
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

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PART I

LEASES OF PUBLIC LANDS

SECTION 1. Section 171-36, Hawaii Revised Statutes, is amended to read as follows:

"§171-36 Lease restrictions; generally. (a) Except as otherwise provided, the following restrictions shall apply to all leases:

- (1) Options for renewal of terms are prohibited;
- (2) No lease shall be for a longer term than sixty-five years, except in the case of a residential leasehold which may provide for an initial term of fifty-five years with the privilege of extension to meet the requirements of the Federal Housing Administration, Federal National Mortgage Association, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or Veterans Administration requirements; provided that the



1 aggregate of the initial term and extension shall in
2 no event exceed seventy-five years;

3 (3) No lease shall be made for any land under a lease
4 which has more than two years to run;

5 (4) No lease shall be made to any person who is in arrears
6 in the payment of taxes, rents, or other obligations
7 owing the State or any county;

8 (5) No lease shall be transferable or assignable, except
9 by devise, bequest, or intestate succession; provided
10 that with the approval of the board of land and
11 natural resources, the assignment and transfer of a
12 lease or unit thereof may be made in accordance with
13 current industry standards, as determined by the
14 board; provided further that prior to the approval of
15 any assignment of lease, the board shall have the
16 right to review and approve the consideration to be
17 paid by the assignee and may condition its consent to
18 the assignment of the lease on payment by the lessee
19 of a premium based on the amount by which the
20 consideration for the assignment, whether by cash,
21 credit, or otherwise, exceeds the depreciated cost of
22 improvements and trade fixtures being transferred to



1 the assignee; provided further that with respect to
2 state agricultural leases, in the event of foreclosure
3 or sale, the premium, if any, shall be assessed only
4 after the encumbrances of record and any other
5 advances made by the holder of a security interest are
6 paid;

- 7 (6) The lessee shall not sublet the whole or any part of
8 the demised premises except with the approval of the
9 board; provided that prior to the approval, the board
10 shall have the right to review and approve the rent to
11 be charged to the sublessee; provided further that in
12 the case where the lessee is required to pay rent
13 based on a percentage of its gross receipts, the
14 receipts of the sublessee shall be included as part of
15 the lessee's gross receipts; provided further that the
16 board shall have the right to review and, if
17 necessary, revise the rent of the demised premises
18 based upon the rental rate charged to the sublessee
19 including the percentage rent, if applicable, and
20 provided that the rent may not be revised downward;



- 1 (7) The lease shall be for a specific use or uses and
2 shall not include waste lands, unless it is
3 impractical to provide otherwise;
- 4 (8) Mineral and metallic rights and surface and ground
5 water shall be reserved to the State; and
- 6 (9) No lease of public lands, including submerged lands,
7 nor any extension of any such lease, shall be issued
8 by the State to any person to construct, use, or
9 maintain a sunbathing or swimming pier or to use the
10 lands for such purposes, unless such lease, or any
11 extension thereof, contains provisions permitting the
12 general public to use the pier facilities on the
13 public lands and requiring that a sign or signs be
14 placed on the pier, clearly visible to the public,
15 which indicates the public's right to the use of the
16 pier. The board, at the earliest practicable date,
17 and where legally possible, shall cause all existing
18 leases to be amended to conform to this paragraph.
19 The term "lease", for the purposes of this paragraph,
20 includes month-to-month rental agreements and similar
21 tenancies.



1 (b) The board, from time to time, upon the issuance or
2 during the term of any intensive agricultural, aquaculture,
3 commercial, mariculture, special livestock, pasture, or
4 industrial lease, may:

5 (1) Modify or eliminate any of the restrictions specified
6 in subsection (a);

7 (2) Extend or modify the fixed rental period of the lease;
8 provided that the aggregate of the initial term and
9 any extension granted shall not exceed sixty-five
10 years; or

11 (3) Extend the term of the lease,
12 to the extent necessary to qualify the lease for mortgage
13 lending or guaranty purposes with any federal mortgage lending
14 agency, to qualify the lessee for any state or private lending
15 institution loan, private loan guaranteed by the State, or any
16 loan in which the State and any private lender participates, or
17 to amortize the cost of substantial improvements to the demised
18 premises that are paid for by the lessee without institutional
19 financing, such extension being based on the economic life of
20 the improvements as determined by the board or an independent
21 appraiser [~~;~~ ~~provided that the~~].



- 1 (c) The approval of any extension pursuant to subsection
- 2 (b) shall be subject to the following:
- 3 (1) The demised premises have been used substantially for
- 4 the purpose for which they were originally leased;
- 5 (2) The aggregate of the initial term and any extension
- 6 granted shall not be for more than [~~fifty-five~~]
- 7 sixty-five years;
- 8 (3) In the event of a reopening, the rental for any
- 9 ensuing period shall be the fair market rental at the
- 10 time of reopening;
- 11 (4) Any federal or private lending institution shall be
- 12 qualified to do business in the State;
- 13 (5) Proceeds of any mortgage or loan shall be used solely
- 14 for the operations or improvements on the demised
- 15 premises;
- 16 (6) Where improvements are financed by the lessee, the
- 17 lessee shall submit receipts of expenditures within a
- 18 time period specified by the board, otherwise the
- 19 lease extension shall be canceled; and
- 20 (7) The rules of the board, setting forth any additional
- 21 terms and conditions, which shall ensure and promote
- 22 the purposes of the demised lands.



1 [~~e~~] (d) The board at any time during the term of any
2 intensive agricultural, aquaculture, or mariculture lease and
3 when justified by sound economic practices or other
4 circumstances, may permit an alternative agricultural,
5 aquaculture, or mariculture use or uses for any portion or
6 portions of the land demised. As a condition to permitting
7 alternative uses, the board may require [~~such~~] other
8 modifications, including rental adjustments or changes in the
9 lease as may be necessary to effect or accommodate the
10 alternative use or uses. An alternative use or uses may be
11 allowed by the board upon:

- 12 (1) The application of the lessee;
- 13 (2) Consent of each holder of record having a security
14 interest in the leasehold; and
- 15 (3) A finding by the board that the alternative use or
16 uses are in the public interest.

17 [~~d~~] (e) The board, from time to time, during the term of
18 any agriculture, intensive agriculture, aquaculture, commercial,
19 mariculture, special livestock, pasture, or industrial lease,
20 may modify or eliminate any of the [~~+~~]restrictions[~~+~~] specified
21 in subsection (a), extend or modify the fixed rental period of



1 the lease, or extend the term of the lease upon a showing of
2 significant economic hardship directly caused by:

3 (1) State disaster, pursuant to chapter 209, including
4 seismic or tidal wave, tsunami, hurricane, volcanic
5 eruption, typhoon, earthquake, flood, or severe
6 drought; or

7 (2) A taking of a portion of the area of the lease by
8 government action by eminent domain, withdrawal, or
9 conservation easement; provided that the portion taken
10 shall not be less than ten per cent of the entire
11 leased area unless otherwise approved by the board;
12 and provided that the board determines that the lessee
13 will not be adequately compensated pursuant to the
14 lease provisions.

