

JAN 21 2011

A BILL FOR AN ACT

RELATING TO GROUND LEASES.

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

1 SECTION 1. The purpose of this Act is to encourage the
2 extension of ground leases by requiring lessors who do not
3 extend a ground lease to offer to sell the leased fee interest
4 in the land to the lessee.

5 SECTION 2. Chapter 666, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§666- Extension of long-term ground leases; sale of
9 leased fee interest in land. (a) Within the final ten years of
10 a long-term commercial or industrial ground lease, the lessee
11 may request from the lessor an extension of the lease. If the
12 lessor does not extend the term of the existing lease or issue a
13 new ground lease:

14 (1) For a term of at least thirty years with substantially
15 similar lease terms; and

16 (2) At a rental rate that is mutually agreeable to the
17 lessee and lessor or a rental rate that is determined
18 by appraisal pursuant to subsection (b);



1 the lessor shall be required to offer to sell the fee simple
2 interest in the land to the lessee for the amount fixed by an
3 appraiser's determination of the leased-fee interest in the
4 land, in compliance with the uniform standards of professional
5 appraisal practice.

6 (b) If a lessor and lessee are unable to agree on a rental
7 rate, the rate shall be determined by appraisal. The lessor and
8 the lessee shall each select an appraiser, who then shall
9 jointly choose a third appraiser. All appraisers shall hold a
10 MAI designation from the Appraisal Institute. The new rental
11 rate shall be determined upon the agreement of any two of the
12 three appraisers. Each appraiser shall be impartial and adhere
13 to the uniform standards of professional appraisal practice.

14 In the event that either the lessor or lessee fails to
15 select an appraiser, the selection shall be made by a judge
16 sitting in the circuit in which the land is located. The lessor
17 and lessee shall be responsible for the cost of their respective
18 appraisers, and the cost of the third appraiser shall be shared
19 equally by the lessor and lessee.

20 The lessor and lessee may agree to have a single appraiser.
21 The agreement shall be in writing and signed by both the lessor



1 and lessee, with the cost of the appraiser to be shared equally
2 by the lessor and lessee.

3 (c) In the event of any conflict regarding procedures or
4 valuation processes, the uniform standards of professional
5 practice shall control."

6 SECTION 3. New statutory material is underscored.

7 SECTION 4. This Act shall take effect upon its approval
8 and shall apply retroactively to any ground lease in effect on
9 the Act's effective date.

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INTRODUCED BY:

Anne Chun Caldwell



Report Title:

Ground Leases; Extension; Sale of Leased-Fee Interest

Description:

Requires lessors who do not extend a ground lease to offer to sell the leased fee interest in the land to the lessee who requests the extension.

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