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## 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 the department of  
2 land and natural resources has the responsibility of planning  
3 for the disposition of commercial, industrial, hotel, and resort  
4 classes of public lands to determine:

- 5           (1) Specific use or uses;  
6           (2) Minimum size of parcels;  
7           (3) Required building construction or improvements; and  
8           (4) Lease terms and requirements.

9           The legislature also finds that because of the policies  
10 guiding the management of public lands with commercial,  
11 industrial, resort, and hotel uses, there has been little  
12 incentive for lessees to make major improvements to their  
13 infrastructure, resulting in the deterioration of infrastructure  
14 and facilities. The lack of improvement to property in many of  
15 these areas has resulted in dilapidation, deterioration, age, or  
16 obsolescence of the buildings and structures in those areas.



1           The legislature further finds that the rejuvenation of  
2 areas of public lands that have become dilapidated, obsolete, or  
3 have deteriorated over time is in the public interest and  
4 constitutes a valid public purpose.

5           The purpose of this Act is to authorize the designation of  
6 development districts, comprising areas or regions of public  
7 lands classified as commercial, industrial, resort, or hotel,  
8 and the establishment and implementation of guidelines for the  
9 redevelopment of the areas or regions that will:

- 10           (1) Define the policies for the management of public lands  
11                in the designated area;
- 12           (2) Establish a plan for the designated area, including  
13                district-wide improvements, that is coordinated with  
14                state and county land use and planning policies; and
- 15           (3) Implement asset and property management concepts that  
16                can optimize income from the properties and evolve in  
17                response to changing principles of property  
18                administration.

19           SECTION 2. Chapter 171, Hawaii Revised Statutes, is  
20 amended by adding a new part to be appropriately designated and  
21 to read as follows:



1                   "PART . PUBLIC LANDS REDEVELOPMENT

2           §171-A Definitions. As used in this part:

3           "Redevelopment district" or "designated district" means an  
4 area of public lands designated pursuant to section 171-B for  
5 redevelopment.

6           "Planning committee" or "committee" means the policy-making  
7 committee for a redevelopment district established pursuant to  
8 section 171-C.

9           "Public facilities" include streets and highways, storm  
10 drainage systems, water systems, street lighting systems, off-  
11 street parking facilities, and sanitary sewerage systems.

12           §171-B Designation of redevelopment district; boundaries;  
13 termination. (a) By statute, the legislature shall designate  
14 an area of public lands that is designated as an industrial  
15 park, pursuant to section 171-132, or classified as commercial,  
16 industrial, hotel, or resort use, pursuant to section 171-10, as  
17 a redevelopment district if it determines that there is a need  
18 for planning, development, or redevelopment because the  
19 buildings and infra-structures in the area are dilapidated or  
20 have deteriorated due to age or obsolescence.

1 (b) The designation shall describe the boundaries of the  
2 redevelopment district.

3 §171-C Planning committee; district administrator. (a)  
4 Upon the designation of a redevelopment district pursuant to  
5 section 171-B, a planning committee for the designated district  
6 shall be established and placed in the department for  
7 administrative purposes.

8 (b) The committee shall be a policy-making committee for  
9 the designated district and shall consist of nine members. The  
10 members shall consist of:

- 11 (1) The chairperson of the board of land and natural  
12 resources;
- 13 (2) The director of planning of the county in which the  
14 designated district is located; and
- 15 (3) Seven public members appointed by the governor  
16 pursuant to section 26-34; provided that three of  
17 these members shall be selected from a list of not  
18 less than six names submitted by the mayor of the  
19 county in which the designated district is located;  
20 provided further that all seven public members shall  
21 be residents of the county in which the designated



1 district is located, and shall be selected on the  
2 basis of their knowledge, experience, and expertise  
3 in:

- 4 (A) Small or large businesses management;
- 5 (B) Economics, banking, investment, or finance;
- 6 (C) Real estate development;
- 7 (D) Real estate management;
- 8 (E) Marketing; or
- 9 (F) Hotel and resort management.

10 (c) The committee shall elect its chairperson from among  
11 the public members.

12 (d) The members of the committee shall serve without  
13 compensation, but shall be reimbursed for expenses, including  
14 travel expenses, incurred in the performance of their duties.