15 [~~e~~] (f) The approval of any extension granted pursuant
16 to subsection [~~d~~] (e) shall be subject to the following:

17 (1) The demised premises [~~has~~] have been used
18 substantially for the purposes for which they were
19 originally leased;

20 (2) The aggregate of the initial term and any extension
21 granted shall not be for more than fifty-five years;



- 1 (3) The rental shall not be less than the rental for the
2 preceding term;
- 3 (4) The rules of the board, setting forth any additional
4 terms and conditions which shall ensure and promote
5 the purposes of the demised lands; and
- 6 (5) The length of the extension shall not exceed a
7 reasonable length of time for the purpose of providing
8 relief and shall in no case exceed five years."

9 PART II

10 WILDLIFE ON PUBLIC LANDS

11 SECTION 2. Section 197-1, Hawaii Revised Statutes, is
12 amended by amending the definition of "wildlife" to read as
13 follows:

14 "Wildlife" means any non-domesticated member of the animal
15 kingdom, including game birds and mammals designated by law or
16 rules for hunting, whether reared in captivity or not, and
17 includes any part, product, egg or offspring thereof, except
18 aquatic life as defined in this section[-]; provided that
19 "wildlife" shall include certain mammals obtained after being
20 reared, including but not limited to wild pigs, deer, and
21 rabbits."



1 SECTION 3. Section 197-3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) No species of aquatic life and wildlife shall be
4 deliberately introduced by the department or any persons under
5 this chapter into any habitat within the State, whether the
6 introduction is from without the State into the State or from
7 one area in the State into another area in the State unless the
8 introduction is recommended by the department and authorized by
9 rules of the department pursuant to chapter 91."

10 PART III

11 PUBLIC LAND DEVELOPMENT CORPORATION

12 SECTION 4. The Hawaii Revised Statutes is amended by
13 adding a new chapter to be appropriately designated and to read
14 as follows:

15 "CHAPTER

16 PUBLIC LAND DEVELOPMENT CORPORATION

17 § -1 Findings and purpose. The legislature finds that
18 certain public lands under the jurisdiction of the department of
19 land and natural resources are not used effectively. Public
20 lands in certain areas may serve the State and its people better
21 if managed and developed into suitable recreational and leisure
22 centers where the public can congregate and where visitors to



1 our State can go as part of their holiday experience. However,
2 the department of land and natural resources is hamstrung by its
3 limited mission. Creating a development arm of the department
4 of land and natural resources, similar to the agribusiness
5 development corporation, and placing appropriate public lands
6 into the new corporation's jurisdiction, may help to create
7 these recreation and leisure areas, while also creating revenue-
8 generating opportunities for the new corporation. In turn,
9 revenues generated may be used to offset the regulatory
10 functions of the department of land and natural resources.

11 The purpose of this chapter is to create a vehicle and
12 process to make optimal use of public land for the economic,
13 environmental, and social benefit of the people of Hawaii. This
14 chapter establishes a public corporation to administer an
15 appropriate and culturally-sensitive public land development
16 program. The corporation shall coordinate and administer
17 programs to make optimal use of public land, while ensuring that
18 the public land is maintained for the people of Hawaii. The
19 corporation shall identify the public lands that are suitable
20 for development under this chapter, carry on marketing analysis
21 to determine the best revenue-generating programs for the public
22 lands identified, enter into public-private agreements to



1 appropriately develop the public lands identified, and provide
2 the leadership for the development, financing, improvement, or
3 enhancement of the selected development opportunities.

4 § -2 **Definitions.** As used in this chapter, unless the
5 context clearly requires otherwise:

6 "Board" means the board of directors of the public land
7 development corporation.

8 "Coordinating entrepreneur" means a qualified person
9 capable of organizing, operating, and assuming the risk for
10 enterprises, including securing land and seed capital,
11 developing or managing commercial or recreational facilities or
12 projects, arranging concession agreements, supplying materials,
13 maintaining equipment and infrastructure, and providing for the
14 processing and marketing of services or products.

15 "Corporation" means the public land development
16 corporation.

17 "Coventure" means an investment by the corporation in
18 qualified securities of an enterprise in which a substantial
19 investment is also being made or has been made by a professional
20 investor to provide seed capital to an enterprise. A guarantee
21 by the corporation of qualified securities provided by a
22 professional investor shall be classified as a coventure. An



1 investment made by the corporation, which is a direct
2 investment, may later be classified as a coventure upon an
3 investment by a professional investor.

4 "Department" means the department of land and natural
5 resources.

6 "Direct investment" means an investment by the corporation
7 in qualified securities of an enterprise in which no investment
8 is being or has been made by a professional investor to provide
9 seed capital to the enterprise.

10 "Enterprise" means a business with its principal place of
11 business in Hawaii, which is or proposes to be engaged in
12 recreational and commercial area development, development of new
13 value-added products, enhancement of existing recreational or
14 commercial commodities, and the application of existing
15 recreation or commercial areas and appurtenant facilities to
16 productive uses.

17 "Fund" means the Hawaii public lands development revolving
18 fund.

19 "Private lender" includes banks, savings and loan
20 associations, mortgage companies, and other qualified companies
21 whose business includes the making of loans in the State.



1 "Professional investor" means any bank, bank holding
2 company, savings institution, farm credit institution, trust
3 company, insurance company, investment company registered under
4 the federal Investment Company Act of 1940, financial services
5 loan company, pension or profit-sharing trust or other financial
6 institution or institutional buyer, licensee under the federal
7 Small Business Investment Act of 1958, or any person,
8 partnership, or other entity of whose resources, a substantial
9 amount is dedicated to investing in securities or debt
10 instruments, and whose net worth exceeds \$250,000.

11 "Project" means a specific undertaking, improvement, or
12 system consisting of work or improvement, including personal
13 property or any interest therein acquired, constructed,
14 reconstructed, rehabilitated, improved, altered, or repaired by
15 the corporation.

16 "Project cost" means the total of all costs incurred by the
17 corporation in carrying out all undertakings that it considers
18 reasonable and necessary for the development of a project,
19 including studies; plans; specifications; architectural,
20 engineering, or any other development related services;
21 acquisition of land and any improvement thereon; site
22 preparation and development; construction; reconstruction;



1 rehabilitation; the necessary expenses in administering this
2 chapter; the cost of financing the project; and relocation
3 costs.

4 "Project facilities" includes roads and streets, utility
5 and service corridors, utility lines where applicable, water and
6 irrigation systems, lighting systems, security systems, sanitary
7 sewerage systems, and other community facilities where
8 applicable.

9 "Qualified person" means any individual, partnership,
10 corporation, or public agency possessing the competence,
11 expertise, experience, and resources, including financial,
12 personnel, and tangible qualifications, as may be deemed
13 desirable by the corporation in administering this chapter.

14 "Qualified security" means any note, stock, treasury stock
15 bond, debenture, evidence of indebtedness, certificate of
16 interest or participation in any profit-sharing agreement,
17 preorganization certificate of subscription, transferable share,
18 investment contract, certificate of deposit for a security,
19 certificate of interest or participation in a patent or patent
20 application, or in royalty or other payments under such a patent
21 or application, or, in general, any interest or instrument
22 commonly known as a "security" or any certificate for, receipt



1 for, or option, warrant, or right to subscribe to or purchase
2 any of the foregoing.

