

EXHIBIT E

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

THIS DOCUMENT ONLY INCLUDES SECTIONS PROPOSED FOR AMENDMENT.
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

- §10-3-1 Application forms
- §10-3-2 Qualifications of applicants
- §10-3-2.1 Documentation
- §10-3-2.2 Genetic tests
- §10-3-3 Repealed
- §10-3-3.1 Application processing
- §10-3-4 Residential lot application
- §10-3-5 Agricultural or pastoral lot application
- §10-3-6 Island-wide waiting lists
- §10-3-7 Priority and preference for award of leases
- §10-3-8 Transfer of application rights
- §10-3-9 Posting lease awards
- §10-3-10 Requirement for current information; placement on deferred status
- §10-3-11 Lanai awards
- §10-3-12 Awards to Applicants who are lineal descendants or
Previous or existing residents.
- §§10-13 to 20 (Reserved)

§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 ~~kuleana~~ 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. "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 in which the award is being made for a minimum of eighteen years and can verify his or her residency acceptable to the department.

(b) The Pilina-Based Priority Waitlist shall be applicable ~~only~~ in places where the department is planning ~~kuleana~~ homestead lease awards. ~~Applicants may apply for the Pilina-Based Priority Waitlist for any lease awards in a place the homestead community where the department is also offering kuleana homestead leases.~~ The Pilina-Based Priority Waitlist is an optional waitlist that applicants on the respective Island-wide Waitlist may choose to be ~~listed on~~ 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.

If the applicant can establish his or her former or current residency or familial connection to multiple places where the department is planning ~~kuleana~~ homestead lease awards, the applicant may only choose one place to apply to be part of the Pilina-Based Priority Waitlist for.

(c) The area where applicants must establish their residency or familial connection to may be larger than the footprint of the planned ~~kuleana~~ homestead settlement. The specific areas to which this rule applies shall be defined in the settlement plan that is developed for the ~~kuleana~~ homestead. For existing ~~kuleana~~ homesteads, the area shall be defined by the location and description of the tract of land included in the master plan or settlement plan that was approved by the commission.

(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 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 ~~kuleana~~ homestead 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 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;
- (K) Oral family history; or
- (L) Any other applicable information that helps establish a familial connection between the applicant and the place.

(3) The department will verify the applicant's connection to place by utilizing existing resources, records, and information already collected by the department to the extent feasible.

(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.

(g) In making subsequent awards, until the Pilina-Based Priority Waitlist is exhausted, applicants will be considered in the order of preference established in HAR § 10-3-12(c).

(h) The Pilina-Based Priority Waitlist shall expire when all the lots in the ~~kuleana~~ homestead development are awarded. 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.

(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 he or she meets the qualifications established in HAR § 10-3-12(b).