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# A BILL FOR AN ACT

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2  
3 RELATING TO REAL PROPERTY DEVELOPMENT.  
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6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**  
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8 SECTION 1. Section 220.5 of the Hawaiian Homes Commission  
9 Act, 1920, is amended by amending subsection (d) to read as  
10 follows:

11 "(d) Any project developer agreement entered into pursuant  
12 to this section may provide for options for renewal of the term  
13 of the project developer agreement; provided that:

14 (1) The term of any one project developer agreement shall  
15 not exceed sixty-five years; provided that if the  
16 total development, including off-site and on-site  
17 improvements, exceeds an investment of \$1,000,000,000,  
18 the term of the project development agreement or any  
19 extensions of the project development agreement shall  
20 not exceed ninety-nine years, in the aggregate;

21 (2) Any lands disposed of under a project developer  
22 agreement shall be subject to withdrawal at any time  
23 during the term of the agreement, with reasonable  
24 notice; and



1           (3) The rental shall be reduced in proportion to the value  
2           of the portion withdrawn and the developer shall be  
3           entitled to receive from the department the  
4           proportionate value of the developer's permanent  
5           improvements so taken in the proportion that they bear  
6           to the unexpired term of the agreement, with the value  
7           of the permanent improvements determined on the basis  
8           of fair market value or depreciated value, whichever  
9           is less; or the developer, in the alternative, may  
10          remove and relocate the developer's improvements to  
11          the remainder of the lands occupied by the developer."

12          SECTION 2. Section 171-36, Hawaii Revised Statutes, is  
13          amended by amending subsection (b) to read as follows:

14          "(b) The board, from time to time, upon the issuance or  
15          during the term of any intensive agricultural, aquaculture,  
16          commercial, mariculture, special livestock, pasture, or  
17          industrial lease, may:

18               (1) Modify or eliminate any of the restrictions specified  
19               in subsection (a);

20               (2) Extend or modify the fixed rental period of the lease;  
21               or

22               (3) Extend the term of the lease



1 to the extent necessary to qualify the lease for mortgage  
2 lending or guaranty purposes with any federal mortgage lending  
3 agency, to qualify the lessee for any state or private lending  
4 institution loan, private loan guaranteed by the State, or any  
5 loan in which the State and any private lender participates, or  
6 to amortize the cost of substantial improvements to the demised  
7 premises that are paid for by the lessee without institutional  
8 financing, such extension being based on the economic life of  
9 the improvements as determined by the board or an independent  
10 appraiser; provided that the approval of any extension shall be  
11 subject to the following:

- 12 (1) The demised premises have been used substantially for  
13 the purpose for which they were originally leased;
- 14 (2) The aggregate of the initial term and any extension  
15 granted shall not be for more than fifty-five years;  
16 provided that if the total investment in the  
17 development of the leased land, including off-site and  
18 on-site improvements, exceeds \$1,000,000,000, then the  
19 aggregate of the initial term and any extension  
20 granted shall not be for more than ninety-nine years;



1       (3) In the event of a reopening, the rental for any  
2            ensuing period shall be the fair market rental at the  
3            time of reopening;

4       (4) Any federal or private lending institution shall be  
5            qualified to do business in the State;

6       (5) Proceeds of any mortgage or loan shall be used solely  
7            for the operations or improvements on the demised  
8            premises;

9       (6) Where improvements are financed by the lessee, the  
10           lessee shall submit receipts of expenditures within a  
11           time period specified by the board, otherwise the  
12           lease extension shall be canceled; and

13      (7) The rules of the board, setting forth any additional  
14           terms and conditions, which shall ensure and promote  
15           the purposes of the demised lands."

16      SECTION 3. New statutory material is underscored.

17      SECTION 4. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun, before its effective date.

20      SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:         *MW*        

JAN 20 2006

HB 1978

**Report Title:**

Public Lands; Leases

**Description:**

Provides for lease for public lands, including DHHL lands, for term of up to ninety-nine years, if the improvements on the land exceed \$1,000,000,000.