3 "Revenue bonds" means bonds, notes, or other evidence of
4 indebtedness of the corporation issued to finance any project
5 facility.

6 "Seed capital" means financing that is provided for the
7 development, refinement, and commercialization of a product or
8 process and other working capital needs.

9 "Trustee" means a national or state bank or trust company,
10 within or outside the State, that enters into a trust indenture.

11 "Trust indenture" means an agreement by and between the
12 corporation and a trustee that sets forth the duties of the
13 trustee with respect to the revenue bonds, the security thereof,
14 and other provisions as may be deemed necessary or convenient by
15 the corporation to secure the revenue bonds.

16 "Value-added" means any activity that increases, by means
17 of development or any other means, the value of public lands.

18 § -3 Public land development corporation; established.

19 (a) There is established the public land development
20 corporation, which shall be a public body corporate and politic
21 and an instrumentality and agency of the State. The corporation



1 shall be headed by the board. The corporation shall be placed
2 within the department for administrative purposes.

3 (b) The board of directors of the public land development
4 corporation shall consist of five voting members, four of whom
5 shall be appointed by the governor with the advice and consent
6 of the senate, who possess sufficient knowledge, experience, and
7 proven expertise in small and large businesses within the
8 development and recreational industries, banking, real estate,
9 finance, promotion, marketing, and management. Of these four
10 voting members, there shall be one voting member from each of
11 the four counties. The fifth voting member shall be the
12 chairperson of the board of land and natural resources or the
13 chairperson's designee.

14 (c) The board shall appoint an executive director, who
15 shall serve at the pleasure of the board and shall be exempt
16 from chapter 76. The salary of the executive director shall be
17 set by the board.

18 (d) The board, through its executive director, may appoint
19 officers, agents, and employees; prescribe their duties and
20 qualifications; and fix their salaries, without regard to
21 chapter 76.



1 § -4 Powers; generally. Except as otherwise limited by
2 this chapter, the corporation may:

- 3 (1) Sue and be sued;
- 4 (2) Have a seal and alter the same at its pleasure;
- 5 (3) Make and alter bylaws for its organization and
6 internal management;
- 7 (4) Adopt rules under chapter 91 necessary to effectuate
8 this chapter in connection with its projects,
9 operations, and properties;
- 10 (5) Make and execute contracts and all other instruments
11 necessary or convenient for the exercise of its powers
12 and functions under this chapter;
- 13 (6) Carry out surveys, research, and investigations into
14 technological, business, financial, consumer trends,
15 and other aspects of leisure or recreational land uses
16 in the national and international community;
- 17 (7) Subject to section 171-30, acquire or contract to
18 acquire by grant or purchase any real, personal, or
19 mixed-use property or any interest therein for its
20 immediate or future use for the purposes of this
21 chapter; own, hold, improve, and rehabilitate any
22 real, personal, or mixed property acquired; and sell,



- 1 assign, exchange, transfer, convey, lease, or
2 otherwise dispose of, or encumber the same;
- 3 (8) By itself, or in partnership with qualified persons or
4 other governmental agencies, acquire, construct,
5 reconstruct, rehabilitate, improve, alter, or repair
6 any infrastructure or accessory facilities in
7 connection with any project; own, hold, sell, assign,
8 transfer, convey, exchange, lease, or otherwise
9 dispose of, or encumber any project; and develop or
10 manage, by itself, or in partnership with qualified
11 persons or other governmental agencies, any project
12 that meets the purposes of this chapter;
- 13 (9) In cooperation with any governmental agency, or
14 otherwise through direct investment or coventure with
15 a professional investor or enterprise or any other
16 person, or otherwise, acquire, construct, operate, and
17 maintain public land facilities at rates or charges
18 determined by the corporation;
- 19 (10) Assist developmental, recreational, and visitor-
20 industry related enterprises, or projects developed or
21 managed by the corporation, by conducting detailed
22 marketing analysis and developing marketing and



- 1 promotional strategies to strengthen the position of
2 those enterprises and to better exploit local,
3 national, and international markets;
- 4 (11) Carry out specialized programs designed to develop new
5 markets for recreation and visitor-industry related
6 products;
- 7 (12) Receive, examine, and determine the acceptability of
8 applications of qualified persons for allowances or
9 grants for the development of new recreation and
10 visitor-industry related products, the expansion of
11 established recreation and visitor-industry or land
12 development enterprises, and the altering of existing
13 recreational, visitor-industry related, or land
14 development enterprises;
- 15 (13) Coordinate its activities with any federal or state
16 programs;
- 17 (14) Grant options to purchase any project or to renew any
18 lease entered into by the corporation in connection
19 with any of its projects, on the terms and conditions
20 it deems advisable;
- 21 (15) Provide advisory, consultative, training, and
22 educational services, technical assistance, and advice



1 to any person, partnership, or corporation, either
2 public or private, in order to carry out the purposes
3 of this chapter, and engage the services of
4 consultants on a contractual basis for rendering
5 professional and technical assistance and advice;

6 (16) Procure insurance against any loss in connection with
7 its property and other assets and operations in
8 amounts and from insurers as it deems desirable;

9 (17) Accept gifts or grants in any form from any public
10 agency or any other source;

11 (18) Manage the commercial and residential use of Ala Wai
12 boat harbor pursuant to section 200- ; and

13 (19) Do all things necessary or proper to carry out the
14 purposes of this chapter.

15 § -5 **Hawaii public land optimization plan.** (a) The
16 corporation shall prepare the Hawaii public land optimization
17 plan, which shall define and establish goals, objectives,
18 policies, and priority guidelines for its public land
19 optimization development strategy. The plan shall include:

20 (1) An inventory of public lands with suitable adequate
21 development potential that are or will become
22 available that can be used to meet present and future



1 recreational, visitor-industry, or land development
2 needs;

3 (2) Protection of culturally-sensitive areas;

4 (3) Feasible strategies for the promotion and marketing of
5 any leisure or recreational projects in local,
6 national, and international markets;

7 (4) Proposals to improve the gathering of data and the
8 timely presentation of information on market demands
9 and trends that can be used to plan future projects;
10 and

11 (5) Strategies for federal and state legislative actions
12 that will promote the development and enhancement of
13 Hawaii's public lands.

14 (b) The corporation shall revise the Hawaii public lands
15 optimization plan from time to time and shall incorporate the
16 plan in its annual report to the governor and the legislature as
17 provided in section -20.

18 § -6 **Public lands optimization projects; development**

19 **plans.** (a) The corporation may develop and implement public
20 lands optimization projects where appropriate public lands may
21 be developed or managed to create appropriate leisure or
22 recreational areas to create revenue-generating centers or



1 where, through detailed analysis, opportunities exist to exploit
2 potential local, national, and international markets.

