84; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

**§10-3-27 Livestock and crops.** (a) Lessees may raise animals intended for consumption on their agricultural leasehold to supply immediate family needs.

(b) Lessees may raise animals on a commercial basis on their agricultural leasehold only after the following conditions are met:

- (1) Submission of a plan for commercial production of animals which shall include, but not be limited to, projections for production, methods of production, sanitation control measures, and proximity to surrounding residences;
- (2) Approval by the commission;
- (3) Conformance to all state and county zoning and health laws and rules; and
- (4) The operation is restricted to confined feeding and not for open grazing.

(c) Lessees with pastoral lots may raise crops for fodder to be used only for animals on the lot. A portion of the lot may be utilized to raise vegetables or fruit crops for consumption by the lessee's immediate family. [Eff 7/30/81; am 2/3/83; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§207, 208)

**§10-3-28 Lease cancellation.** (a) The department may cancel a lease issued to a homesteader for the following reasons:

- (1) Violation by the lessee of a condition enumerated in sections 208 or 209 of the act;
- (2) Violation of a condition enumerated in a lease document;
- (3) Violation of a condition enumerated in this title; or
- (4) Intentional falsification of material information by the lessee on application for loan forms submitted to the department.

(b) No lease shall be cancelled without first affording the lessee the right to a hearing as prescribed in chapter 5. [Eff 7/30/81; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§210, 216)

§10-3-29 Repealed. [Eff 7/30/98; R ]

**§10-3-30 Kuleana homestead leases.** (a) The commission may establish a homestead program for settlement on unimproved available Hawaiian home lands to be known as the kuleana homestead program.

(b) The commission may set aside a tract or tracts of unimproved "available lands" as defined in section 203 of the Act, for award under the kuleana homestead program. All lots awarded under this program shall be known as kuleana homestead lots.

(c) In determining whether a tract should be set aside for award as kuleana homestead lots, the commission shall consider the following:

- (1) Physical and environmental characteristics of the land;
- (2) Excessive cost to develop the tract for any reason including: the physical characteristics of the land, the distance of the land from existing electrical, water, waste water disposal, communications, and other utility systems;
- (3) Department land management plans and programs;
- (4) Applicant interest or proposals identifying tracts of land; and
- (5) Suitability for use by lessees who wish immediate access to the land for subsistence uses and who are willing to live on the land and accept an unimproved lot.

(d) The commission shall determine which homestead waiting list, or combinations thereof, may be

used to make the awards and what list, or combinations thereof, may be used if the original list used to make the awards is exhausted.

(e) The department, together with interested applicants, shall develop a plan for settlement and development of the designated tract. All settlement plans shall be subject to approval by the commission. The plan shall include, but not be limited to the following:

- (1) Location and description of the tract of land;
- (2) Approximate size and number of lots to be awarded;
- (3) Approximate location of community center and common areas;
- (4) Preliminary conceptual proposals for community management and economic development of adjacent department lands, if applicable;
- (5) Plan for the identification, protection and preservation of all significant historical, archaeological, and biological sites; and
- (6) Settlement timetable to commence after the award of the lots.

(f) The department shall provide the following for the kuleana homestead lots:

- (1) Metes and bounds descriptions of lots; and
- (2) An unpaved right-of-way to the awarded lots.

(g) A lessee of a kuleana homestead lot shall be subject to all applicable state codes, county ordinances, and departmental rules and policies governing land use, building, health, and safety unless and until the kuleana homestead association's building, health, and safety codes and permitting process become effective for that particular tract. The kuleana homestead association for that particular tract, in consultation with a licensed architect, registered in the State, may develop, adopt, and enforce its own zoning, building, and permitting process on the condition that standards contained in state health codes and health and safety sections and provisions contained in the Uniform Building Code are met and that a licensed architect, registered in the State, is

willing to certify all building plans as part of the community developed permitting process. No kuleana homestead association developed zoning, building, health and safety codes and permitting processes shall be effective unless and until they are approved by the commission.

