

JAN 28 2009

A BILL FOR AN ACT

RELATING TO LEASEHOLD CONVERSION.

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

1 SECTION 1. The purpose of this Act is to establish a
2 program for the mandatory lease-to-fee conversion of business
3 properties.

4 SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new chapter to be appropriately designated and to read
6 as follows:

7 "CHAPTER

8 BUSINESS LEASEHOLDS

9 § -1 Definitions. For the purpose of this chapter:

10 "Business lot":

11 (1) Means a lot zoned for business, commercial, or
12 industrial use and leased for and actually placed in a
13 business, commercial, or industrial use;

14 (2) Shall not include any lot zoned resort, agriculture,
15 conservation, preservation, apartment, or residential,
16 even if the lot is used for an income generating
17 enterprise; and



1 (3) For a lot zoned for mixed use, the lot shall be deemed
2 a "business lot" if leased exclusively for and
3 actually placed in business, commercial, or industrial
4 resort use.

5 "Corporation" means the Hawaii housing finance and
6 development corporation created by chapter 201H.

7 "Development tract" means a single contiguous area of real
8 property not less than five acres in size that has been
9 developed and subdivided into business lots, streets, and other
10 common or public areas. Two or more pieces of real property
11 shall be considered as a single contiguous area if they would be
12 contiguous except for the interposition or existence of a
13 street, stream, or other like interference.

14 "Designated business lot" means a business lot, the leased
15 fee interest in which has been designated for acquisition by the
16 corporation.

17 "Fair market value" means that amount of money that a
18 purchaser willing, but not obliged, to buy an interest in land
19 would pay an owner willing, but not obliged, to sell it, taking
20 into consideration all uses to which the land is adapted or
21 might in reason be applied.



1 "Fee simple land" means absolute ownership of land for an
2 indefinite duration, freely transferable and inheritable. For
3 the purposes of this chapter, fee simple land shall be deemed
4 owned by a lessee if the fee simple real property is held under
5 any trust agreement or fiduciary arrangement in which another
6 person holds legal title to the land and where the lessee,
7 whether as trustee, co-trustee, or beneficiary, holds or retains
8 the controlling interest and right to direct the trust with
9 regard to management or control of the trust or its assets.

10 "Fee simple owner" and "fee owner" mean the person who owns
11 the fee simple title to the land that is leased, including a
12 life tenant with a remainder over, vested or contingent, and a
13 holder of a defeasible estate, and the holder's heirs,
14 successors, legal representatives, and assigns.

15 "Lease" means a conveyance of land or an interest in land,
16 by a fee simple owner as lessor, or by a lessee or sublessee as
17 sublessor, to any person, in consideration of a return of rent
18 or other remuneration, for a term of twenty years or more,
19 measured from the initial date of the conveyance and including
20 any period for which the lease may be extended or renewed at the
21 option of the lessee.



1 "Leased fee" and "leased fee interest" means all of the
2 interests of the fee simple owner, lessor, and all legal and
3 equitable owners of the land that is leased other than the
4 lessee's leasehold interest.

5 "Legal and equitable owner" means the fee simple owner and
6 all persons having legal or equitable interests in the fee or in
7 the lessor's leasehold estate, including mortgagees, developers,
8 lienors, and sublessors, and their respective heirs, successors,
9 legal representatives, and assigns.

10 "Lessee" means any person to whom land is leased or
11 subleased and the lessee's heirs, successors, legal
12 representatives, and assigns.

13 "Lessor" means any person who leases or subleases land to
14 another and the lessor's heirs, successors, legal
15 representatives, and assigns.

16 "Lot" means a parcel of land of two acres or less in size.

17 "Offsite improvements" means all physical improvements,
18 including but not limited to roads, sewer lines, sewage
19 treatment plants, gutters, curbs, sidewalks, fire hydrants,
20 street lights, land dedicated for public purposes and
21 underground electric cables, constructed or placed in a
22 subdivision off the lots intended for occupancy, which



1 improvements are to be used in common by occupants of all lots
2 adjoining the improvements or by the occupants of all lots for
3 whose benefit the improvements have been constructed or placed.