3 (b) The corporation may initiate and coordinate the
4 preparation of business and public land development plans for
5 its projects. The plans shall include a proposal for the
6 organization of the enterprise, a marketing information and
7 strategy, the impact on existing development or visitor-related
8 industries throughout the State, and a recommendation for the
9 construction, reconstruction, rehabilitation, improvement,
10 alteration, or repair of any infrastructure or accessory
11 facilities in connection with any project.

12 (c) The corporation may enter into cooperative agreements
13 with coordinating entrepreneurs or public agencies when the
14 powers, services, and capabilities of the persons or agencies
15 are deemed necessary and appropriate for the development and
16 implementation of the business and public land development
17 plans.

18 (d) Notwithstanding any provision of this chapter to the
19 contrary, when leasing corporation-controlled public land, the
20 corporation may contract with a financial institution chartered
21 under chapter 412 or a federal financial institution, as defined
22 under section 412:1-109, that transacts business in this State



1 to provide lease management services. For the purposes of this
2 subsection, "lease management services" includes the collection
3 of lease rent and any other moneys owed to the corporation
4 related to the lease of public land under the corporation's
5 control.

6 (e) The public land planning activities of the corporation
7 shall be coordinated with the county planning departments and
8 the county land use plans, policies, and ordinances.

9 (f) The corporation may amend the business and public land
10 development plans as may be necessary or appropriate.

11 (g) Any undertaking by the corporation pursuant to this
12 chapter shall be with the express written consent of the
13 landowner or landowners directly affected.

14 § -7 **Project facility program.** (a) The corporation may
15 develop a project to identify necessary project facilities
16 within a project area.

17 (b) Unless and except as otherwise provided by law,
18 whenever the corporation undertakes, or causes to be undertaken,
19 any project facility as part of a project, the cost of providing
20 the project facilities shall be assessed against the real
21 property in the project area specially benefiting from the
22 project facilities. Subject to the express written consent of



1 the landowners directly affected, the corporation shall
2 determine the properties that will benefit from the project
3 facilities to be undertaken and may establish assessment areas
4 that include the properties specially benefiting from the
5 project facilities. The corporation may issue and sell bonds in
6 amounts as shall be authorized by the legislature to provide
7 funds to finance the project facilities. The corporation shall
8 fix the assessments against the real property specially
9 benefited.

10 (c) Unless and except as otherwise provided by law, the
11 corporation may adopt rules pursuant to chapter 91 to establish
12 the method of undertaking and financing project facilities in a
13 project area.

14 (d) Unless and except as otherwise provided by law, bonds
15 issued to provide funds to finance project facilities shall be
16 secured solely by the real properties benefited or improved and
17 the assessments thereon, or by the revenues derived from the
18 project for which the bonds were issued, including reserve
19 accounts and earnings thereon, insurance proceeds, and other
20 revenues, or any combination thereof. The bonds may be
21 additionally secured by the pledge or assignment of loans and
22 other agreements or any note or other undertaking, obligation,



1 or property held by the corporation. The bonds shall be issued
2 according to and subject to the rules adopted pursuant to this
3 section. Any other law to the contrary notwithstanding, in
4 assessing real property for project facilities, the corporation
5 shall assess the real property within a project area according
6 to the special benefits conferred upon the real property by the
7 project facilities. These methods may include an assessment on
8 a frontage basis or according to the area of real property
9 within a project area, or any other assessment method that
10 assesses the real property according to the special benefit
11 conferred, or any combination thereof. No assessment levied
12 under this section against real property specially benefited
13 under this chapter shall constitute a tax on real property
14 within the meaning of any law.

15 (e) The rules adopted pursuant to this section may
16 include:

- 17 (1) The methods of establishing assessment areas within a
18 project area;
- 19 (2) The method of assessing real properties specially
20 benefited;



- 1 (3) The costs to be borne by the corporation, the county
2 in which the project facilities are situated, and the
3 property owners;
- 4 (4) The procedures before the corporation relating to the
5 creation of the assessment areas by the owners of real
6 property therein, including provisions for petitions,
7 bids, contracts, bonds, and notices;
- 8 (5) Provisions relating to assessments;
- 9 (6) Provisions relating to financing, such as bonds, the
10 Hawaii public land development revolving fund,
11 advances from available funds, special funds for the
12 payment of bonds, the payment of principal and
13 interest, and the sale and use of bonds;
- 14 (7) Provisions relating to funds and the refunding of
15 outstanding debts; and
- 16 (8) Provisions relating to limitations on time to sue, and
17 other related provisions.
- 18 (f) Any other provisions to the contrary notwithstanding,
19 the corporation, at its discretion, may enter into any agreement
20 with the county in which project facilities are located, to
21 implement the purposes of this section.



1 (g) All sums collected under this section shall be
2 deposited in the fund established by section -17, except that
3 all moneys collected on account of assessments and interests
4 thereon for any specific project facilities financed by the
5 issuance of bonds, shall be set apart in a separate subaccount
6 and applied solely for the following purposes:

- 7 (1) The principal and interest on these bonds;
- 8 (2) The cost of administering, operating, and maintaining
9 the project not to exceed fifteen per cent of the sums
10 collected, net of principal and interest payments, on
11 account of assessments and interests for any specific
12 project facility;
- 13 (3) The establishment of program reserves not to exceed
14 eighty-five per cent of the sums collected, net of
15 principal and interest payments, on account of
16 assessments and interests for any specific project
17 facility; provided that accumulated reserves shall be
18 credited to and become a part of the department of
19 land and natural resources' special land and
20 development fund, established under section 171-19;
21 and



1 (4) Other purposes as may be authorized in the proceedings
2 providing for the issuance of the bonds.

3 If any surplus remains in any subaccount after the payment
4 of the bonds chargeable against that subaccount, the surplus
5 shall be credited to and become a part of the fund, except as
6 provided in paragraph (3). Notwithstanding any other law to the
7 contrary, moneys in the fund may be used to make up any
8 deficiencies in the subaccount.

9 (h) If all or a part of the project facilities to be
10 financed through bonds by the corporation may be dedicated to
11 the county in which the project facilities are to be located,
12 the corporation shall ensure that the project facilities or
13 applicable portions thereof are designed and constructed to meet
14 county requirements.

15 § -8 Approval of projects, plans, and programs. All
16 public lands optimization projects, public land development
17 plans, and project facility programs developed by the
18 corporation shall be approved by the board.

19 § -9 Bonds. (a) The corporation, with the approval of
20 the governor, may issue, from time to time, revenue bonds in
21 amounts not exceeding the total amount of bonds authorized to be
22 issued by the legislature for the purpose of constructing,



1 acquiring, remodeling, furnishing, and equipping any project
2 facility, including the acquisition of the site of the facility;
3 or acquiring non-public lands through purchase to sustain and
4 preserve leisure or recreational enterprises within a contiguous
5 geographic area.

6 (b) All revenue bonds shall be issued pursuant to part III
7 of chapter 39, except as provided in this chapter.

8 (c) The revenue bonds shall be issued in the name of the
9 corporation and not in the name of the State. The final
10 maturity date of the revenue bonds may be any date not exceeding
11 thirty years from the date of issuance.