(h) All leases awarded by the department pursuant to the kuleana homestead program shall comply with this subchapter and subchapter 3 unless otherwise superseded by the settlement plan approved by the commission for a particular tract. In addition, all lessees shall comply with the following conditions:

- (1) Lessee agrees to participate as an active member in the kuleana homestead association for that particular tract and to comply with rules developed and agreements entered into by the kuleana homestead association;
- (2) Lessee agrees to accept the lot in its "as is" condition with no expectation of additional improvements beyond those specified in subsection (f); and
- (3) Lessee agrees to participate in the maintenance of the right-of-way to the kuleana homestead tract and lots. [Eff and comp 10/26/98] (Auth: HHC Act §§ 207, 219.1, 222) (Imp: HHC Act §§ 207, 219.7)

### SUBCHAPTER 3 CONDITIONS IN LEASES

**§10-3-31 Additional conditions, generally.** In addition to the conditions in leases set forth in section 208 of the act, and in the lease document, all lessees shall be subject to the restrictions set forth in this subchapter. [Eff 7/30/81; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

**§10-3-32 Industrial activities.** No industrial activities shall be allowed on homestead leaseholds. [Eff 7/30/81; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

**§10-3-33 Commercial activities.** Except as may be otherwise provided, no homestead leasehold or portion thereof shall be used for commercial activities of such a nature as to constitute a nuisance. [Eff 7/30/81; am 2/3/83; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

**§10-3-34 Building requirements.** No building structure or improvement may be constructed on the premises without written approval from the commission. Such an approval shall be considered only after submission of a plan as to design, materials, and probable value and use of the structure to be built on the leasehold. Building structures or improvements shall meet building and zoning codes and other ordinances and regulations of the respective counties except as otherwise provided by the commission. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

**§10-3-35 Contracts covering lease lands.** No lessee may, without written approval from the commission, enter into any contract, joint venture, agreement or other arrangement of any sort with a third person on lands covered by lessee's lease for the cultivation of crops or the raising of livestock. [Eff 7/30/81; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

**§10-3-36 Transfer of homestead leases.** A lessee, with the written approval of the commission, may transfer the leasehold to any individual who is a native Hawaiian and is at least eighteen years old. The transferee shall immediately occupy the residence lot or use or cultivate the agricultural, pastoral, or kuleana lot. Failure to occupy or use the lot within sixty days from date of transfer shall constitute grounds for cancellation of the lease. A transferee may own an interest in non-Hawaiian home lands real property, regardless of degree of ownership. [Eff 7/30/81; am 2/3/83; am 9/24/83; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-37 REPEALED. [Eff 7/30/81; R 1/20/86]

**§10-3-38 Subdivision and transfer of a portion of residential lot leasehold.** A lessee of a residential lot, with the approval of the commission, may subdivide and transfer a portion of the lot for the remaining term of the lease to any individual who is a native Hawaiian and is at least eighteen years old; provided that after the transfer, each lot conforms to county zoning standards. The department shall not be required to finance the construction of the house on the transferred portion. Plans for construction of the house shall be subject to the approval of the chairman. The department shall not be required to pay for any costs incurred in the processing and obtaining of the subdivision. [Eff 7/30/81; am 1/20/86; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

**§10-3-39 Occupancy and other requirements.** (a)  
The time period by which a lessee is required to occupy

a residential lot or to commence to use or to cultivate an agricultural or pastoral lot shall be stipulated in the lease.

(b) Except as otherwise provided in the lease, the department may require a lessee of an agricultural or pastoral lot to have under development, cultivation, or use at least two-thirds of the useable acreage at all times.

(c) Lessees shall be responsible for maintaining their premises secure from fire, theft, and vandalism and shall comply with the requirements of their lease at all times.

