
A BILL FOR AN ACT

RELATING TO THE DISPOSITION OF PUBLIC LANDS.

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

PART I

1
2 SECTION 1. Hawaii, as well as the rest of the nation, is
3 in the midst of one of the most challenging economic times it
4 has ever faced. Some of the leading economic indicators have
5 forecast numbers not seen since the Great Depression of the
6 1930s. The situation now facing Hawaii, the United States, and
7 the world is due, in large part, to the effects of the global
8 credit and financial crisis that have caused the national
9 economy to shrink. The domino effect caused by this situation
10 has resulted in greater unemployment, increased home
11 foreclosures, massive layoffs, and a decrease in the purchasing
12 power of the individual American, who now has less disposable
13 income.

14 The global recession has drastically reduced government
15 revenues across the United States. Many states, including
16 Hawaii, have increased taxes and reduced funding for government
17 programs and services to balance their budgets. A number of
18 states have also implemented, or intend to implement, layoffs



1 and furloughs of government employees, and some states are even
2 considering government-wide shutdowns to help ease the economic
3 strain. In Hawaii, the depth and breadth of the "Great
4 Recession" continue to erode the fragile status of a state
5 budget already experiencing a major deficit.

6 Numerous economic factors, including downturns in Hawaii's
7 two major industries, tourism and construction, have had a
8 tremendous impact on the state budget and greatly contributed to
9 the large deficit the State now faces. Although the state
10 economy had been performing very well over recent years, with
11 the lowest unemployment in the nation and many years of budget
12 surpluses, the recent meltdown of the global economy that began
13 in the latter portion of 2008 has severely reduced revenue
14 projections and collections. Hawaii's residents have lost jobs,
15 investments, and homes; there has been a decrease in the number
16 of visitor arrivals; and consumer spending has declined. As a
17 result, the 2009 legislature faced a historic revenue shortfall.
18 The latest forecast adds \$40 million to the state budget
19 deficit, which the Council on Revenues now projects will be \$1.1
20 billion through June 2011.

21 The legislature recognizes that difficult choices must
22 continue to be made to address this budget shortfall. If



1 circumstances remain unchanged, the current budget shortfall of
2 over \$1.1 billion will require a minimum of reductions in
3 spending of at least \$550 million per year over the next two
4 years. While some solutions to solve the current fiscal crisis
5 have been or are currently being implemented, additional revenue
6 sources are still sorely needed.

7 Without additional revenue sources, the daily operations of
8 the State, including essential services to residents and
9 visitors alike, are in jeopardy. The legislature finds that
10 Hawaii urgently needs to address this shortfall as soon as
11 reasonably possible.

12 The State holds title to many parcels of land that are not
13 essential to the provision of public health, safety, and welfare
14 services by the State or county. These lands may be sold to
15 close or reduce the looming deficit. Some examples of the
16 parcels are:

17 Kauai

- 18 (1) 1593 Papau Street, Kapaa (TMK No. 4-4-6-38-74); and
19 (2) 1951 Pahoehoe Street, Koloa (TMK No. 4-2-8-24-14).

20 Maui

- 21 (1) 1051 Onaha Street, Wailuku (TMK No. 2-3-3-16-11); and
22 (2) 1098 Onaha Street, Wailuku (TMK No. 2-3-3-16-124).



1 Oahu

- 2 (1) 91-1139 Kamaaha Loop, Kapolei (TMK No. 1-9-1-16-41-
3 0019);
- 4 (2) 91-1072 Welowelo Street, Kapolei (TMK No. 1-9-1-81-
5 61);
- 6 (3) 95-021 Kuahelani Avenue, Mililani (TMK No. 1-9-4-5-
7 34-0136);
- 8 (4) 95-029 Kuahelani Avenue, Mililani (TMK No. 1-9-4-5-
9 34-0097);
- 10 (5) 95-033 Kuahelani Avenue, Mililani (TMK No. 1-9-4-5-
11 34-0033);
- 12 (6) 94-940 Meheula Parkway, Mililani (TMK No. 1-9-4-5-34-
13 0048);
- 14 (7) 2949 Ala Ilima Street #201, Honolulu (TMK No. 1-1-1-
15 61-2-0001);
- 16 (8) Northwest Corner Parcel, Kapolei (TMK No. 1-9-1-
17 15:35);
- 18 (9) Vacant Parcel, Village 8, Kapolei (TMK No. 1-9-1-
19 016:88 (portion));
- 20 (10) Village 4, Kekuilani, Kapolei (TMK Nos. 1-9-1-79:01
21 to 35);