12 § -10 Revenue bonds; payment and security. (a) The
13 revenue bonds shall be payable from and secured by the real
14 properties specially benefited or improved and the assessments
15 thereon, or by the revenues derived from the project facility
16 for which the revenue bonds were issued, including revenue
17 derived from insurance proceeds and reserve accounts, and
18 earnings thereon.

19 (b) The corporation may pledge revenues derived from the
20 project facility financed from the proceeds of the revenue bonds
21 to the punctual payment of the principal, interest, and
22 redemption premiums, if any, on the revenue bonds.



1 (c) The revenue bonds may be additionally secured by the
2 pledge or assignment of the loans and other agreements or any
3 note or other undertaking, obligation, or property held by the
4 corporation to secure the loans.

5 (d) Any pledge made by the corporation shall create a
6 perfected security interest in the revenues, moneys, or property
7 so pledged and thereafter received by the corporation, from and
8 after the time that the financing statement with respect to the
9 revenues, moneys, or property so pledged and thereafter received
10 are filed with the bureau of conveyances. Upon the filing, the
11 revenues, moneys, or property so pledged and thereafter received
12 by the corporation shall immediately be subject to a lien of any
13 pledge without any physical delivery thereof or having claims of
14 any kind in tort, contract, or otherwise against the
15 corporation, irrespective of whether the parties have notice
16 thereof. This section shall apply to any financing statement
17 heretofore or hereafter filed with the bureau of conveyances
18 with respect to any pledge made to secure revenue bonds issued
19 under this chapter.

20 § -11 Revenue bonds; interest rate, price, and sale.

21 (a) The revenue bonds issued pursuant to this chapter shall



1 bear interest at a rate or rates and shall be payable on a date
2 or dates, as the corporation shall determine.

3 (b) The corporation shall include the costs of undertaking
4 the project facility for which the revenue bonds are issued in
5 determining the principal amount of revenue bonds to be issued.
6 In determining the cost of undertaking the project facility, the
7 corporation may include:

- 8 (1) The cost of constructing, acquiring, remodeling,
9 furnishing, and equipping the project facility,
10 including the acquisition of the site of the facility;
 - 11 (2) The cost of purchasing or funding loans or other
12 agreements entered into for the project facility;
 - 13 (3) The costs of studies and surveys;
 - 14 (4) Insurance premiums;
 - 15 (5) Underwriting fees;
 - 16 (6) Financial consultant, legal, accounting, and marketing
17 services incurred;
 - 18 (7) Reserve account, trustee, custodian, and rating agency
19 fees; and
 - 20 (8) Any capitalized interest.
- 21 (c) The revenue bonds may be sold at public or private
22 sale, and for a price as may be determined by the corporation.



1 § -12 **Revenue bonds; investment of proceeds and**
2 **redemption.** Subject to any agreement with the holders of its
3 revenue bonds, the corporation may:

4 (1) Invest its moneys not required for immediate use,
5 including proceeds from the sale of revenue bonds, in
6 any investment in accordance with procedures
7 prescribed in a trust indenture; and

8 (2) Purchase its revenue bonds out of any fund or money of
9 the corporation available therefor, and hold, cancel,
10 or resell the revenue bonds.

11 § -13 **Revenue bonds; subaccounts.** (a) A separate
12 subaccount shall be established for each project facility
13 financed from the proceeds of the revenue bonds secured under
14 the same trust indenture. Each subaccount shall be designated
15 "project facility revenue bond subaccount" and shall bear
16 additional designation as the corporation deems appropriate to
17 properly identify the fund.

18 (b) Notwithstanding any other law to the contrary,
19 including section -17, all revenues, income, and receipts
20 derived from the project facility for which the revenue bonds
21 are issued shall be paid into the project facility revenue bond
22 subaccount established for that project facility and applied as



1 provided in the proceedings authorizing the issuance of the
2 revenue bonds.

3 § -14 **Trustee; designation, duties.** (a) The
4 corporation shall designate a trustee for each issue of revenue
5 bonds secured under the same trust indenture.

6 (b) The trustee shall be authorized by the corporation to
7 hold and administer the project facility revenue bond subaccount
8 established pursuant to section -13, to receive and receipt
9 for, hold, and administer the revenues derived by the
10 corporation from the project facility for which the revenue
11 bonds were issued, and to apply these revenues to the payment of
12 the cost:

- 13 (1) Of undertaking the project facility;
- 14 (2) Of administering and operating the proceedings
15 providing for the issuance of the revenue bonds;
- 16 (3) To pay the principal or interest on these bonds;
- 17 (4) Of the establishment of reserves; and
- 18 (5) To other purposes as may be authorized in the
19 proceedings providing for the issuance of the revenue
20 bonds.



1 (c) Notwithstanding section 39-68 to the contrary, the
2 director of finance may appoint the trustee to serve as fiscal
3 agent for:

4 (1) The payment of the principal of and interest on the
5 revenue bonds; and

6 (2) The purchase, registration, transfer, exchange, and
7 redemption of the bonds.

8 (d) The trustee shall perform additional functions with
9 respect to the payment, purchase, registration, transfer,
10 exchange, and redemption of the bonds, as the director of
11 finance may deem necessary, advisable, or expeditious, including
12 the holding of the revenue bonds and coupons that have been paid
13 and the supervision of the destruction thereof in accordance
14 with applicable law.

15 (e) Nothing in this chapter shall limit or be construed to
16 limit the powers granted to the director of finance in sections
17 36-3, 39-13, and 39-68(a), to appoint the trustee or others as
18 fiscal agents, paying agents, and registrars for the revenue
19 bonds or to authorize and empower those fiscal agents, paying
20 agents, and registrars to perform the functions referred to in
21 those sections.



1 § -15 **Trust indenture.** (a) A trust indenture may
2 contain covenants and provisions authorized by part III of
3 chapter 39, and as may be deemed necessary or convenient by the
4 corporation for the purposes of this chapter.

5 (b) A trust indenture may allow the corporation to pledge
6 and assign to the trustee loans and other agreements related to
7 the project facility, and the rights of the corporation
8 thereunder, including the right to receive revenues thereunder
9 and to enforce the provisions thereof.

10 (c) A trust indenture shall also contain provisions as to:

11 (1) The investment of the proceeds of the revenue bonds,
12 the investment of any reserve for the bonds, the
13 investment of the revenues of the project facility,
14 and the use and application of the earnings from
15 investments; and

16 (2) The terms and conditions upon which the holders of the
17 revenue bonds or any portion of them or any trustee
18 thereof may institute proceedings for the foreclosure
19 of any loan or other agreement or any note or other
20 undertaking, obligation, or property securing the
21 payment of the bonds and the use and application of
22 the moneys derived from the foreclosure.



1 (d) A trust indenture may also contain provisions deemed
2 necessary or desirable by the corporation to obtain or permit,
3 by grant, interest, subsidy, or otherwise, the participation of
4 the federal government in the financing of the costs of
5 undertaking the project facility.

6 § -16 **Transfer of public lands.** Notwithstanding chapter
7 171 to the contrary, the department may transfer management of
8 lands under its jurisdiction to the corporation for its use.