(d) A lessee who does not have a house on the lot shall provide the department with a current mailing address and such other information as the department may require. [Eff 7/30/81; am 1/20/86; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40 (Reserved)

#### SUBCHAPTER 4 LOANS AND FUNDS

**§10-3-41 Funds and accounts.** There shall be established in the treasury of the State such revolving funds, special, and other funds as set forth in the act. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§213, 214)

**§10-3-42 Purposes of loans.** The department may make loans from any loan fund to lessees, and where applicable, to any cooperative association all of whose



members are lessees. Such loans may be made for the following purposes:

- (1) The repair, maintenance, purchase, or erection of dwellings on Hawaiian home lands, and the undertaking of other permanent improvements thereon;
- (2) The purchase of livestock, swine, poultry, fowl, and farm equipment; and
- (3) Otherwise assisting in the development of tracts, and farm and ranch operations;
- (4) The cost of:
  - (A) Breaking up, planting, and cultivating land and harvesting crops;
  - (B) Purchase of seeds, fertilizers, feeds, insecticides, medicines, and chemicals for disease and pest control for animals and crops, and related supplies required for farm and ranch operations;
  - (C) The erection of fences and other permanent improvements for farm or ranch purposes; and
  - (D) Marketing farm or ranch products; and
- (5) To assist lessees in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by lessees of the department or by organizations formed and controlled by lessees. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §214)

**§10-3-43 Authorized actions.** For purposes authorized under the act, the department may:

- (1) Use moneys in the operating fund, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, to enter into such undertaking, agree to such conditions, transfer funds therein available

for such expenditure, and to 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) Use available funds, except moneys from the Hawaiian home loan fund, to secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and to pay the interim interest or advances required for loans;
- (3) Contract private agencies to service loans made by the department to lessees or cooperative associations, the fees for such servicing shall be assumed by the lessee or cooperative association, or from a portion of the interest charged by the department on loans to lessees or cooperative associations;
- (4) Guarantee the repayment of loans made to homestead lessees of Hawaiian home lands by other governmental agencies or private lending institutions as provided by the act;
- (5) Combine available moneys from various revolving funds to make loans to lessees for the purposes enumerated in section 10-3-42; and
- (6) Exercise such other powers as authorized by the act. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §214)

**§10-3-44 Loan applications.** (a) Applications for a loan or a loan guarantee shall be made on forms provided by the department. All applications shall be filed with the department. The filing may be made with district offices of the department.

(b) The applicant shall not be required to pay any fees in connection with the filing of an application but shall be charged for the cost incurred

by the department in obtaining credit reports and other financial information deemed necessary by the department.

(c) A holder of a homestead lease may apply to the department for the approval of a loan to be made by other government agencies or private lending institutions. Upon receipt of an application, the department shall review the application, and determine whether or not to guarantee the loan based on loan standards set forth in section 10-3-46. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§213, 214)

**§10-3-45 Application processing.** Applications approved by the department shall be submitted to the commission within sixty working days of receipt by the department together with a summary of the applicant's financial situation including gross and net monthly income, outstanding indebtedness, and the number of dependents. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§213, 214)

**§10-3-46 Loan standards.** Loans may be made to applicants who are residential lessees, based on the following criteria:

- (1) Income ratio: the relation that gross monthly income bears to monthly payment of principal and interest;
- (2) Family size: each person supported from the income of the lessee and co-applicant shall be counted as a family member for the purpose of computing and qualifying for a loan and term. The lessee shall submit to the department a notarized statement to this effect.
- (3) Applications for loans for any family receiving public assistance from the

department of human services will be considered for approval if:

- (A) The monthly payment for the loan is within the amount that is available for housing--shelter allowance minus anticipated utilities--in accordance with current department of human services standards; and
  - (B) The applicant is able to assume the financial obligation imposed by a loan;
- (4) Credit standing: the applicant shall have satisfactory credit standing in the community as determined by the department. The department may waive this requirement if upon consideration of all the circumstances surrounding the applicant's financial condition, it finds that the applicant will be able to repay the loan in accordance with the loan contract; and
- (5) If the loan applicant is found by the department to have sufficient resources or credit to secure financing from non-departmental sources to undertake the purpose for which the loan is sought, no departmental loan shall be made. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§213, 214)

**§10-3-47 Loan conditions.** (a) Generally, in determining the term of loans, the department shall consider the following:

- (1) The applicant's financial capacity; and
- (2) Age and condition of dwelling or building, based on the estimated expected remaining life span. The term of a loan shall be determined by the department, but in no event be longer than the term as may be authorized by the act.