15 (e) The committee shall appoint a district administrator  
16 who shall be the chief executive officer for the designated  
17 district. The district administrator shall have experience and  
18 expertise in engineering, planning, architecture, real estate,  
19 or law. The committee shall set the district administrator's  
20 duties, responsibilities, holidays, vacations, leaves, hours of  
21 work, and working conditions. The committee shall set the



1 salary of the district administrator, who shall serve at the  
2 pleasure of the committee and shall be exempt from chapter 76.

3 (f) The committee shall cease to exist on June 30 of the  
4 tenth year following the effective date of the Act establishing  
5 the designated district.

6 **§171-D Powers and duties; generally.** The committee shall  
7 have the powers and duties related to its functions in the  
8 designated district that are delegated to the committee by the  
9 board. In addition, the committee may:

- 10 (1) Through its district administrator, appoint staff and  
11 employees, prescribe their duties and qualifications,  
12 and fix their salaries, without regard to chapter 76;
- 13 (2) Through its district administrator, allocate space or  
14 spaces that are to be occupied by the committee and  
15 appropriate staff; and purchase necessary supplies,  
16 equipment, or furniture;
- 17 (3) Prepare a development plan for the designated  
18 district;
- 19 (4) Notwithstanding any other law to the contrary, renew  
20 or renegotiate any lease in connection with any  
21 project contained in the development plan for the



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- 1 designated district, on such terms and conditions as  
2 it deems advisable;
- 3 (5) Prepare or cause to be prepared plans, design  
4 criteria, landscaping, and estimates of costs for the  
5 construction, rehabilitation, or repair of any project  
6 contained in the development plan for the designated  
7 district, and from time to time to modify such plans,  
8 or estimates;
- 9 (6) Conduct studies in conjunction with county and state  
10 agencies necessary to determine the appropriate  
11 activities for development in the designated district;
- 12 (7) Reduce or waive the lease rental on any lease of  
13 public land for any project in the designated district  
14 that requires substantial improvements; provided that  
15 the reduction or waiver shall not exceed one year;
- 16 (8) Make and execute all contracts and instruments that  
17 are necessary for the exercise of its powers and  
18 functions relating to the designated district,  
19 including the engaging of the services of consultants  
20 for rendering of professional and technical assistance  
21 and advice;



- 1           (9) Enter into a development agreement with a developer or  
2           developers for any project contained in the  
3           development plan; provided that the development  
4           agreement shall contain:
- 5           (A) The location, area, and size of the parcel to be  
6           developed;
- 7           (B) The use or uses to which the parcel shall be put  
8           in conformance with the development plan, and  
9           with applicable state and county laws and  
10          ordinances;
- 11          (C) The period of time for the construction and  
12          completion of the development; and
- 13          (D) Other terms and conditions that the committee  
14          deems necessary;
- 15          (10) Work closely and communicate with the county  
16          government to coordinate the execution of the  
17          designated district's planning, incremental projects,  
18          work schedules, public works, and budget; and
- 19          (11) Do any and all things necessary to carry out its  
20          purposes and exercise the powers given and granted in  
21          this chapter.





1           §171-E District redevelopment plan. (a) The committee  
2 shall prepare a redevelopment plan for the designated district,  
3 including district development policies, the district  
4 improvement program, necessary public facilities, and the  
5 development guidelines and rules for the designated development  
6 district.

7           (b) The committee shall prepare a redevelopment plan for  
8 the designated district that:

9           (1) Establishes, if applicable, areas principally for:

10                   (A) Commercial activities;

11                   (B) Processing, construction, manufacturing,  
12                               transportation, wholesaling, storage, and similar  
13                               industrial activities;

14                   (C) Resort and hotel activities, including facilities  
15                               and services for visitors; or

16                   (D) Public and recreational facilities with detailed  
17                               standards for height, bulk, size, and location of  
18                               buildings;

19           (2) Includes a district-wide improvement program for  
20                   necessary district-wide public facilities within the  
21                   designated district;