9 § -17 **Hawaii public land development revolving fund;**
10 **established; use of corporation funds.** (a) There is
11 established the Hawaii public land development revolving fund,
12 to which shall be credited any state appropriations to the fund
13 or other moneys made available to the fund, to be expended as
14 directed by the corporation.

15 (b) The corporation shall hold the fund in an account or
16 accounts separate from other funds. The corporation shall
17 invest and reinvest the fund and the income thereof to:

18 (1) Purchase qualified securities issued by enterprises
19 for the purpose of raising seed capital; provided that
20 the investment shall comply with the requirements of
21 this chapter;



1 (2) Make grants, loans, and provide other monetary forms
2 of assistance necessary to carry out the purposes of
3 this chapter; and

4 (3) Purchase securities as may be lawful investments for
5 fiduciaries in the State.

6 All appropriations, grants, contractual reimbursements, and
7 other funds not designated for this purpose may be used to pay
8 for the proper general expenses and to carry out the purposes of
9 the corporation.

10 (c) The corporation shall purchase qualified securities
11 issued by an enterprise only after:

12 (1) Receiving:

13 (A) An application from the enterprise containing a
14 business plan, which is consistent with the
15 business and public land development plan,
16 including a description of the enterprise and its
17 management, product, and market;

18 (B) A statement of the amount, timing, and projected
19 use of the capital required;

20 (C) A statement of the potential economic impact of
21 the enterprise, including the number, location,
22 and types of jobs expected to be created; and



- 1 (D) Any other information as the corporation shall
- 2 require;
- 3 (2) Determining, based upon the application submitted,
- 4 that:
- 5 (A) The proceeds of the investment will be used only
- 6 to cover the seed capital needs of the
- 7 enterprise, except as authorized in this section;
- 8 (B) The enterprise has a reasonable chance of
- 9 success;
- 10 (C) The enterprise has the reasonable potential to
- 11 create employment within the State and offers
- 12 employment opportunities to residents;
- 13 (D) The coordinating entrepreneur and other founders
- 14 of the enterprise have already made or are
- 15 prepared to make a substantial financial and time
- 16 commitment to the enterprise;
- 17 (E) The securities to be purchased are qualified
- 18 securities;
- 19 (F) There is reasonable possibility that the
- 20 corporation will recoup at least its initial
- 21 investment; and



1 (G) Binding commitments have been made to the
2 corporation by the enterprise for adequate
3 reporting of financial data to the corporation,
4 which shall include a requirement for an annual
5 or other periodic audit of the books of the
6 enterprise, and for control by the corporation
7 that it considers prudent over the management of
8 the enterprise, in order to protect the
9 investment of the corporation, including
10 membership on the board of directors of the
11 enterprise, ownership of voting stock, input in
12 management decisions, and the right of access to
13 the financial and other records of the
14 enterprise; and

15 (3) Entering into a binding agreement with the enterprise
16 concerning the manner of payback by the enterprise of
17 the funds advanced, granted, loaned, or received from
18 the corporation. The manner of payback may include
19 the payment of dividends, returns from the public sale
20 of corporate securities or products, royalties, and
21 other methods of payback acceptable to the
22 corporation. In determining the manner of payback the



1 corporation shall establish a rate of return or rate
2 of interest to be paid on any investment, loan, or
3 grant of corporation funds under this section.

4 (d) If the corporation makes a direct investment, it shall
5 also find that a reasonable effort has been made to find a
6 professional investor to make an investment in the enterprise as
7 a coventure, and that the effort was unsuccessful. The
8 findings, when made by the corporation, shall be conclusive.

9 (e) The corporation shall make investments in qualified
10 securities issued by an enterprise in accordance with the
11 following limits:

12 (1) Not more than \$500,000 shall be invested in the
13 securities of any one enterprise, except that more
14 than a total of \$500,000 may be invested in the
15 securities of any one enterprise if the corporation
16 finds, after its initial investment, that additional
17 investments in that enterprise are required to protect
18 the initial investment of the corporation, and the
19 other findings set forth in subsection (d) and this
20 subsection are made as to the additional investment;

21 (2) The corporation shall not own securities representing
22 more than forty-nine per cent of the voting stock of



1 any one enterprise at the time of purchase by the
2 corporation after giving effect to the conversion of
3 all outstanding convertible securities of the
4 enterprise, except that if a severe financial
5 difficulty of the enterprise occurs, threatening the
6 investment of the corporation in the enterprise, a
7 greater percentage of those securities may be owned by
8 the corporation; and

9 (3) Not more than fifty per cent of the assets of the
10 corporation shall be invested in direct investments at
11 any time.

12 (f) No investment, loan, grant, or use of corporate funds
13 for the purposes of this chapter shall be subject to chapter
14 42F.

15 § -18 **Exemption from taxation.** The corporation shall
16 not be required to pay state taxes of any kind.

17 § -19 **Exemption from county requirements.**

18 Notwithstanding section 171-42 and except as otherwise noted in
19 this chapter, the corporation shall not be required to comply
20 with otherwise applicable county zoning, subdivision, and
21 permitting requirements; provided that the public land planning
22 activities of the corporation shall be coordinated with the



1 county planning departments and the county land use plans,
2 policies, and ordinances.

3 § -20 **Annual report.** The corporation shall submit to
4 the governor and the legislature, no later than twenty days
5 prior to the convening of each regular session, a complete and
6 detailed report of its plans and activities."

7 SECTION 5. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so
9 much thereof as may be necessary for fiscal year 2011-2012 and
10 the same sum or so much thereof as may be necessary for fiscal
11 year 2012-2013 for:

12 (1) The establishment and operation of the public land
13 development corporation; and

14 (2) The funding for three staff positions as follows:

15 (A) Executive Director of the corporation;

16 (B) A planner; and

17 (C) A project-development specialist.

18 The sums appropriated shall be expended by the department
19 of land and natural resources for the purposes of this part.



1 **PART IV**

2 **REHABILITATION OF THE ALA WAI SMALL BOAT HARBOR**

3 SECTION 6. The department of land and natural resources,
4 through its division of boating and ocean recreation, operates
5 and manages twenty-one harbors, fifty boat ramps, 2,122 moorings
6 and berths, and nineteen piers spread throughout the various
7 counties of the State. The legislature finds that these ocean
8 recreation facilities, in light of the present demand, are in
9 short supply and, in most cases where they exist, are in dire
10 need of long overdue repair and maintenance. Some facilities
11 are in such need of repair and replacement that they cannot be
12 safely used.

13 One of these facilities, the Ala Wai small boat harbor,
14 requires badly needed repair and replacement of floating docks;
15 however, the need for further maintenance at Ala Wai and other
16 boat harbors remains unfulfilled. In spite of its needs, the
17 Ala Wai small boat harbor includes certain assets within its
18 facilities that are underused and if properly developed could
19 potentially generate revenues that would enable not only its own
20 continued improvement and maintenance but the improvement and
21 maintenance of the rest of the facilities now operated by the



1 department of land and natural resources' division of boating
2 and ocean recreation.