(b) Loans shall be made in an amount to be determined by the commission, but in no event be more than the amount authorized by the act.

(c) Loans shall bear interest at the rate authorized by the act and rules.

(d) Loan interest rates shall be determined based on the availability and source of funds as well as the current interest rate for such loans in the private sector; provided that the department, on a case-by-case basis, may establish such rates as it shall determine best effectuate the purposes of the individual borrower, and to offer loans of comparable interest rates to all borrowers.

(e) Interest on loans made by the department shall commence to accrue on the disbursed amount on the twentieth day of the month or on the day of actual disbursement following the twentieth day of the month in which the first disbursement of funds is made.

(f) Repayment of loans made by the department shall commence on the nineteenth day of the month following the month in which the first disbursement of funds is made.

(g) The borrower may be required to pay a monthly service fee when loan payments are made payable to, or collected by a private lending institution.

(h) The payment of any installment due may be postponed in whole or in part by the department for reasons as it deems good and sufficient and until such later date as it deems advisable. Postponed payments shall continue to bear interest on the unpaid principal at the rate established for the loan.

(i) Whenever a borrower is delinquent with loan repayments, the department may demand that the borrower assign wages in part or all moneys due or to become due to such borrower by reason of any agreement or contract to which the borrower is a party, to the department to assure repayment of the loan.

(j) Whenever a borrower is more than one hundred twenty days delinquent on loan repayments, the department may start garnishment proceedings in accordance with the applicable statute, or start cancellation proceedings as authorized under the act. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§213, 214, 215, 216)

**§10-3-48 Farm loans.** (a) Farm loans shall be governed by sections 213, 214 and 215 of the act.

(b) The maximum loan for an individual agricultural lot lessee shall be determined by the commission, but in no event be more than the amount authorized by the act. For an agricultural cooperative association, the maximum amount shall be determined by the commission on the basis of proposed operations of the cooperative and the available security. Farm loans shall bear interest at the rates authorized by the act or these rules.

(c) Cost estimates from the supplier or material house for labor and for building requirements, materials, machinery, equipment, seed, etc., must be submitted to the department within thirty days after application for a farm loan is made for items or services to be purchased with the proceeds of the loans. An annual or monthly projected income for return of investment shall also be submitted along with the cost estimates.

(d) A feasibility study of repayment schedules to projected income from operations shall be submitted to applications for review and recommendation for loan approval. The department may establish repayment schedules that vary based on projected income from operations, the type of loan, and the amount of the loan.

(e) Each farm loan shall be subject to whatever concurrently executed security agreement is in current use by the department pursuant to HRS, chapter 490. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§213, 214)

**§10-3-49 Borrowed funds.** The department may borrow funds for the purpose of making loans to lessees of residence lots for purchasing, repairing, maintaining, erecting or improving homes on Hawaiian home lands. Such loans shall bear interest at the same rate of interest as that paid by the department to the lender, plus one-half of one percent per year. The

term of such loans shall not exceed thirty years. [Eff 7/30/81; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§213, 214)

**§10-3-50 Additional funds.** The department may make loans at such terms and conditions from any additional funds as the legislature may hereafter provide. In the event such additional funds are made available to the department without any specific terms, conditions, restrictions, such funds shall be subject to the conditions and restrictions imposed by sections 214 and 215 of the act. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§213, 214)

**§10-3-51 Operation of funds.** The department may invest and reinvest any of its funds, not otherwise immediately needed for the purposes of the funds, in such bonds and securities as authorized by state law for the investment of sinking fund moneys. Any interest or other earnings arising out of such investment shall be credited to and deposited in such funds as may be authorized by the act. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §§213, 225)

**§10-3-52 Hawaiian home receipts fund.** (a) At the end of each quarter, all moneys in the Hawaiian home receipts fund shall be transferred as authorized by the act. At the commission meeting immediately before or at the end of each quarter, the department or commission on its own motion may recommend for commission approval a plan for transfer of all moneys in the Hawaiian home receipts fund for that respective quarter. The plan for transfer shall take into consideration the department's budget projections as

well as priorities established by the commission for the moneys.

