

DEPARTMENT OF HAWAIIAN HOME LANDS
ADMINISTRATIVE RULE AMENDMENTS TO CREATE A
PILINA-BASED PRIORITY WAITLIST

NOTE: ONLY AFFECTED RULES ARE INCLUDED IN THIS DOCUMENT.
WORDS THAT ARE CROSSED-OUT WILL BE DELETED;
UNDERLINED WORDS WILL BE ADDED

HAWAII ADMINISTRATIVE RULES
TITLE 10
DEPARTMENT OF HAWAIIAN HOME LANDS
CHAPTER 3
NATIVE HAWAIIAN REHABILITATION PROGRAM

Subchapter 1 Applications for Homestead Leases

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§10-3-7 Priority and preference for award of leases. (a)

Except as otherwise provided in sections 10-3-11, ~~relating to Lanai awards, and 10-3-12,~~ 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; am 8/6/04; comp 12/23/21; am and comp]

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

§10-3-12 Awards to applicants who are lineal descendants or previous or existing residents. (a) As used in this section:

"Familial connection" means an established relationship between the applicant and the place where the department is planning homestead lease awards that is proven by the applicant's documented genealogy to biological or legal ancestors who resided in that place prior to 1900.

"Pilina-Based Priority Waitlist" means an optional waitlist that applicants on the respective island-wide waitlist may choose to be a part of if the applicant can establish:

- (1) A former or current residency in the place; or
- (2) A familial connection to the place.

"Residency" means the act of living in a particular place for a minimum of eighteen years.

"Resident" means an eligible applicant who previously resided or currently resides in the place where the award is being made for a minimum of eighteen years and can verify his or her residency acceptable to the department.

(b) The area where applicants must establish their residency or familial connection to may be larger than the footprint of the planned homestead settlement. The specific areas to which this rule applies shall be defined in the master plan or settlement plan that is developed for the homestead. For existing homesteads with subsequent phases, the area shall be defined by the moku where the tract of land is located.

(c) Applicants on the Pilina-Based Priority Waitlist shall be considered for award in their existing rank order on the island-wide waiting list. For places where an area waiting list exists, awards shall be made first on the area waiting list, then the Pilina-Based Priority Waitlist, then the island-wide waiting list, except as otherwise provided in this chapter. If the applicant can establish his or her former or current residency or familial connection to multiple places where the department is planning homestead lease awards, the applicant may only choose one place to apply to be part of the Pilina-Based Priority Waitlist.

(d) The department will provide notice to applicants on the respective island-wide waitlists that the department is accepting applications for the Pilina-Based Priority Waitlist. Applicants on the Pilina-Based Priority Waitlist shall be considered for award in their existing rank order on the island-wide waiting list. For places where an area waiting list exists, awards shall be made first on the area waiting list, then the Pilina-Based Priority Waitlist, then the island-wide waiting list, except as otherwise provided in this chapter.

(e) Applicants interested in being on the Pilina-Based Priority Waitlist shall complete an application form wherein the applicant must establish their former or current residency in the place or establish a familial connection to the place to the satisfaction of the department.

- (1) To prove former or current residency, the applicant shall submit with their Pilina-Based Priority Waitlist

application any of the following pieces of information:

- (A) A government issued identification card with picture and home address;
- (B) School district records;
- (C) Utility bill with a home address;
- (D) Bank statement with a home address; or
- (E) Any other applicable information that helps establish current or former residency.

(2) To prove an applicant's familial connection to the place in which the lease award is being made, the applicant shall submit documentation establishing his or her connection to the place through the applicant's lineal descendancy. To prove lineal descendancy, the applicant shall provide with their Pilina-Based Priority Waitlist application any of the following pieces of information:

- (A) Documented genealogy to biological or legal ancestors who resided in the place prior to 1900;
- (B) Birth certificates;
- (C) Death certificates;
- (D) Obituaries;
- (E) Marriage certificates;
- (F) Probate records;
- (G) Church records;
- (H) Census records;
- (I) Tax records;
- (J) Land conveyance documents, including but not limited to deeds and land commission awards; or
- (K) Oral family history may be submitted to supplement the above documents, but would not be given independent weight.

(3) The department will verify the applicant's connection to place.

(f) If the department confirms the applicant's former or current residency of the place or familial connection to the place, the applicant will be placed on the Pilina-Based Priority Waitlist. Once an applicant on the Pilina-Based Priority Waitlist becomes a lessee, he or she will be removed from the respective island-wide waitlist for the type of lot awarded.

(g) An applicant who disagrees with the determination by the department shall have thirty business days from the postmark or e-mail time stamp on the written notice of the determination within which to contest the determination.

(h) Subsequent award phases will be made according to the preference established in subsection (c) above until the Pilina-

Based Priority Waitlist is exhausted. The Pilina-Based Priority Waitlist shall expire when all the lots in the homestead development are awarded.

- (1) If the Pilina-Based Priority Waitlist has been exhausted and there are remaining lots to award, then the department will utilize the respective island-wide waitlist to award the remaining lots until all lots have been awarded.
- (2) If all lots have been awarded and there are still applicants on the Pilina-Based Priority Waitlist, the remaining applicants who did not receive an award will return to the respective island-wide waitlist in their original rank order by date of application. Those applicants may apply for a Pilina-Based Priority Waitlist for another area if the applicant meets the qualifications established in HAR §10-3-12 (b).

[Eff ; comp]
(Auth: HHC Act §222) (Imp: HHC Act §207 (b))