3 The legislature finds that the State cannot afford to let
4 the value of small boat harbors continue to decline.

5 The purpose of this part is to:

- 6 (1) Place the commercial and residential use of the Ala
7 Wai boat harbor under the jurisdiction of the
8 corporation;
- 9 (2) Allow the limited issuance of commercial use permits
10 for vessels with assigned moorings in Ala Wai and
11 Keehi harbors;
- 12 (3) Provide for future mooring fees to be established by
13 appraisal by a state-licensed appraiser; and
- 14 (4) Direct the department of land and natural resources to
15 use the request for proposals process to enter into a
16 public-private partnership for the development of
17 portions of Ala Wai small boat harbor facilities that
18 are presently underused to maximize the revenue
19 potential from its facilities.

20 SECTION 7. Chapter 200, Hawaii Revised Statutes, is
21 amended by adding a new section to be appropriately designated
22 and to read as follows:



1 "§200- Ala Wai boat harbor; public lands development
2 corporation. Notwithstanding any law to the contrary,
3 commercial and residential use of the Ala Wai boat harbor shall
4 be under the jurisdiction of the public lands development
5 corporation as provided under chapter ."

6 SECTION 8. Section 200-2.5, Hawaii Revised Statutes, is
7 amended by amending subsections (b) and (c) to read as follows:

8 "(b) The permissible uses under any lease disposed of
9 under this section shall be consistent with the purpose for
10 which the land was set aside by the governor pursuant to section
11 171-11. Permissible uses may include any use that will
12 complement or support the ocean recreation or maritime
13 activities of state boating facilities.

14 (c) Disposition of public lands of state boating
15 facilities constructed, maintained, and operated in accordance
16 with this chapter shall not exceed a maximum term of [~~fifty-~~
17 ~~five]~~ sixty-five years."

18 SECTION 9. Section 200-8, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~[§200-8]~~ **Boating program; payment of costs.** The cost
21 of administering a comprehensive statewide boating program,
22 including ~~[7]~~ but not limited to ~~[7]~~ the cost of:



1 (1) Operating, maintaining, and managing all boating
2 facilities under the control of the department;
3 (2) Improving boating safety;
4 (3) Operating a vessel registration and boating casualty
5 investigation and reporting system; and
6 (4) Other boating program activities,
7 shall be paid from the boating special fund[-]; provided that
8 any fees collected from state small boat harbors shall only be
9 expended on costs related to the operation, upkeep, maintenance,
10 and improvement of state small boat harbors. The amortization
11 (principal and interest) of the costs of capital improvements
12 for boating facilities appropriated after July 1, 1975,
13 including[-] but not limited to[-] berths, slips, ramps, related
14 accommodations, general navigation channels, breakwaters, aids
15 to navigation, and other harbor structures, may be paid from the
16 boating special fund or from general revenues as the legislature
17 may authorize in each situation. Revenues provided in this
18 chapter for the boating special fund shall be at least
19 sufficient to pay the special fund costs established in this
20 section."

21 SECTION 10. Section 200-9, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§200-9 Purpose and use of state small boat harbors. (a)

2 State small boat harbors are constructed, maintained, and
3 operated for the purposes of:

4 (1) Recreational boating activities;

5 (2) Landing of fish; and

6 (3) Commercial vessel activities.

7 For the purpose of this section, "recreational boating
8 activities" means the [~~utilization~~] use of watercraft for
9 sports, hobbies, or pleasure, and "commercial vessel activities"
10 means the [~~utilization~~] use of vessels for activities or
11 services provided on a fee basis. To implement these purposes,
12 only vessels in good material and operating condition that are
13 regularly navigated beyond the confines of the small boat
14 harbor[~~7~~] and [~~which~~] that are used for recreational activities,
15 the landing of fish, or commercial vessel activities shall be
16 permitted to moor, anchor, or berth at [~~such~~] a state small boat
17 harbor or use any of its facilities.

18 (b) Vessels used for purposes of recreational boating
19 activities [~~which~~] that are also the principal habitation of the
20 owners shall occupy no more than one hundred twenty-nine berths
21 at Ala Wai boat harbor and thirty-five berths at Keehi boat
22 harbor, which is equal to fifteen per cent of the respective



1 total moorage space that was available as of July 1, 1976, at
2 the Ala Wai and Keehi boat harbors. [~~Notwithstanding the~~
3 ~~purposes of small boat harbors, moorage for commercial vessels~~
4 ~~and commercial vessel activities is not permitted in the Ala Wai~~
5 ~~and Keehi boat harbors; provided that]~~

6 (c) The total number of valid commercial use permits that
7 may be issued for vessels assigned with a mooring at Ala Wai
8 boat harbor shall not exceed fifteen per cent of the total
9 berths and shall not exceed thirty-five per cent of the total
10 berths at the Keehi boat harbor; provided that at the Ala Wai
11 boat harbor, vessels issued commercial use permits shall:

- 12 (1) Not exceed sixty-five feet in length;
13 (2) Occupy not more than fifty-six berths located along
14 the row of berths furthestmost mauka or adjacent to
15 Holomua street, with the remainder located throughout
16 the Ala Wai boat harbor, with a priority assigned to
17 row seven hundred and row eight hundred;
18 (3) Be phased-in in a manner that does not displace any
19 existing recreational boater or existing catamaran
20 operator; and
21 (4) Include commercial catamarans, for which valid
22 commercial use permits or existing registration



1 certificates have been issued by the department
2 [~~which~~] that allow the catamarans to operate upon
3 Waikiki shore waters for hire [~~, may be permitted to~~
4 ~~moor in Ala Wai boat harbor at facilities leased for~~
5 ~~commercial purposes~~].

6 The department shall allow a sole proprietor of a catamaran
7 operating with a valid commercial use permit or existing
8 registration certificate, issued by the department, for a
9 commercial catamaran to land its commercial catamaran on Waikiki
10 beach [~~and~~], to operate upon Waikiki shore waters for hire, and
11 to transfer the ownership of the vessel from personal ownership
12 to corporate or other business ownership without terminating the
13 right to operate under the commercial use permit or existing
14 registration certificate. The existing commercial use permit or
15 existing registration certificate shall be reissued in a timely
16 manner in the name of the transferee corporation or other
17 business entity. No valid commercial use permit or existing
18 registration certificate issued to an owner of a commercial
19 catamaran operating in the Waikiki area shall be denied or
20 revoked without a prior hearing held in accordance with chapter
21 91.



1 ~~(e)~~ (d) Notwithstanding any limitations on commercial
2 permits for Maui county small boat facilities, vessels engaging
3 in inter-island ferry service within Maui county shall be
4 afforded preferential consideration for ferry landings,
5 including the issuance of a commercial operating permit and the
6 waiver of any applicable fees, at Maui county small boat
7 facilities; provided that:

8 (1) The vessel operator has been issued a certificate of
9 public convenience and necessity for the purpose of
10 engaging in inter-island ferry service that includes a
11 route within Maui county;

12 (2) The design and performance characteristics of the
13 vessel will permit safe navigation within the harbor
14 entrance channel and safe docking within Maui county
15 small boat facilities;

16 (3) The vessel operations will not result in unreasonable
17 interference with the use of Maui county small boat
18 facilities by other vessels; and

19 (4) All preferential consideration and waivers, including
20 any commercial permits issued under this section,
21 shall cease upon the vessel operator's termination of
22 inter-island ferry service within Maui county.