- 1 (11) Hokulele Vacant Parcel #1, Kaneohe (TMK No. 1-4-5-23-
2 11);
- 3 (12) Hokulele Vacant Parcel #2, Kaneohe (TMK No. 1-4-5-23-
4 12);
- 5 (13) Kakaako Makai, Lots 4 and 5 as identified on the final
6 Kakaako park subdivision map dated October 15, 2007,
7 and approved by the city and county of Honolulu
8 department of planning and permitting on November 9,
9 2007; except TMK Nos. 2-1-058:41 and 2-1-058:110;
- 10 (14) La Mariana and Pier 60 (TMK Nos. (1) 1-2-23:52, (1)
11 1-2-23:67, (1) 1-2-23:30, and (1) 1-2-23:55);
- 12 (15) Accreted peninsula and land filled bordered by Kalihi
13 stream and Moanalua stream (TMK No. (1) 1-1-3:3);
- 14 (16) Waikiki Yacht Club (TMK No. (1)-23037006);
- 15 (17) Ala Wai Boat Harbor Complex (TMK Nos. (1)-23037012,
16 (1)-26010005, (1)-26010016, (1)-26010003, (1)-
17 23037013, (1)-23037020, (1)-23037024, (1)-23037033,
18 and (1)-23037035);
- 19 (18) The Leahi hospital property; and
20 (19) Kalaeloa Makai property (TMK No. (1)-9-1-31:1).

21 The purpose of this part is to address the exigent and
22 extraordinary circumstances that have caused a gaping shortfall



1 in state revenues by directing the department of land and
2 natural resources to, as soon as reasonably possible, sell a
3 certain amount of public lands to raise the amount of revenues
4 in the general fund.

5 SECTION 2. Sale of public lands. (a) Notwithstanding any
6 provision of chapter 171, Hawaii Revised Statutes, or any other
7 law to the contrary, the board of land and natural resources
8 shall immediately sell public lands in an amount sufficient to
9 provide at least \$500,000,000 and not more than \$750,000,000 in
10 net proceeds prior to June 30, 2011. The sale of such public
11 lands shall be at public auction or by negotiation of the fee
12 simple interest in public lands, as defined in section 171-2,
13 Hawaii Revised Statutes, together with any existing improvements
14 thereon; provided that the sale of the public land:

15 (1) Shall not involve public lands that are essential to
16 the provision of public health, safety, and welfare
17 services by the State or county;

18 (2) Shall not violate any federal law, agreement, or
19 restriction, or jeopardize federal funding of any
20 state or county program;

21 (3) Shall be sold subject to section 171-58, Hawaii
22 Revised Statutes, relating to the reservation to the



1 State of mineral or surface or ground water rights;
2 and

3 (4) Shall close and consummate in a manner that will
4 provide at least \$500,000,000 and not more than
5 \$750,000,000 in sale proceeds by June 30, 2011.

6 (b) Pursuant to Section 5 of the Admission Act, Article
7 XII, Section 4 of the Hawaii Constitution, and chapter 10,
8 Hawaii Revised Statutes, twenty per cent of all net proceeds
9 under this part, from the sale of lands in the public land
10 trust, as defined by section 10-3(1), Hawaii Revised Statutes,
11 shall be paid to the office of Hawaiian affairs. Pursuant to
12 Section 5(f) of the Admission Act, the remainder of the net
13 proceeds from the sale of such lands shall be deposited into the
14 general fund to be managed and expended for one or more of the
15 following purposes:

16 (1) For the support of the public schools and other
17 nonsectarian or nondenominational public educational
18 institutions;

19 (2) For the development of farm and home ownership on as
20 widespread a basis as possible;

21 (3) For the making of public improvements; and

22 (4) For the provision of lands for public use.



1 (c) All net proceeds from the sale of public lands that
2 are not described in subsection (b) shall be deposited into the
3 general fund.