4 "Onsite improvements" means all physical improvements
5 placed on a business lot intended for occupancy that are for the
6 benefit of occupants of that lot.

7 "Owner's basis" means the value of the lessor's leased fee
8 interest in the lot that would apply if the interest was
9 normally traded on an open market. The fair market value of the
10 owner's basis shall be established to provide the lessor with
11 just compensation for the lessor's interests in the lot and
12 shall take into consideration every interest and equity of the
13 lessee in establishing that market value. The value may be
14 determined by either of the following methods, or any other
15 method that is normally used by qualified appraisers in
16 establishing the fair market value of a lessor's leased fee
17 interest in land:

18 (1) The sum of:

19 (A) The future rental income stream for the lot for
20 the term of the lease discounted to present worth
21 from the expiration date of the lease; and



1 (B) The value of the lessor's reversionary interest
2 in the lot discounted to present worth from the
3 expiration date of the lease. The discount rate
4 shall be established by the corporation as
5 reasonable and fair to the lessor and lessees;
6 provided that the discount rate may be modified
7 by mutual agreement of the lessor, lessee, and
8 the corporation; or

9 (2) The current fair market value of the lot, valued as if
10 it were a fee simple lot and as if the fee title were
11 unencumbered, and excluding onsite improvements,
12 established by a market data approach utilizing
13 comparable sales, less the following:

14 (A) The value of the lease, including any rights
15 therein, if any, that accrues to the lessee;

16 (B) That percentage of the general enhancement of the
17 development tract that has been paid for or
18 contributed directly or indirectly by the lessee;

19 (C) The current replacement cost of that portion of
20 existing offsite improvements, including overhead
21 and profit at prevailing rates, that were paid



1 for or otherwise contributed, directly or
2 indirectly, by the lessee;

3 (D) The percentage of the general enhancement of the
4 development tract and the lot caused by the
5 onsite improvements on the lot paid for, or
6 contributed, directly or indirectly, by the
7 lessee;

8 (E) The amount, not otherwise deducted herein,
9 allocated to the lot, that was paid for or
10 otherwise contributed, directly or indirectly by
11 the original lessee, computed at prevailing rates
12 for overhead and profit in developing the
13 development tract established by existing
14 practice in the community; and

15 (F) The amount for fees and costs that would
16 ordinarily be borne by the lessor in transferring
17 the leased fee interest to a lessee, including
18 but not limited to commissions, other costs of
19 sale, and similar fee;

20 provided that the values established by any one of the
21 foregoing shall not be duplicated in any one of the
22 other provisions.



1 § -2 **Applicability.** This chapter applies to all lands
2 leased as business lots that are owned or held privately. This
3 chapter is not intended to supersede or preclude any other
4 remedy at law available to business lot lessees or the State,
5 including those available under chapter 480.

6 § -3 **No estoppel or waiver.** The rights granted to
7 lessees by this chapter shall be effective, notwithstanding any
8 provision in any lease or contract to the contrary. No lessee
9 shall be estopped by any covenant, term, condition, or contract,
10 however worded, from claiming the rights granted to the lessee
11 by this chapter or otherwise be deemed to have waived any
12 rights. Any provision in any lease or contract contrary to the
13 intent or purpose of this chapter is void.

14 § -4 **Trusts and estates.** The rights granted to lessees
15 by this chapter shall be effective, notwithstanding any
16 condition or provision to the contrary in any instrument
17 creating any life tenancy, defeasible fee, estate, or trust,
18 regardless of whether the tenancy, fee, estate, or trust was in
19 effect prior to July 1, 2009, or is created thereafter. The
20 life tenant, holder, officer, or trustee of any tenancy,
21 defeasible fee, estate, or trust in effect prior to July 1,
22 2009, shall perform all acts required of the life tenant,



1 holder, officer, or trustee by this chapter. Every instrument
2 creating the life tenancy, defeasible fee, estate, or trust in
3 existence on July 1, 2009, or thereafter executed shall be
4 construed in conformity with the intent and purpose of this
5 chapter. No trustee, officer, or agent of a lessor or other
6 legal or equitable owner shall, while acting pursuant to this
7 chapter, be deemed to be acting in bad faith or to have
8 committed a breach of trust.

