

JAN 17 2014

A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

1 SECTION 1. The legislature finds that the United States
2 has used enhanced use leases for funding construction or
3 renovation on federal property by allowing a private partner to
4 lease underutilized property and pay rent in the form of cash or
5 in-kind services. The advantages to the private partner include
6 establishment in a convenient location and the opportunity to
7 provide sole-source services and products in lieu of rent for
8 the lease. Additionally, the advantages for the federal agency
9 offering the enhanced use lease include the possibility of fast-
10 tracking alterations, repairs, or new construction so that the
11 improved space becomes available for lease and receiving in-kind
12 considerations or cash to no less than the fair market value of
13 the property as rent by the private partner. Currently,
14 enhanced use leases are used by the Department of Defense and
15 the Veterans Administration.

16 The legislature further finds that the State continuously
17 faces fiscal challenges that result in unmaintained and



1 dilapidated state properties and facilities. Also, funding for
2 projects lapse, which delays maintenance and repairs.

3 The legislature finds that a state enhanced use lease
4 program has the potential to unleash captive value from property
5 or facilities, reduce operation and maintenance requirements,
6 attract tenants who are synergistic with the mission of the
7 agency or department, provide cash or an in-kind funding source
8 for needed and unfunded projects, stimulate local economy, and
9 improve community relations. In addition, enhanced use leases
10 benefit the community through job creation, economic stimulus,
11 potential tax revenues, and the potential to fulfill the
12 objectives of the local jurisdiction.

13 The purpose of this Act is to allow all state agencies and
14 departments to lease underused properties and facilities to
15 private partners through an enhanced use lease program.

16 SECTION 2. The Hawaii Revised Statutes is amended by
17 adding a new chapter to be appropriately designated and to read
18 as follows:

19 **"CHAPTER**

20 **ENHANCED USE LEASE PROGRAM**

21 **§ -1 Definitions.** As used in this chapter, unless the
22 context otherwise requires:



1 "Enhanced use lease" means a lease by which a private
2 partner leases underutilized property of a state agency in
3 return for cash or in-kind services in lieu of rent.

4 "State agency" means any department, office, commission,
5 council, board, bureau, authority, committee, institution,
6 legislative body, agency, government corporation, or other
7 establishment or office of the executive, legislative, or
8 judicial branch of the State, including the office of Hawaiian
9 affairs.

10 **§ -2 Authority to establish enhanced use lease program.**

11 Any state agency may establish an enhanced use lease program to
12 lease underused property or facilities under its jurisdiction to
13 private partners to make improvements to the property that can
14 be leased at market rents to any interested parties. Under the
15 enhanced use lease agreement, the agency shall retain control
16 over the leased property, and the private partner shall retain a
17 lease interest only.

18 **§ -3 Requirements; prohibitions.** A state agency leasing
19 underutilized property or facilities through an enhanced use
20 lease with a private partner shall:

21 (1) Not sell any property or facilities to the private
22 partner;



- 1 (2) Collect rent from the private partner in the form of
- 2 cash or in-kind services no less than fair market
- 3 value of the property or asset or fair market rent;
- 4 (3) Not enter into any business entity relationship with
- 5 the private partner;
- 6 (4) Not contribute any equity into the private partner's
- 7 project;
- 8 (5) Not make any guarantees of revenue to the private
- 9 partner;
- 10 (6) Enter into long-term or short-term leases;
- 11 (7) Only lease property or facilities that are
- 12 underutilized; and
- 13 (8) Receive income on leased property or facilities;
- 14 provided that the income can be used to fund other
- 15 projects and does not have to be invested in the
- 16 leased property or facilities.

17 **§ -4 Adoption of rules.** The board of each respective
18 state agency that leases property or facilities through an
19 enhanced use lease shall adopt rules, pursuant to chapter 91,
20 and procedures necessary to implement the state agency's
21 enhanced use lease program, including but not limited to:

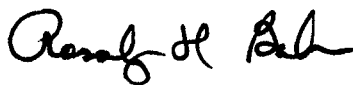
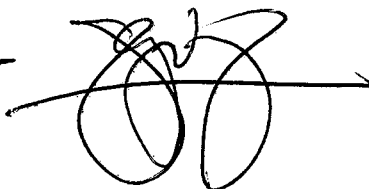
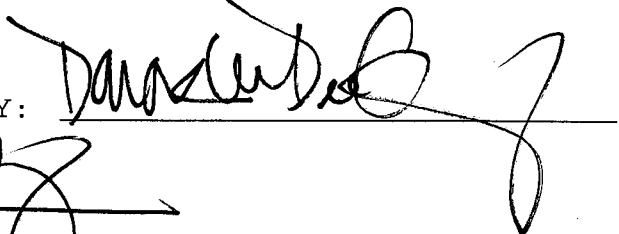


- 1 (1) Identifying enhanced use lease projects and non-excess
- 2 assets under its jurisdiction;
- 3 (2) Developing concept packages and market analysis;
- 4 (3) Advertising competitive notice of opportunity to
- 5 lease;
- 6 (4) Developing a system to evaluate proposals and select
- 7 private partners;
- 8 (5) Developing lease and management plans;
- 9 (6) Creating a negotiation process;
- 10 (7) Maximizing rent for compatible use of property or
- 11 facilities that is not excess, but for which there is
- 12 no long-term planned use;
- 13 (8) Specifying property or facility use, terms, and rent;
- 14 and
- 15 (9) Creating a project use schedule; provided that the
- 16 state agency has the right to terminate the enhanced
- 17 use lease if the schedule is not met."

18 SECTION 3. This Act shall take effect upon its approval.

19

INTRODUCED BY:



S.B. NO. 2558

Report Title:

Enhanced Use Lease; State Agencies

Description:

Allows state agencies and departments to rent or lease underused property or facilities to private partners and collect rent through in-kind services or cash.

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