4 SECTION 3. Conduct of sale. Notwithstanding the
5 provisions of chapter 171, Hawaii Revised Statutes, or any other
6 law to the contrary, the sale of fee simple interest in public
7 land by the board of land and natural resources under this part,
8 shall be at public auction or by negotiation, as follows:

9 (1) Appraisal. The board shall conduct an appraisal of
10 the public land for sale to determine the upset price.

11 The appraisal of the public land for sale at public auction
12 shall be performed by an employee of the board of land and
13 natural resources qualified to appraise lands, or by one but not
14 more than three disinterested appraisers whose services shall be
15 contracted for by the board; provided that the upset price shall
16 be determined by disinterested appraisal whenever prudent
17 management so dictates. No such lands shall be sold for a sum
18 less than the value fixed by appraisal; provided that for any
19 sale at public auction, the board may establish the upset sale
20 price at less than the appraisal value set by an employee of the
21 board and the land may be sold at that price. The board shall
22 be reimbursed by the purchaser for the cost of any appraisal



1 required to be made by a disinterested appraiser or appraisers
2 contracted for by the board.

3 The sale price of the public lands to be disposed of by
4 negotiation shall be no less than the value determined by:

5 (A) An employee of the board qualified to appraise lands;
6 or

7 (B) A disinterested appraiser or appraisers whose services
8 shall be contracted for by the board, and such
9 appraisal, and any further appraisal with the approval
10 of the board, shall be at the cost of the purchaser;
11 provided that the sale price shall be determined by
12 disinterested appraisal whenever prudent management so dictates.

13 All appraisal reports shall be available for study by the
14 public.

15 (2) **Notice.** Public notice of any proposed disposition by
16 auction shall be given at least once statewide and once in the
17 county where the land being disposed of is located. Notice of
18 the auction shall contain the following:

19 (A) Time and place of the auction;

20 (B) General description of the land, including the address
21 and tax map key;



1 (C) Specific use for which the disposition is intended;
2 and

3 (D) Upset price to be charged. The maps showing the metes
4 and bounds description and the classification of the
5 land shall be kept in the office of the board of land
6 and natural resources and of its land agent in the
7 county in which the land is situated, and shall be
8 open for inspection at all reasonable hours.

9 Public notice of a proposed disposition by negotiation
10 shall be given at least once statewide and once in the county
11 where the land being disposed of is located. The notice shall
12 invite proposals and state in general terms the size, location,
13 and prices of lots to be sold, the terms of sale, and the last
14 date on which application shall be received by the board, which
15 date shall not be less than thirty days after the last date of
16 the notice. The notice shall also state the times and places at
17 which more detailed information with respect to the sale may be
18 secured by interested persons.

19 Any public notice required under this section shall also be
20 posted on the Internet in an easily-located manner.

21 SECTION 4. Exemption from legislative approval. The sale
22 of any public lands by the board of land and natural resources

1 under this part shall not be subject to the provisions of
2 section 171-64.7, Hawaii Revised Statutes.

3 SECTION 5. Report to the legislature. The board of land
4 and natural resources shall submit to the legislature a report
5 on the status and progress of the sale of the public lands,
6 under this Act no later than twenty days prior to the
7 commencement of the regular session of 2011.

8 PART II

9 SECTION 6. Notwithstanding any other law to the contrary,
10 the board of land and natural resources shall enter into direct
11 negotiation without regard to public auction to dispose of
12 public lands to any not-for-profit organization that has
13 seventy-five or less subtenants on those public lands who:

- 14 (1) Manage and maintain one hundred twelve lots or less;
- 15 (2) Have less than eight years remaining on any fixed rent
16 portion of their existing lease; and
- 17 (3) Have invested collectively more than \$40,000,000 in
18 infrastructure and \$20,000,000 in improvements to the
19 property.



1 PART III

2 SECTION 7. The State of Hawaii shall have the right of
3 first refusal at the full purchase price to purchase any public
4 lands sold pursuant to this Act.

5 SECTION 8. If any provision of this Act, or the
6 application thereof to any person or circumstance is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the Act, which can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this Act are severable.

11 SECTION 9. This Act shall take effect on July 1, 2020.



Report Title:

Public Lands; Disposition

Description:

Directs the Department of Land and Natural Resources to fund the general fund by disposing of public lands. Also directs the Department to dispose of public lands leased to not-for-profit organizations meeting certain criteria. Effective July 1, 2020.
(HB2737 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

