
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 SECTION 1. Chapter 171, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:

4 "§171- Right to lease extensions; appraisals;
5 improvements. (a) Notwithstanding section 171-14, any lessee
6 of public land under a sixty-five year lease or a lease that is
7 eligible for extension to a sixty-five year term under section
8 171-36 shall, beginning on the date ten years before the
9 expiration of the lease, have the right to extend the lease of
10 the public land for a period not to exceed thirty years;
11 provided that:

- 12 (1) The lease is in good standing;
13 (2) Extension is required to secure financing for a
14 capital investment on the property; and
15 (3) The lessee demonstrates the lessee is qualified for
16 available financing that is dependent on extension of
17 the lease term by providing documentation from the
18 lender.



1 (b) The aggregate term of the original lease plus the
2 extension period shall be no longer than eighty-five years. The
3 extension period shall be calculated beginning on the date of
4 the approval of the lease extension. The lessee shall be
5 entitled to only one lease extension under this section and no
6 further lease extension pursuant to any provision of law shall
7 be granted to a tenant who elects to extend a lease pursuant to
8 this section. Upon expiration of an extension pursuant to this
9 section, the lease shall terminate and be subject to disposition
10 by public auction.

11 (c) Notwithstanding the eighty-five year aggregate limit
12 or the length of the original lease period, a lessee eligible
13 for and acting in good faith to secure the financing required
14 for an extension under this section shall be permitted to
15 continue to occupy and use the leased premises after the
16 expiration of the original lease during the pendency of the
17 approval process for the required financing if, but for final
18 approval of the financing, the lessee is qualified for the lease
19 extension. Use and occupancy shall be subject to the same lease
20 terms and conditions applicable on the last day the original
21 lease was in effect. Calculation of both the extension period



1 and the aggregate lease term shall be tolled during the period
2 of use and occupancy pursuant to this subsection.

3 (d) The renewed or extended lease under subsection (a)
4 shall provide for the payment of rent at the fair market value
5 of the land. The fair market value of the land shall be
6 determined without consideration of the value of improvements
7 made to the land by the lessee. If the lessee and the board are
8 unable to agree as to the fair market rent, the rent shall be
9 determined by appraisal as provided in section 171-17(b).

10 (e) If the lessee waives its right to lease extension
11 under subsection (a) or the lessee does not agree to the terms
12 of the lease extension, the board shall reimburse the lessee for
13 the depreciated value of improvements made to the land by the
14 lessee upon expiration of the lease.

15 (f) Subsection (a) shall not apply to any lessee who is in
16 arrears in the payment of taxes, rents, or other obligations
17 owing the State or any county or who has had, during the five
18 years preceding the anticipated disposition of the public land
19 at a public auction, a previous sale, lease, license, permit, or
20 easement covering other public lands canceled for failure to
21 satisfy the terms and conditions thereof."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval



Report Title:

Public Lands; Right of First Refusal

Description:

Grants certain lessees of public land the right to extend a lease ten years prior to expiration based on financing for capital improvements on the land. Establishes appraisal process for determination of fair market value for rental purposes. Provides for payments to the lessee for depreciated value of improvements where the lease is not extended. (HB1688 HD1)

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