(b) If the commission fails to approve a plan for transfer, all moneys in the Hawaiian home receipts fund shall be transferred at the end of that respective quarter as follows:

- (1) Nine per cent to the operating fund; and
  - (2) Ninety-one per cent to the general loan fund.
- [Eff 7/30/81; am 11/17/84; am and comp 10/26/98]  
(Auth: HHC Act §222) (Imp: HHC Act §213)

§§10-3-53 to 10-3-60 (Reserved)

#### SUBCHAPTER 5 SUCCESSORS TO LESSEES

**§10-3-61 Designation of successor.** As provided in section 209 of the act and in this section, the lessee shall designate the relative or relatives to whom the lessee directs the interest in the tract to vest upon the lessee's death from among the following relatives:

- (1) Husband, wife, children or grandchildren who are at least one-quarter Hawaiian; or
- (2) Father, mother, widows or widowers of the children, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews who are native Hawaiian.

A lessee may designate a successor or successors at the time of execution of the lease; provided that the lessee shall file the designation in writing at the department and the department shall acknowledge the designation in order for the designation to be deemed filed. A lessee may change the designation of successor or successors at any time; provided that the lessee shall file the change of designation in writing



at the department and the department shall acknowledge the change of designation in order for the change of designation to be deemed filed.

The department shall determine whether a designated successor is qualified to be a lessee of Hawaiian home lands. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §209)

**§10-3-62 Reversion to the department.** Where a lessee dies having failed to designate a qualified successor, the department may select a successor under the procedure provided in section 209 of the act. If no selection can be made, the lease shall be cancelled. As provided in section 209 of the act and in this subchapter, the department shall make any authorized payments to the appropriate recipient. The land subject to the lease shall resume its status as unleased Hawaiian home lands, and the department shall be authorized to lease the land to a native Hawaiian as provided in the act. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §209)

**§10-3-63 Notice to successors.** Upon the death of a lessee leaving no designated successor, the department shall publish a public notice at least once in each of four successive weeks in a newspaper of general circulation in the State. The notice shall state briefly that all persons claiming to be relatives of the lessee qualified to succeed to the lease shall present themselves at the department with proof of their qualifications, within four months from the first day of publication of the notice or be forever barred from succeeding to the lease. Those persons failing to present themselves within four months from the first day of publication of the notice shall be forever barred from succeeding to the lease in question. [Eff

7/30/81; am and comp 10/26/98] (Auth: HHC Act §222)  
(Imp: HHC Act §209)

**§10-3-64 Appraisals.** (a) As provided in the act and in this section, the department shall appraise the value of all improvements of the tract or tracts and growing crops and stock including aquacultural improvements or stock, if any, if:

- (1) A lessee surrenders his lease;
- (2) A lessee dies leaving no person or persons qualified to be successor lessee or lessees;
- (3) The department is unable to designate a successor; or
- (4) The department cancels a lease.

(b) An appraisal made pursuant to this section shall be made by one of the following methods:

- (1) By a disinterested appraiser hired and paid by the department;
- (2) By a disinterested appraiser mutually agreed to by the department and the lessee or the deceased lessee's legal representative; provided that the cost of the appraisal shall be borne equally by the two parties; or,
- (3) By not more than three disinterested appraisers of which the first shall be hired and paid by the department. If the lessee or the deceased lessee's legal representative does not agree with the appraised value, the lessee or the deceased lessee's legal representative shall hire and pay for the services of a second appraiser. The second appraiser's report shall be submitted to the department not later than ninety days from the date of the first appraisal report. The first appraisal shall be used if the second appraiser is not hired within thirty days from the date the department transmits the first appraisal report to the lessee or the deceased lessee's legal representative. The

first appraisal shall also be used if the second appraiser does not submit an appraisal report to the department within ninety days from the date of the first appraisal report. If the values of the first and second appraisals are different and the two parties do not agree to a compromise value between the first and second appraisals, a third appraisal shall be made. An appraiser who shall be appointed by the first two appraisers not later than ninety days from the date of the second appraisal report shall make the third appraisal. The third appraiser shall determine the final value. The cost of the third appraisal shall be borne equally by the two parties.

