
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 206E, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§206E- Disposition of property, prior approval by
5 legislature. (a) Any disposition of public trust lands by the
6 authority in fee simple, by lease with option to purchase, or
7 grant of easement in perpetuity shall be subject to the prior
8 approval of the legislature by concurrent resolution. The
9 authority shall submit for introduction to the legislature a
10 resolution for review of action on any proposed disposition in
11 fee simple, by lease with option to purchase, or grant of
12 easement in perpetuity to be consummated by the authority
13 wherein deeds, leases, or grants will be executed by the parties
14 together with the following information:

- 15 (1) The location and area of the parcel of land to be
16 disposed of;
17 (2) The appraised value of the land to be disposed of;
18 (3) The name of the real estate appraiser that appraised



1 the land to be disposed of;

2 (4) The name of the proposed grantee or lessee; and

3 (5) Copies of the dispositive documents.

4 (b) This section shall not apply to any utility easement,

5 remnant defined in section 171-52, a grant to any state or

6 county department or agency or to any private entity for roadway

7 or infrastructure improvements."

8 SECTION 2. Section 171-41, Hawaii Revised Statutes, is

9 amended to read as follows:

10 **"§171-41 Commercial, industrial, and other business uses.**

11 (a) Leases for commercial, industrial, and other business uses

12 shall be made only pursuant to a development plan which provides

13 for careful placement of complementary enterprises consistent

14 with county zoning requirements; except that development plans

15 for leases of parcels in industrial parks developed under

16 section 171-134(b) shall provide for careful placement of

17 complementary enterprises consistent with the final plans and

18 specifications under section 171-134(b). Where a disposition

19 for any such use is made without advance parcelization, the

20 board shall make adequate provisions for the compatibility of

21 the proposed enterprises with any existing surrounding private

22 developments. The board, wherever possible, shall control the



1 landscaping and architecture of the enterprises and protect the
2 public against the creation of nuisances of smoke, soot,
3 irritating odors and gases, and harmful wastes.

4 (b) The board may sell public land in fee simple for
5 commercial, industrial, or other business uses with the prior
6 approval of the governor and subject to disapproval by two-
7 thirds vote of either the senate or the house of representatives
8 or by majority vote of both in any regular or special session
9 next following the date of disposition; provided the above
10 restrictions shall not apply to any sale of land initially
11 acquired for highway purposes with participating federal funds
12 and which land is later found to be in excess of the need for
13 highway purposes.

14 (c) Any disposition of public trust lands in fee simple, by
15 lease with option to purchase, or grant of easement in
16 perpetuity shall be subject to the prior approval of the
17 legislature by concurrent resolution. The department shall
18 submit for introduction to the legislature a resolution for
19 review of action on any proposed disposition in fee simple, by
20 lease with option to purchase, or grant of easement in
21 perpetuity to be consummated by the board wherein deeds, leases,
22 or grants will be executed by the parties together with the



1 following information:

2 (1) The location and area of the parcel of land to be

3 disposed of;

4 (2) The appraised value of the land to be disposed of;

5 (3) The name of the real estate appraiser that appraised

6 the land to be disposed of;

7 (4) The name of the proposed grantee or lessee; and

8 (5) Copies of the dispositive documents.

9 This subsection shall not apply to any utility easement,
10 dispositions in fee simple, remnant as defined in section 171-
11 52, or grant to any state or county department or agency or any
12 private entity for roadway or infrastructure improvements."

13 SECTION 3. Section 171-42, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§171-42 Hotel and resort uses.** (a) Public land may be
16 leased for hotel or resort development, if the department of
17 business, economic development, and tourism finds that the land
18 possesses the amenities for a successful hotel and resort
19 development and that the advantages of its placement for such
20 use outweigh those inherent in free public use in its natural
21 state. Where the land being disposed of for hotel or resort use
22 is divisible into more than one economic unit, the division



1 shall be made prior to disposition, provided that firm use
2 controls shall be imposed to assure that the development of each
3 unit is compatible with the others. Provisions for community
4 operations of shopping areas, golf courses, and other similar
5 facilities shall be encouraged, with special assessments for the
6 maintenance of these community facilities. Where public land
7 disposed of for hotel or resort use is adjacent to any beach,
8 waterway, or historic monument or landmark, the disposition
9 shall be subject to reservations of public right-of-way or
10 public access at all times to such beach, waterway, historic
11 monument, or landmark.

