
HOUSE 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
33 conceivable option to fulfill its trust responsibilities and to
34 arrive at a fair and equitable means of the disposition of



1 residential-recreational lots at Kokee upon the expiration of
2 the existing leases; and
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4 WHEREAS, the Legislature strongly believes, however, that
5 the Board's decision to subject disposition to the public
6 auction process will not achieve the fairness and realistic
7 opportunity that the public auction intends, but will instead
8 severely limit successful awards to the wealthy, especially out-
9 of-state investors, who will acquire and utilize these special
10 properties for selfish or for-profit reasons, including time
11 sharing or such similar arrangements as are already being
12 indicated in the market place; and
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14 WHEREAS, the option to limit initial auction to Kauai and
15 subsequently to statewide residents, even if ruled to be
16 constitutional, would only result in Kauai or state residents to
17 be used as "go-betweens" in the auction; or that any successful
18 Kauai or state resident bidders would soon be made offers "too
19 good to refuse" on the new leases, with the same unintended
20 result; and
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22 WHEREAS, while the Legislature agrees that direct
23 negotiations with existing lessees denies other members of the
24 public an open opportunity to acquire these sought-after leases,
25 the public auction process will not achieve this purpose and
26 will only serve to produce unacceptable consequences, including
27 the undesirable "bidding frenzy" experienced in 1985; now,
28 therefore,
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30 BE IT RESOLVED by the House of Representatives of the
31 Twenty-third Legislature of the State of Hawaii, Regular Session
32 of 2006, that the purpose of this Resolution is to provide
33 legislative policy guidance to the Board of Land and Natural
34 Resources in the administration of residential-recreational
35 leases at Kokee on the island of Kauai; and
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37 BE IT FURTHER RESOLVED that the Board of Land and Natural
38 Resources is requested to provide "first right of refusal" to
39 existing lessees who wish to renew their leases, the majority of
40 whom are local, Kauai residents who desire to retain these
41 leases for the enjoyment of their families, friends, and members
42 of the community; and
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1 BE IT FURTHER RESOLVED that the Legislature intends that
 2 the leases be renewed at "fair market value" and that an expired
 3 lease shall be auctioned only after reasonable negotiations fail
 4 to result in agreement; provided that the new lessee shall
 5 compensate the prior lessee for improvements on the lot at the
 6 tax assessed valuation of the improvements, unless the prior
 7 lessee wishes to exercise the option of an appraisal of the
 8 improvements at the prior lessee's own expense, in which case,
 9 the new lessee may also secure an appraisal at the new lessee's
 10 own expense, and if no agreement on valuation can be reached, a
 11 third independent appraiser by the two appraisers and the costs
 12 of the third appraiser shall be jointly shared by both the prior
 13 and new lessee; and

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 15 BE IT FURTHER RESOLVED that the Legislature emphatically
 16 believes that the above described policy in the disposition of
 17 improvements is both appropriate and fair, notwithstanding
 18 existing contracts or policies, as it would be absolutely unfair
 19 and illogical for a new successful bidder, bidding only on the
 20 land, to gain possession of valued improvements without
 21 rendering payment to the prior lessee or to the State, if the
 22 reversionary provision were to be applied, and it would be
 23 totally unfair for a prior lessee to bid on the land with the
 24 improvements on which the prior lessee had paid for in its
 25 entirety; and

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 27 BE IT FURTHER RESOLVED that the Legislature intends that
 28 the Board shall consider the establishment of Kokee, along with
 29 designated qualifying cabins, as a historic preservation
 30 district as provided in chapter 6E, Hawaii Revised Statutes, and
 31 the Code of Federal Regulations, Title 36, Part 60; and

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 33 BE IT FURTHER RESOLVED that the Legislature requests that
 34 the Board adopt as a primary goal the reduction and eventual
 35 elimination of the recreation-residence lots at Kokee through
 36 attrition or other appropriate means, including not renewing any
 37 lease where the improvements have fallen into disrepair or the
 38 value of the improvements do not meet specified criteria or
 39 standards as determined by the Board or through administrative
 40 rule; and

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 42 BE IT FURTHER RESOLVED that the Legislature intends that
 43 the Board and Department shall expeditiously pursue the concept
 44 of lodges, under privatized construction and management



1 contracts, to enable the public, without benefit of access to
2 one of the few cabins, the enjoyment of the Kokee experience;
3 and
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5 BE IT FURTHER RESOLVED that the Board is requested to
6 implement the policies as outlined in this Resolution or, in the
7 alternative, defer any plans to terminate or auction the Kokee
8 residential-recreational use lots for two years to allow for
9 consideration and implementation of these policies, or to
10 explain to the Legislature why it should not or legally cannot
11 proceed with the policies set forth in this Resolution; and
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13 BE IT FURTHER RESOLVED that the Chairperson of the Board of
14 Land and Natural Resources is requested to provide the
15 respective House and Senate chairs of the committees overseeing
16 water and land use matters with updated status reports of
17 actions taken, or not taken by the Board following its regular
18 monthly meetings on any of these issues, and is further
19 requested to submit a report to the Legislature not later than
20 twenty days prior to the convening of the Regular Session of
21 2007 on its implementation of the policies set forth in this
22 Resolution; and
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24 BE IT FURTHER RESOLVED that certified copies of this
25 Resolution be transmitted to the Chairperson of the Board of
26 Land and Natural Resources, the Attorney General, and the Kokee
27 Leaseholders Association.