9 § -5 Administration of chapter. The corporation shall
10 administer this chapter.

11 § -6 Corporation's duties, generally. In addition to
12 any other duty prescribed by law and in this chapter, the
13 corporation shall:

14 (1) By December 31, 2009, adopt and promulgate, in
15 accordance with chapter 91, all rules necessary to
16 effectuate the purposes of this chapter;

17 (2) Enforce this chapter and the rules adopted pursuant
18 thereto;

19 (3) Subject to chapter 76, appoint and remove any
20 administrative, technical, and clerical staff as it
21 may require and prescribe their powers and duties;
22 except that the corporation may appoint, without



1 regard to chapter 76, one or more appraisers on a
2 part-time, contractual basis for the purposes set
3 forth in this chapter;

4 (4) Establish reasonable fees to be assessed and collected
5 from lessees for the services of any appraiser;

6 (5) Disseminate information and render assistance to
7 lessees of business lots in order that this chapter
8 may be understood and effectively implemented;

9 (6) Conduct an investigation upon any written complaint or
10 whenever it appears to the corporation that this
11 chapter has been or is being violated. In any
12 investigation, the corporation may examine the books,
13 accounts, records, and files of any person connected
14 with the matter under investigation and conduct
15 hearings. If the corporation finds from satisfactory
16 evidence that any person has violated or is violating
17 this chapter, it may order the person to cease and
18 desist from continuing the violation or engaging
19 therein or doing any act or acts in furtherance
20 thereof and, where necessary, it may bring an action
21 in the name of the State in any court of competent
22 jurisdiction for enforcement of its orders;



1 (7) Acquire and sell all necessary leased fee interests as
2 provided in this chapter;

3 (8) Make and execute contracts and other instruments
4 necessary or convenient to the exercise of the powers
5 of the corporation;

6 (9) From time to time, require from the lessors of leased
7 business lots and all fee owners and legal and
8 equitable owners of lots any information as the
9 corporation may reasonably require in connection with
10 the administration of this chapter; and

11 (10) Do all things necessary and convenient to carry out
12 the powers expressly conferred upon it by this
13 chapter.

14 § -7 Corporation members, officers, or employees;
15 prohibited interests. No member of the corporation or any
16 officer or employee administering this chapter shall acquire any
17 interest, direct or indirect, in the ownership or development of
18 any development tract other than by gift, devise, or
19 inheritance. No member, officer, or employee shall have or
20 acquire any interest, direct or indirect, in the financing or in
21 any contract or proposed contract for services to be furnished
22 or used in connection with or relating to the development of any



1 development tract. If any member, officer, or employee has or
2 acquires an interest by gift, devise, or inheritance, direct or
3 indirect, in any development tract or is a lessee of any
4 business lot affected by the eminent domain proceedings
5 instituted under this chapter, the member, officer, or employee
6 shall immediately disclose the same in writing to the
7 corporation and the disclosure shall be entered upon the minutes
8 of the corporation. The member, officer, or employee shall not
9 participate in any action by the corporation relating to the
10 property, tract, or contract in which the member, officer, or
11 employee has or acquires any interest. Violation of this
12 section constitutes misconduct in office and is cause for
13 dismissal.

14 § -8 Development tract subject to conversion of business
15 lots. The leasehold interest in business lots in a development
16 tract shall be subject to conversion to fee simple under this
17 chapter if the development tract was:

- 18 (1) Developed and subdivided into business lots occupied
19 by lessees under leases executed before July 1, 2009;
20 or



1 (2) Developed and subdivided or partially developed into
2 business lots occupied or to be occupied by lessees
3 under leases executed after June 30, 2009.

4 § -9 Designation for acquisition of leased fee interest

5 in business lots in development tract. (a) When, in a
6 development tract owned by a single fee simple owner, at least
7 twenty-five lessees of the business lots or more than fifty per
8 cent of the lessees of all business lots, whichever is less,
9 apply to the corporation for the purchase of the leased fee
10 interests in the business lots, the corporation shall examine
11 the applications to determine if all applicants qualify for the
12 purchase under this chapter.