(c) The lessee or the deceased lessee's legal representative shall indicate, on a form provided by the department, which of the three appraisal methods described in subsection (b) shall be followed. The selection of appraisal method shall be made not later than thirty days from the date the form is provided to the lessee or the deceased lessee's legal representative by the department. If no selection of appraisal method is made in thirty days, the department shall hire and pay for the services of a disinterested appraiser whose appraisal shall be used. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §209)

**§10-3-65 Payments.** (a) The department shall pay to the appropriate recipient as specified in section 209 of the act or to the previous lessee, as the case may be, the appraisal value less:

- (1) Any indebtedness to the department;
- (2) Taxes;
- (3) Any other indebtedness the payment of which has been assured by the department;

- (4) Any costs incurred by the department for the upkeep and cleaning of the leased premises; and
  - (5) Any costs incurred by the department for the removal of any crops or improvements.
- (b) Payments provided in subsection (a) shall be made out of the loan funds and shall be considered an advance therefrom, reimbursable out of payments by the transferee or new lessee to the tract involved.
- (c) The department may make the payment only after a new lessee is found and upon commencement of the new lease. [Eff 7/30/81; am 2/3/83; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §209)

**§10-3-66 Cancellation and surrender.** (a) Upon receipt of written notification of a lessee's intent to surrender the lessee's leasehold interest, the department shall process the same. The department may forego acceptance of a surrender until a new lessee is found and it is determined by the department that sufficient funds are available to meet the payments required. At all times until acceptance of surrender the lessee shall remain responsible for the demised leasehold together with any improvements thereon, and shall remain liable for all taxes, assessments and charges of whatever kind and nature, on said tract and improvements thereon, and shall keep insured any structures thereon.

(b) Upon the cancellation or surrender of a homestead lease, if the department determines that any structure on the premises is in such disrepair that demolition of the structure is required, the lessee shall be allowed to sell the structure within ninety days from the date of the cancellation or acceptance of surrender; provided that any proceeds be first used to satisfy any indebtedness to the department, taxes, or any other indebtedness the payment of which has been assured by the department, or any costs incurred by the department for upkeep and cleaning of the leased

premises. If the lessee does not sell or remove the structure, the department shall demolish the structure and the cost thereof shall be assessed the lessee. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §209)

**§10-3-67 Cancellation of lease when tract is abandoned.** If a lessee has abandoned the tract by failing to use or occupy the premises or cannot be located after at least two attempts to contact the lessee by certified mail, the department shall publish a public notice at least once in each of four successive weeks in a newspaper of general circulation in the State. The notice shall direct the lessee to present himself or herself at the department within one hundred twenty days from the first day of publication of the notice. The notice shall also state that the lease will be canceled in accordance with sections 210 and 216 of the act and that the department shall appraise the value of the improvements and growing crops and stock, if any, if the lessee fails to respond by the date set by the public notice. In addition, the department shall post a public notice on the abandoned tract. After cancellation of the lease and completion of the appraisal, the department shall make the payment in accordance with section 10-3-65 if there are any net proceeds and if the previous lessee is located. [Eff and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §209)

§§10-3-68 to 10-3-70 (Reserved).

## SUBCHAPTER 6 COMMUNITY PASTURES, FEES, AND CHARGES

**§10-3-71 Location of community pastures.** The department when practicable and as authorized by the act may maintain community pastures in such locations as it may determine. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §211)

**§10-3-72 Records.** A record of all stock in the community pastures shall be kept by the department. [Eff 7/30/81; comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §211)

