
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 SECTION 1. The legislature finds that many of the leases
2 for commercial, industrial, hotel, and resort properties on
3 state land are nearing the end of the lease terms. Faced with
4 the uncertainty of continued tenancy, lessees have little
5 incentive to make major investments in improvements to their
6 infrastructures and ensure the long-term maintenance of their
7 facilities. As a result, the infrastructures on these
8 properties have been deteriorating.

9 A 2003 study by the legislative reference bureau found
10 that, for commercial and industrial zoned lands, much of the
11 existing industrial inventory is "old, dilapidated, and in need
12 of renovation or redevelopment." The study also found that the
13 State of Hawaii is the largest landowner of leasehold commercial
14 and industrial parcels.

15 The legislature further finds that improvements to
16 commercial, hotel, resort, and industrial infrastructures are
17 important to the growth and expansion of Hawaii businesses, and
18 for the enhancement of Hawaii's visitor infrastructure to



1 accommodate the anticipated influx of visitors, particularly to
2 east Hawaii, with direct mainland flights that will start in the
3 summer of 2011.

4 The purpose of this Act is to authorize the board of land
5 and natural resources to authorize the extension of commercial,
6 hotel, resort, and industrial leases for the lessees'
7 substantial improvement to the leased premises.

8 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§171- Commercial, hotel, resort, or industrial leases;
12 extension of term. (a) Notwithstanding section 171-36, the
13 board may extend the lease term of public lands for commercial,
14 hotel, resort, or industrial use upon the approval by the board
15 of a development agreement proposed by the lessee or lessee and
16 developer to make substantial improvements to the demised
17 premises.

18 (b) Prior to entering into a development agreement, the
19 lessee or lessee and developer shall submit to the board the
20 plans and specifications for the total development being
21 proposed. The board shall review the plans and specifications
22 and determine:



1 (1) Whether the development proposed in the development
2 agreement is of sufficient worth and value to justify
3 the extension of the lease;

4 (2) The estimated period of time to complete the
5 improvements and expected date of completion of the
6 improvements; and

7 (3) The minimum revised annual rent based on the fair
8 market value of the lands to be developed, as
9 determined by an appraiser for the board, and
10 percentage rent where gross receipts exceed a
11 specified amount.

12 No lease extension shall be approved until the board and the
13 lessee or lessee and developer mutually agree to the terms and
14 conditions of the development agreement.

15 (c) No construction shall commence until the lessee or
16 lessee and developer have filed with the board a sufficient bond
17 conditioned upon the full and faithful performance of all the
18 terms and conditions of the development agreement.

19 (d) Any extension of a lease pursuant to this section
20 shall be based upon the substantial improvements to be made and
21 shall be for a period not longer than fifty-five years.



1 (e) Any extension of a lease granted pursuant to this
2 section shall be effectuated, documented, and executed using the
3 most current lease form and leasing practices and policies of
4 the board. The intent of this provision is to assure that an
5 extended lease, like the issuance of a new lease, would be
6 subject to the most current leasing practices and policies of
7 the board and incorporated into the lease document.

8 (f) The applicant for a lease extension shall pay all
9 costs and expenses incurred by the department in connection with
10 processing, analyzing, and negotiating any lease extension
11 request and document, and the development agreement in
12 subsections (a) and (b).

13 (g) As used in this section:

14 "Substantial improvements" means any renovation,
15 rehabilitation, reconstruction, or construction of the demised
16 premises, including minimum requirements for off-site and on-
17 site improvements, the cost of which equals or exceeds fifty per
18 cent of the market value of the demised premises, that the
19 lessee or lessee and developer shall install, construct, and
20 complete by the date of completion of the total development."

21 SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval,
2 and shall be repealed on December 31, 2015.



Report Title:

BLNR; Public Lands; Lease Extension; Development Agreement

Description:

Authorizes Board of Land and Natural Resources to extend leases of public lands for commercial, hotel, resort, or industrial use upon approval of a proposed development agreement to make substantial improvements to the premises. Sunsets December 31, 2015. (HB1617 HD1)

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