13 (b) If the corporation finds that the necessary minimum
14 number or percentage of applicants are eligible to purchase, the
15 corporation shall hold a public hearing in the county in which
16 the subject development tract is located. The corporation shall
17 give public notice of the time and place of the public hearing
18 on at least three different days, the last notice being not less
19 than five days before the date of hearing.

20 (c) If, after the public hearing, the corporation finds
21 that the acquisition of the leased fee interests in the business
22 lots of lessees eligible to purchase the lots will effectuate

1 the public purpose of this chapter, the corporation shall
2 designate the leased fee interests in the business lots for
3 acquisition.

4 In no instance shall the corporation designate for
5 acquisition the leased fee interest in a business lot, the
6 lessee of which is ineligible for purchase under this chapter.

7 Additionally, the corporation shall not designate the
8 leased fee interest in any business lot in the development tract
9 for acquisition if the corporation finds that either:

10 (1) The ineligibility of any applicant causes the minimum
11 number or percentage of eligible applicants to fall
12 below that required under subsection (a); or

13 (2) The acquisition of the leased fee interests in the
14 subject business lots will not effectuate the public
15 purpose of this chapter.

16 (d) The designation under subsection (c) shall authorize
17 the corporation to commence the acquisition of the leased fee
18 interests in the designated business lots in the development
19 tract through the exercise of the power of eminent domain.

20 § -10 Eligibility for purchase. (a) No application to
21 purchase the leased fee interest in a business lot in a
22 development tract shall be accepted nor shall any sale of a



1 leased fee interest be made to any lessee unless the lessee
2 meets the following requirements:

3 (1) Holds a lease on the lot; provided that for the
4 purposes of this paragraph, "lease" shall not include
5 a sublease;

6 (2) Has legal title to a structure situated on the
7 business lot;

8 (3) Has a letter of credit, certificate of deposit, proof
9 of funds, or approved application from a lending
10 institution demonstrating that the lessee will be able
11 to promptly pay the corporation for the leased fee
12 interest in the business lot;

13 (4) Submits an application in good faith in a form
14 acceptable to the corporation;

15 (5) Executes a contract for the purchase of the leased fee
16 interest from the corporation if the corporation
17 acquires the interest;

18 (6) Does not own in fee simple any other land zoned to
19 permit any business, commercial, or industrial use
20 within the county in which the business lot is
21 located. A person shall be deemed to "own" land if
22 the person, the person's spouse, or both, own land,



1 unless they are separated and living apart under a
2 decree of a court of competent jurisdiction; and

3 (7) If the person is an individual, the person is at least
4 eighteen year old.

5 (b) The amount set by the corporation for the leased fee
6 interest in the designated business lot for which the lessee
7 must obtain a letter of credit, certificate of deposit, proof of
8 funds, or approved application for loan shall not be admissible
9 for any reason in any action, suit, or proceeding brought under
10 this chapter. Any financial information the corporation may
11 request and obtain from the lessee shall not be discoverable or
12 admissible in any action, suit, or proceeding brought under this
13 chapter.

14 (c) The corporation may require additional testimony or
15 evidence under oath in connection with any application. The
16 corporation shall adopt rules pursuant to chapter 91 to
17 effectuate the purposes of this section.

18 § -11 Deposits by lessees. (a) The corporation shall
19 require the submission of a deposit by a lessee determined
20 eligible by the corporation to purchase the leased fee interest
21 in a business lot under this chapter. The amount of the deposit



1 shall be established by rule. All interest earned on the
2 deposit submitted by a lessee shall accrue to the lessee.

3 (b) The deposit shall be applied by the corporation to
4 payment of appraisal, survey, attorney fees, and any other cost
5 the corporation has incurred as a result of the designation,
6 with the remainder of the deposit to be applied toward the
7 purchase of the applicable leased fee interests. The
8 corporation shall incur no liability for the deposits made under
9 this section.