12 The board of land and natural resources may, with the prior
13 approval of the governor, and subject to disapproval by the
14 legislature by two-thirds vote of either the senate or the house
15 of representatives or by majority vote of both, in any regular
16 session next following the date of disposition, sell in fee
17 simple or lease with option to purchase, raw, unimproved public
18 land for hotel and resort use; provided that:

19 (1) The board first finds that the land is suitable for
20 resort development and that its use for resort
21 purposes will promote the economic development of the
22 State;



- 1 (2) The purchaser submits development plans for the area
2 to be purchased which conform with applicable county
3 or city and county zoning and subdivision
4 requirements;
- 5 (3) The board finds upon independent study of these plans
6 that the proposed development is compatible with the
7 developments in the area in general and consistent
8 with good sound planning;
- 9 (4) The purchaser agrees to construct, improve, and put in
10 all off-site and on-site improvements as may be
11 required by the board which may include any or all of
12 the following--all major and minor auxiliary roads and
13 highways as well as all local streets, all connecting
14 water lines and mains to existing lines and mains, all
15 necessary sewer lines, sewage treatment, or disposal
16 plants, all pumping stations, all reservoirs, golf
17 courses, recreational areas, shopping centers, and all
18 other improvements necessary to develop the raw land
19 into an economic resort enterprise;
- 20 (5) The purchaser agrees to complete all improvements
21 within the time limitations set by the board;
- 22 (6) The title to the land shall remain in the State until



1 the purchaser has made all payments required in the
2 terms of the sale and has constructed the improvements
3 as agreed; provided that where the purchaser finds it
4 necessary to secure a loan to finance the construction
5 of the improvements the board may issue a patent or
6 deed upon the execution in favor of the State of a
7 performance and payment bond conditioned upon the
8 payment of an amount equal to one hundred per cent of
9 the improvement cost. The bond shall by its terms
10 inure to the benefit of the State;

11 (7) The board shall sell for resort uses only that portion
12 of the public lands in the proposed resort area which
13 it finds to be absolutely necessary to give the
14 purchaser self-sustaining economic operations;
15 provided that no public land shall be included in the
16 sale for these purposes which will not actually be
17 improved and used in the resort area for resort
18 purposes;

19 (8) The lessee with an option to purchase shall not be
20 permitted to exercise the option until the lessee has
21 complied with all the terms and conditions of the
22 lease, including but not limited to the construction



1 or erection of improvements as may be required by the
2 board.

3 In any disposition under this section the board shall give
4 consideration to the needs of the public for beach area above
5 the high water mark.

6 Upon a finding by the board that the public interest
7 demands it, the board may lease, lease with option to purchase,
8 or sell in fee simple such public lands by negotiation; subject
9 to the provisions contained in this section and to such other
10 terms and conditions contained in this chapter.

11 (b) Any disposition of public trust lands in fee simple,
12 by lease with option to purchase, or grant of easement in
13 perpetuity shall be subject to the prior approval of the
14 legislature by concurrent resolution. The department shall
15 submit for introduction to the legislature a resolution for
16 review of action on any proposed disposition in fee simple, by
17 lease with option to purchase, or grant of easement in
18 perpetuity to be consummated by the board wherein deeds, leases,
19 or grants will be executed by the parties together with the
20 following information:

21 (1) The location and area of the parcel of land to be
22 disposed of;



- 1 (2) The appraised value of the land to be disposed of;
2 (3) The name of the real estate appraiser that appraised
3 the land to be disposed of;
4 (4) The name of the proposed grantee or lessee; and
5 (5) Copies of the dispositive documents.

6 This subsection shall not apply to any utility easement,
7 dispositions in fee simple, remnant as defined in section 171-
8 52, or grant to any state or county department or agency or to
9 any private entity for roadway or infrastructure improvements."

10 SECTION 4. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun, before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2096.



Report Title:

Public Lands; Disposition

Description:

Requires the prior approval of the legislature of any disposition of public trust lands in fee simple, by lease with option to purchase, or by grant of easement in perpetuity by BLNR or HCDA; remnants and grants for roadway or infrastructure improvements not included. (HB2112 HD2)