1 [~~d~~] (e) The chairperson may adopt rules pursuant to
2 chapter 91 to further implement this section."

3 SECTION 11. Section 200-10, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The permittee shall pay moorage fees to the
6 department for the use permit that shall be based on, but not
7 limited to, the use of the vessel, its effect on the harbor, use
8 of facilities, and the cost of administering this mooring
9 program; and, furthermore:

10 (1) [Moorage] Except for commercial maritime activities
11 where there is a tariff established by the department
12 of transportation, moorage fees shall be established
13 by appraisal by a state-licensed appraiser approved by
14 the department and shall be higher for nonresidents[+]
15 than for residents. The mooring fees shall be set by
16 appraisal categories schedule A and schedule B, to be
17 determined by the department, and may be increased
18 annually by the department, to reflect a cost-of-
19 living index increase;

20 (2) For commercial maritime activities where there is a
21 tariff established by the department of
22 transportation, harbors division, the department may



1 adopt the published tariff of the department of
2 transportation, harbors division, or establish the fee
3 by appraisal by a state-licensed appraiser approved by
4 the department; and

5 ~~[(2)]~~ (3) An application fee shall be collected when
6 applying for moorage in state small boat harbors and
7 shall thereafter be collected annually when the
8 application is renewed. The application fee shall be:

9 (A) Set by the department; and

10 (B) Not less than \$100 for nonresidents;

11 ~~[(3)]~~ (4) If a recreational vessel is used as a place of
12 principal habitation, the permittee shall pay, in
13 addition to the moorage fee, a liveaboard fee that
14 shall be calculated at a rate of:

15 (A) \$5.20 a foot of vessel length a month if the
16 permittee is a state resident; and

17 (B) \$7.80 a foot of vessel length a month if the
18 permittee is a nonresident;

19 provided that the liveaboard fees established by this
20 paragraph may be increased by the department at the
21 rate of the annual cost-of-living index, but not more



1 than five per cent in any one year, beginning

2 [~~January~~] July 1 of each year; [and

3 ~~(4)]~~ (5) If a vessel is used for commercial purposes from
4 its permitted mooring, the permittee shall pay, in
5 lieu of the moorage and liveaboard fee, a fee based on
6 three per cent of the gross revenues derived from the
7 use of the vessel or two times the moorage fee
8 assessed for a recreational vessel of the same size,
9 whichever is greater~~[-]~~; and

10 (6) In addition, the department is authorized to assess
11 and collect utility fees, including electrical and
12 water charges, and common area maintenance fees in
13 small boat harbors."

14 SECTION 12. (a) Pursuant to section 200-2.5, Hawaii
15 Revised Statutes, the department of land and natural resources
16 is directed to lease certain fast lands at the Ala Wai harbor
17 using the request for proposals process for the public-private
18 development, management, and operation of areas of Ala Wai
19 harbor.

20 (b) The permissible uses under this lease shall include:

21 (1) A minimum of not less than one hundred twenty berths
22 for vessels; provided that:



- 1 (A) Not more than forty berths shall be available for
- 2 vessels used for purposes of recreational boating
- 3 activities that are also the principal habitation
- 4 of the owners;
- 5 (B) Not more than thirty berths, including those
- 6 allowed pursuant to section 200-9(b), Hawaii
- 7 Revised Statutes, shall be available for vessels
- 8 issued commercial use permits; and
- 9 (C) All berths provided under this paragraph shall be
- 10 made available to the public pursuant to
- 11 department of land and natural resources rules,
- 12 with moorage fees to be determined by the
- 13 developer;
- 14 (2) Office space, including a minimum of square
- 15 feet for division of boating and ocean recreation use;
- 16 (3) Vehicular parking, including a minimum of
- 17 parking stalls for division of boating and
- 18 ocean recreation use and for public metered parking;
- 19 (4) Commercial uses, including but not limited to
- 20 restaurants, retail shops, marine supplies shops, and
- 21 sundry stores, all made available to the public;



- 1 (5) Residential, hotel, and timeshare uses; provided that
2 the use is consistent with neighboring parcels with a
3 developable height limit of three hundred fifty feet
4 and a maximum floor area ratio of four;
- 5 (6) The development of a seawater air conditioning
6 district cooling facility designed to support the
7 visitor industry in Waikiki in the vicinity of Ala Wai
8 harbor;
- 9 (7) Vessel fueling facilities;
- 10 (8) Vessel haul-out and repair facilities; and
- 11 (9) Vessel haul-out and storage facilities.
- 12 (c) The lease shall not exceed a maximum term of
13 sixty-five years and shall provide for:
- 14 (1) A minimum lease rent that is the greater of a
15 commercially acceptable percentage of the gross
16 receipts of the lessee from the developed leased
17 premises or a fair return on the fair market value of
18 the vacant leased premises, as determined by appraisal
19 by a state-licensed appraiser approved by the
20 department, with reasonable periodic step-ups in the
21 minimum lease rent over the term of the lease; and



1 (2) A three-year development period with a fixed reduced
2 lease rent.

3 (d) Chapter 171 and section 190D-33, Hawaii Revised
4 Statutes, notwithstanding, all revenues from the lease shall be
5 deposited in the boating special fund established pursuant to
6 section 248-8, Hawaii Revised Statutes.

7 **PART V**

8 **MISCELLANEOUS PROVISIONS**

9 SECTION 13. All rules, policies, procedures, guidelines,
10 and other material adopted by the chairperson of the board of
11 land and natural resources for purposes of part I, chapter 200,
12 Hawaii Revised Statutes, shall remain in full force and affect
13 until amended or repealed by the public lands development
14 corporation established by this Act.

15 SECTION 14. If any provision of this Act, or the
16 application thereof to any person or circumstance is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act, which can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.

21



1 SECTION 15. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 16. This Act shall take effect on July 1, 2050.

4



Report Title:

Public Lands; Leases; Wildlife; Public Land Development Corporation; Ala Wai Boat Harbor

Description:

Restricts the rental period of certain leases granted by BLNR to not more than 65 years. Amends the definition of "wildlife" in chapter 197, Hawaii Revised Statutes. Prohibits the introduction of wildlife on state lands by any persons without the authorization of the department of land and natural resources. Establishes a public corporation to administer an appropriate and culturally-sensitive public land development program. Places Ala Wai boat harbor under the jurisdiction of the public land development corporation. Allows the limited issuance of commercial use permits for vessels with assigned moorings in Ala Wai and Keehi harbors. Provides for future mooring fees to be established by appraisal by a state-licensed appraiser. Directs DLNR to use the request for proposals process to enter into a public-private partnership for the development of portions of Ala Wai small boat harbor facilities that are presently underused to maximize the revenue potential from its facilities. Effective 7/1/2050. (Proposed SD2)

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