10 § -12 Preliminary negotiation required. (a) Within
11 twenty days of designating the leased fee interests in business
12 lots for acquisition, the corporation shall request the lessor
13 and the eligible lessees to negotiate the just compensation that
14 the lessees shall pay to the lessor to acquire the lessor's
15 interests in the designated business lots.

16 If no agreement is reached within sixty days after the
17 request to negotiate, the parties shall simultaneously exchange
18 written final offers together with any appraisals, other
19 documents, and any other expert opinions on which their
20 negotiating positions were based. Copies of the final offers
21 and related documents shall be submitted to the corporation and
22 the corporation may use the information in determining, prior to



1 commencing condemnation proceedings, the probability that the
2 lessees will be able to meet the financial requirements of
3 section -10(a)(3).

4 (b) This preliminary negotiation shall be in advance of
5 and shall not constitute any part of any action in condemnation
6 or eminent domain.

7 (c) Any offers, appraisals, other documents, or any other
8 expert opinions giving a value of the lessor's interest in the
9 designated business lots that were prepared by a party for use
10 in preliminary negotiations as provided for in this section, for
11 setting qualification amounts pursuant to section -10(a)(3),
12 or for negotiations to determine the just compensation to
13 acquire the lessor's interest in the designated business lots
14 shall not be discoverable, usable, or admissible by an opposing
15 or adverse party in any eminent domain proceeding brought under
16 this chapter.

17 § -13 Exercise of power of eminent domain. Within
18 twelve months after the designation of the leased fee interests
19 in the business lots for acquisition, the corporation shall
20 acquire through voluntary action of the parties or institute
21 eminent domain proceedings to acquire the designated leased fee
22 interests. The corporation shall exercise its power of eminent



1 domain in the same manner as provided in chapter 101. If the
2 leased fee interests to all of the designated business lots are
3 not acquired or eminent domain proceedings are not instituted
4 within the twelve-month period, the corporation shall reimburse
5 the fee owner, lessor, and legal and equitable owners of the
6 designated business lots their actual out-of-pocket expenses of
7 appraisal, survey, and attorney fees; provided that:

8 (1) If the leased fee interests in all of the designated
9 business lots are not acquired or eminent domain
10 proceedings are not instituted within the twelve-month
11 period as a result of a lessee's dismissal,
12 discontinuance, or withdrawal from the eminent domain
13 proceedings or failure to purchase the leased fee
14 interest condemned because of the lessee's inability,
15 failure, or refusal to comply with any provision under
16 this chapter, then the lessee, not the corporation,
17 shall be solely responsible to reimburse the fee
18 owner, lessor, and legal and equitable owners for
19 their respective prorated costs that they may have
20 incurred as a result of the designation and
21 condemnation; and



1 (2) If, during the twelve-month period, the leased fee
2 interests in some of the designated business lots were
3 acquired by the corporation through voluntary sale by
4 the lessor, the acquired leased fee interests shall
5 remain in the ownership of the corporation or, if the
6 interests were subsequently purchased by the lessee,
7 in the ownership of the lessee.

8 § -14 Eminent domain trial. The parties to the eminent
9 domain action brought under this chapter shall be the
10 corporation as plaintiff and the lessors and all other necessary
11 parties as defendants. The corporation shall not have the
12 burden of proof in establishing the fair market value of the
13 leased fee interest being acquired. Instead, all parties,
14 including the corporation, shall be given an opportunity to
15 present evidence of the fair market value of the leased fee
16 interest being acquired.

17 § -15 Compensation. The compensation to be paid for the
18 leased fee interest in a designated business lot shall be the
19 owner's basis as defined in section -1. The compensation
20 shall be determined as of the date of the summons of the
21 complaint to institute the eminent domain action.



