
HOUSE CONCURRENT RESOLUTION

REQUESTING THE BOARD OF LAND AND NATURAL RESOURCES TO NEGOTIATE
RECREATION-RESIDENCE USE LEASES IN KOKEE WITH CERTAIN
EXISTING LESSEES.

1 WHEREAS, over the years, the Territory of Hawaii and the
2 State have been granting permits for recreational-residences in
3 the Kokee and Waimea Canyon State Parks; and

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5 WHEREAS, section 171-44, Hawaii Revised Statutes, provides
6 the following:

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8 "Notwithstanding any limitations to the contrary,
9 the board of land and natural resources may lease, by
10 direct negotiation and without recourse to public
11 auction, lands within a state park or forest reserve
12 and other lands set aside under executive orders, for
13 recreation-residence use for a period not to exceed
14 twenty years on such terms and conditions as may be
15 prescribed by the board."; and

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17 WHEREAS, there are now approximately one hundred forty
18 recreation-residence use leases in the Kokee and Waimea Canyon
19 State Parks; and

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21 WHEREAS, the Board of Land and Natural Resources has
22 directed the Department of Land and Natural Resources to conduct
23 a public auction of all of its recreation-residence use leases
24 in the Kokee and Waimea Canyon State Parks when their terms
25 expire in December 2006; and

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27 WHEREAS, many of the existing lessees have made substantial
28 improvements on their leased lots and do not want to abandon
29 these improvements; and

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31 WHEREAS, the Legislature commends the Board and the
32 Department for its long and arduous consideration of every



1 conceivable option to fulfill its trust responsibilities and to
2 arrive at a fair and equitable means of the disposition of
3 residential-recreational lots at Kokee upon the expiration of
4 the existing leases; and

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6 WHEREAS, the Legislature strongly believes, however, that
7 the Board's decision to subject disposition to the public
8 auction process will not achieve the fairness and realistic
9 opportunity that the public auction intends, but will instead
10 severely limit successful awards to the wealthy, especially out-
11 of-state investors, who will acquire and utilize these special
12 properties for selfish or for-profit reasons, including time
13 sharing or such similar arrangements as are already being
14 indicated in the market place; and

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16 WHEREAS, the option to limit initial auction to Kauai and
17 subsequently to statewide residents, even if ruled to be
18 constitutional, would only result in Kauai or state residents to
19 be used as "go-betweens" in the auction; or that any successful
20 Kauai or state resident bidders would soon be made offers "too
21 good to refuse" on the new leases, with the same unintended
22 result; and

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24 WHEREAS, while the Legislature agrees that direct
25 negotiations with existing lessees denies other members of the
26 public an open opportunity to acquire these sought-after leases,
27 the public auction process will not achieve this purpose and
28 will only serve to produce unacceptable consequences, including
29 the undesirable "bidding frenzy" experienced in 1985; now,
30 therefore,

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32 BE IT RESOLVED by the House of Representatives of the
33 Twenty-third Legislature of the State of Hawaii, Regular Session
34 of 2006, the Senate concurring, that the purpose of this
35 Concurrent Resolution is to provide legislative policy guidance
36 to the Board of Land and Natural Resources in the administration
37 of residential-recreational leases at Kokee on the island of
38 Kauai; and

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40 BE IT FURTHER RESOLVED that the Board of Land and Natural
41 Resources is requested to provide "first right of refusal" to
42 existing lessees who wish to renew their leases, the majority of
43 whom are local, Kauai residents who desire to retain these



1 leases for the enjoyment of their families, friends, and members
2 of the community; and
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4 BE IT FURTHER RESOLVED that the Legislature intends that
5 the leases be renewed at "fair market value" and that an expired
6 lease shall be auctioned only after reasonable negotiations fail
7 to result in agreement; provided that the new lessee shall
8 compensate the prior lessee for improvements on the lot at the
9 tax assessed valuation of the improvements, unless the prior
10 lessee wishes to exercise the option of an appraisal of the
11 improvements at the prior lessee's own expense, in which case,
12 the new lessee may also secure an appraisal at the new lessee's
13 own expense, and if no agreement on valuation can be reached, a
14 third independent appraiser by the two appraisers and the costs
15 of the third appraiser shall be jointly shared by both the prior
16 and new lessee; and
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18 BE IT FURTHER RESOLVED that the Legislature emphatically
19 believes that the above described policy in the disposition of
20 improvements is both appropriate and fair, notwithstanding
21 existing contracts or policies, as it would be absolutely unfair
22 and illogical for a new successful bidder, bidding only on the
23 land, to gain possession of valued improvements without
24 rendering payment to the prior lessee or to the State, if the
25 reversionary provision were to be applied, and it would be
26 totally unfair for a prior lessee to bid on the land with the
27 improvements on which the prior lessee had paid for in its
28 entirety; and
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30 BE IT FURTHER RESOLVED that the Legislature intends that
31 the Board shall consider the establishment of Kokee, along with
32 designated qualifying cabins, as a historic preservation
33 district as provided in chapter 6E, Hawaii Revised Statutes, and
34 the Code of Federal Regulations, Title 36, Part 60; and
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36 BE IT FURTHER RESOLVED that the Legislature requests that
37 the Board adopt as a primary goal the reduction and eventual
38 elimination of the recreation-residence lots at Kokee through
39 attrition or other appropriate means, including not renewing any
40 lease where the improvements have fallen into disrepair or the
41 value of the improvements do not meet specified criteria or
42 standards as determined by the Board or through administrative
43 rule; and
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1 BE IT FURTHER RESOLVED that the Legislature intends that
2 the Board and Department shall expeditiously pursue the concept
3 of lodges, under privatized construction and management
4 contracts, to enable the public, without benefit of access to
5 one of the few cabins, the enjoyment of the Kokee experience;
6 and

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8 BE IT FURTHER RESOLVED that the Board is requested to
9 implement the policies as outlined in this Concurrent Resolution
10 or, in the alternative, defer any plans to terminate or auction
11 the Kokee residential-recreational use lots for two years to
12 allow for consideration and implementation of these policies, or
13 to explain to the Legislature why it should not or legally
14 cannot proceed with the policies set forth in this Concurrent
15 Resolution; and

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17 BE IT FURTHER RESOLVED that the Chairperson of the Board of
18 Land and Natural Resources is requested to provide the
19 respective House and Senate chairs of the committees overseeing
20 water and land use matters with updated status reports of
21 actions taken, or not taken by the Board following its regular
22 monthly meetings on any of these issues, and is further
23 requested to submit a report to the Legislature not later than
24 twenty days prior to the convening of the Regular Session of
25 2007 on its implementation of the policies set forth in this
26 Concurrent Resolution; and

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28 BE IT FURTHER RESOLVED that certified copies of this
29 Concurrent Resolution be transmitted to the Chairperson of the
30 Board of Land and Natural Resources, the Attorney General, and
31 the Kokee Leaseholders Association.