**§10-3-73 Responsibilities.** (a) The lessee shall be responsible for:

- (1) Permanently branding all animals with a registered brand of the lessee;
  - (2) Worming, and testing all animals and confirming district origin;
  - (3) Removing sick, diseased, or severely injured animals; and
  - (4) Arranging for removal of animals at least forty-eight hours in advance of the move with the district manager.
- (b) The department shall be responsible for:
- (1) Managing and supervising the operation;
  - (2) Providing and maintaining adequate fence, locked gates, water, salt and forage;
  - (3) Providing adequate facilities for working cattle;
  - (4) Notifying lessee of any disease, injury, theft, sickness or loss of weight with regard to any animal; and
  - (5) Identifying newborn calves with ear marks pending branding (Molokai only). [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §211)

**§10-3-74 Liability for loss.** The department shall not be held liable for any death, loss, injury, theft, sickness, or loss of weight to any animal. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §211)

**§10-3-75 Community pasture terms and conditions.**

(a) The approximate number of heads to be carried in the community pastures shall be set by the chairman from time to time according to the carrying capacity of the pastures.

(b) Until further action by the department, four head of cattle of any age per lessee shall be considered the maximum number of cattle in any community pasture.

(c) In the case of extreme shortage of feed or the imminent lack of stock feed, all persons utilizing the pasture shall be required to remove the market stock to the amount designated by the chairman, within ten days after notice.

(d) Holders of agricultural leases shall have first priority of running stock in community pastures. Other lessees may use residual quotas as determined by the department.

(e) Each lessee shall have one, and only one, brand which shall be registered with the department of agriculture. Lessee shall supply the department with a facsimile of the brand and shall brand cattle belonging to the lessee. All animals on community pastures shall be owned by lessees and shall be branded with the lessee's brand before entering the community pasture.

(f) Only one type of ear mark or tag shall be used by lessee; this ear mark or tag shall be registered with the department.

(g) At no time shall any of the lessees or their representatives be allowed to enter community pastures for purposes of removing or inspecting stock without first obtaining written permission from the authorized agent of the department. This written permission shall be presented to the pasture keeper, who shall then

accompany the permit holder. Only such authority as is contained in the permit may be exercised by the holder thereof.

(h) One general drive shall be conducted in July on Molokai for the purpose of branding, castrating, counting and testing. Branding shall be allowed in the pasture only during this period. All stock owners shall assist in drives and properly identify stock belonging to them, either in person or by duly authorized representatives. All owners of livestock shall be notified one week in advance of each drive. Owners failing to attend shall be bound by the count of the department. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §211)

**§10-3-76 Fees and charges.** (a) All charges shall be paid before withdrawal of stock, or proper guarantee of such payments shall be made.

(b) Pasture fee charges for animals that die shall be paid up to the date the animals died.

(c) Pasture fees shall be:

- (1) \$5 per month per head, billed quarterly; and
- (2) \$6 for dehorning, etc., per calf.

(d) The fees shall be subject to increase when, in the determination of the department, the increase is necessary to cover the cost of operating and maintaining the community pasture. The department shall establish for any pasture such fees as shall be necessary to operate and maintain the pasture.

(e) Cattle purchases from outside districts shall be blood tested and all cattle shall be treated in accordance with good animal husbandry practices before entering the pasture. Proof that cattle have been blood tested and treated shall be required.

(f) The department shall assess the following fees for scaling services:

(1) Lessees:

- (A) \$2--pick-up towed trailers; and
- (B) \$0.25--per head truck loads.



(2) Non-lessees:

(A) \$4--pick-up towed trailers; and

(B) \$0.50--per head truck loads.

(g) For trucking, the department shall assess a fee of \$6 per head for hauling cattle from community pasture to home or slaughterhouse. Hauling made by the department shall be made only by the department driver. Hauling services by the department shall be made only when a satisfactory hauling truck is available. At the time of hauling, the lessee shall be present to identify and designate in writing the cattle to be removed.

(h) Except as the commission may otherwise provide, the rental fee for the use of a meeting room or hall shall be \$50 per day or fraction thereof. As used in this section, a day shall mean a twenty-four hour period beginning at noon one day and ending at noon the next succeeding day.

(i) Water from department systems shall be sold at rates established by the commission. The department shall establish the frequency of billing and may determine a minimum monthly charge. [Eff 7/30/81; am 2/3/83; am 11/17/84; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §211)