1 § -16 Interest acquired. (a) The interest to be
2 acquired by the corporation in a business lot under this chapter
3 shall be all of the right, title, and interest of the fee owner
4 and, if any, the lessor and all legal and equitable owners in
5 the designated business lot, subject to all covenants,
6 conditions, easements, reservations, and restrictions of record
7 running with the land or contained in the agreement of sale,
8 deed, or other conveyance held by the fee owner, lessor, and
9 legal and equitable owners or permitted or suffered by lessees
10 of existing business lot leases that are not inconsistent with
11 the intent of this chapter. The acquisition shall terminate all
12 the right, title, and interest of the fee owner, lessor, and all
13 legal and equitable owners, whether the interest be a remainder,
14 vested or contingent, a reversion, or other beneficial interest
15 in the property, present or prospective.

16 (b) If the leasehold interest in the designated business
17 lot is subject to any mortgage, lien, or encumbrance suffered or
18 permitted by the lessee, including rights arising through
19 divorce, marriage, or assignment, the purchase of the leased fee
20 interest by the lessee shall in no manner affect or impair the
21 mortgage, lien, or encumbrance or the security afforded thereby
22 to the holder thereof, and the leasehold shall continue,



1 notwithstanding the purchase of the leased fee by the lessee,
2 for the purpose and to extent necessary to avoid any impairment
3 of the leasehold security, unless the holder of the leasehold
4 mortgage, lien, or encumbrance shall in writing consent to the
5 transfer thereof to the fee as herein provided. Upon the
6 written consent by the holder thereof, each mortgage, lien, or
7 encumbrance to which the leasehold is subject and to which the
8 consent refers shall be transferred to and shall bind the fee
9 acquired by the lessee, and shall thereafter continue in full
10 force and effect as a mortgage, lien, or encumbrance of the fee
11 acquired by the lessee, in the same order and priority among the
12 mortgages, liens, and encumbrances so transferred to the fee as
13 the same applied to and bound the lessee's immediate, previous
14 leasehold interest.

15 § -17 Interest in compensation paid by the corporation.

16 The fee owner, lessor, and all legal and equitable owners of a
17 designated business lot that has been acquired by the
18 corporation shall share in the compensation paid by the
19 corporation as their respective interests appear.

20 Notwithstanding any contrary provision in any contract or lease,
21 a developer or other person entitled to share in the lease
22 rental proceeds shall share in the compensation paid by the



1 corporation to the extent of the developer's or other person's
2 interest as may be determined by agreement of those entitled to
3 share in the compensation paid by the corporation or, in the
4 absence of such agreement, pursuant to chapter 658A.

5 § -18 **Compulsory or involuntary conversion.** It is the
6 intent of the legislature, within the meaning of section 1033 or
7 section 1231 of the Internal Revenue Code or the applicable
8 provisions of chapter 235, as well as all other statutes, rules,
9 regulations, administrative orders, and legal interpretations
10 within the federal and state governments relating to taxation,
11 that any conveyance of title to property by a fee owner to the
12 corporation under this chapter shall constitute a compulsory or
13 involuntary conversion as a result of the exercise of the power
14 of condemnation or the threat of imminence thereof, and that the
15 fee owner shall not be deemed, by reason of any provision of
16 this chapter or the execution by the fee owner of leases to the
17 property and other properties subsequent to June 30, 2009, to
18 hold the property primarily for sale to customers in the
19 ordinary course of trade or business.

20 § -19 **Purchase of leased fee interest.** (a) The lessee
21 of a designated business lot within a development tract who has
22 applied to and been determined by the corporation as eligible to



1 purchase the leased fee interest in the lot shall purchase the
2 leased fee interest from the corporation within sixty days of
3 acquisition of the interest by the corporation. The lessee
4 shall pay to the corporation the entire cost paid by the
5 corporation to acquire the leased fee interest in the business
6 lot. The purchase contract required by section -10(a)(5)
7 shall include this requirement.

8 (b) If a lessee fails or refuses to purchase the leased
9 fee interest in the designated business lot within the sixty-day
10 period, then:

11 (1) The lessee shall pay to the corporation the lessee's
12 pro rata share of all direct costs incurred by the
13 corporation in the acquisition of the leased fee
14 interests in the designated business lots within the
15 development tract, including costs of appraisal,
16 publication, and survey, and the corporation may take
17 whatever action it deems necessary to collect the
18 costs. In addition, if the lessee intentionally
19 breached the purchase contract with the corporation,
20 the corporation shall be entitled to any available
21 remedy; and



1 (2) The leased fee interest in the business lot shall
2 revert to the fee simple owner, and the lessee shall
3 be liable to the fee simple owner for the pro rata
4 share of the cost of the owner in the proceedings by
5 the corporation to acquire the leased fee interest.

6 § -20 Quitclaim deeds. Unless otherwise provided by
7 law, the corporation shall issue quitclaim deeds whenever it
8 conveys the leased fee interest in a designated business lot to
9 a lessee under this chapter. In no instance shall the
10 corporation be considered a guarantor or warrantor of the
11 condition and quality of the property upon the issuance of any
12 quitclaim deed or lease.

13 § -21 Termination of proceedings when eligible
14 applicants fall below minimum number or percentage. If, after
15 the corporation designates the leased fee interests in business
16 lots for acquisition, the number of eligible applicants for the
17 acquisition falls below the minimum number or percentage
18 established under section -9, the corporation shall terminate
19 all proceedings to acquire the designated leased fee interests.
20 Upon the termination, the designation shall be null and void,
21 and the fee simple owner, lessor, and legal and equitable owners



1 shall be reimbursed by the corporation for their costs incurred
2 for proceedings under this chapter.

3 The corporation shall require all lessees who were parties
4 to the proceedings to pay the corporation the entire amount
5 reimbursed to the fee simple owner, lessor, and legal and
6 equitable owners.

7 § -22 Not for profit; no public funds. (a) It is
8 declared to be the policy of the State that the corporation
9 shall carry out its responsibilities under this chapter in an
10 efficient manner so as to enable it to fix the sale price of the
11 leased fee interest in a designated business lot at the lowest
12 possible amount consistent with the purpose of this chapter and
13 that the corporation shall not administer this chapter for
14 profit or as a source of revenue to the State. To this end, the
15 corporation shall fix the sale price at an amount no higher than
16 it shall find to be necessary in order to produce revenues that
17 shall be sufficient:

18 (1) To pay the acquisition price of the leased fee
19 interest in designated business lots or reimburse the
20 corporation for any funds advanced to pay the
21 acquisition price; and

22 (2) To pay the cost of administering this chapter.



1 (b) It is also declared to be the policy of this State
2 that no public funds shall be expended to acquire the leased fee
3 interests in designated business lots or administer this
4 chapter; except that public funds may be advanced by the
5 corporation for these purposes if the corporation is assured
6 that the advance shall be reimbursed by lessees of the
7 designated business lots. For the purpose of this subsection,
8 "public funds" shall not include moneys:

9 (1) Passed through the corporation from lessees to lessors
10 for the purchase of the leased fee interests in
11 designated business lots or, if the leased fee
12 interests are not acquired, payment of costs incurred
13 by lessors; or

14 (2) Deposited or paid by lessees to defray the cost to the
15 corporation of activities and proceedings to acquire
16 the leased fee interests in designated business lots
17 on behalf of the lesees.

18 § -23 Exemption from taxation and assessments. The
19 corporation and property acquired by it under this chapter shall
20 be exempt from any and all taxes and assessments.

21 § -24 Business lot conversion revolving fund. A
22 business lot conversion revolving fund is created. All moneys



1 received or collected by the corporation under this chapter
2 shall be deposited in the revolving fund. Expenditures by the
3 corporation to administer or enforce this chapter shall be made
4 from the revolving fund.

5 § -25 Penalty. Any person who violates this chapter
6 shall be fined not more than \$5,000 nor less than \$1,000 or
7 imprisoned not more than one year, or both. All fines collected
8 shall be deposited in the business lot conversion revolving
9 fund."

10 SECTION 3. This Act shall take effect on July 1, 2009.

11

INTRODUCED BY: *Suzanne Chun Oakland*
Norman Sakowitz



Report Title:

Leasehold Conversion; Business Properties

Description:

Provides for the mandatory lease-to-fee conversion of leasehold business property.