- 1           (3) Includes plans, specifications, and estimates of the  
2           costs for the development, construction,  
3           reconstruction, or improvement of any project in the  
4           designated district, and from time to time modify the  
5           plans, specifications, or estimates;
- 6           (4) If possible, identifies specific uses for areas in the  
7           designated district and the required parceling of land  
8           into minimum size areas related to the specific uses;
- 9           (5) Determines the lease rental that should be established  
10          for the specific uses and the terms and conditions of  
11          the leases; and
- 12          (6) Establishes interim development controls to be  
13          implemented during the transition to the execution of  
14          the provisions of the redevelopment plan, such as  
15          recommending the holdover of a lessee pursuant to  
16          section 171-40 or issuance of permits pursuant to  
17          section 171-55 to existing lessees upon the expiration  
18          of their lease terms.
- 19          (c) The district redevelopment plan may provide for the  
20          withdrawal or taking for public purposes of the public land or  
21          portion of the public land under a lease. The rental shall be



1 reduced in proportion to the value of the portion of the  
2 premises condemned, and the lessee shall be entitled to receive  
3 the proportionate value of the permanent improvements legally  
4 made to or constructed upon the land by the lessee taken in the  
5 proportion that it bears to the unexpired term of the lease.

6 (d) The committee shall hold a public hearing on a  
7 proposed redevelopment plan for the designated district, and  
8 shall consider the comments received and incorporate any  
9 revisions to the plan that may be necessary.

10 (e) Two years after the date it is established, the  
11 committee shall submit a report to the board with the  
12 development plan recommended by the committee with its  
13 recommendations for appropriations by the legislature or the  
14 authorization of bonds or both, to implement the development  
15 plan in a timely manner. The board shall submit the report to  
16 the governor and the legislature with a request for the required  
17 appropriations and bond authorization.

18 (f) The designated district redevelopment plan shall  
19 supersede all other inconsistent ordinances and rules relating  
20 to the use, planning, development and construction on public  
21 land in the designated development district.



1           §171-F Designated redevelopment district revolving fund.

2       (a) The department shall establish a separate revolving fund  
3 for each redevelopment district designated pursuant to section  
4 171-B, into which shall be deposited:

5           (1) Fifty per cent of the revenues, income, and receipts  
6 of the department from the public lands in the  
7 designated development district, notwithstanding  
8 section 171-19;

9           (2) Moneys appropriated by the legislature to the  
10 revolving fund; and

11          (3) Any gifts, grants, and other funds accepted by the  
12 department.

13 Each revolving fund shall bear the name used by the legislature  
14 in designating the development district.

15          (b) Moneys in the designated redevelopment district  
16 revolving fund shall be used in the designated redevelopment  
17 district for the purposes of this part; provided that no  
18 expenditure shall be made from the fund and no obligation shall  
19 be incurred against the fund in excess of the amount standing to  
20 the credit of the fund."



1 SECTION 3. Section 171-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "public purpose" to read  
3 as follows:

4 "Public purpose", as used in this chapter, unless the  
5 context clearly indicates otherwise, includes [~~but shall not be~~  
6 ~~limited to~~] all public uses, the straightening of boundaries of  
7 public lands, acquisition of access to landlocked public lands,  
8 the consolidation of the holdings of public lands, development  
9 of houselots, farmlots, [~~and~~] industrial parks[-], and the  
10 redevelopment of public lands pursuant to part ."

11 SECTION 4. Section 171-35, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "§171-35 Lease provisions; generally. Every lease issued  
14 by the board of land and natural resources shall contain:

- 15 (1) The specific use or uses to which the land is to be  
16 employed;
- 17 (2) The exact commencement and termination dates for the  
18 lease, and the term and type of notice required to  
19 exercise any renewal option, if applicable;





1           "§171-36 Lease restrictions; generally. (a) Except as  
2 otherwise provided, the following restrictions shall apply to  
3 all leases:

4           ~~[(1) Options for renewal of terms are prohibited;~~

5           ~~(2)]~~ (1) No lease shall be for a longer term than sixty-

6           five years, except in the case of a residential

7           leasehold which may provide for an initial term of

8           fifty-five years with the privilege of extension to

9           meet the requirements of the Federal Housing

10          Administration, Federal National Mortgage Association,

11          Federal Land Bank of Berkeley, Federal Intermediate

12          Credit Bank of Berkeley, Berkeley Bank for

13          Cooperatives, or Veterans Administration requirements;

14          ~~[provided that the aggregate of the initial term and~~

15          ~~extension shall in no event exceed seventy five years;~~

16          ~~(3) No lease shall be made for any land under a lease~~

17          ~~which has more than two years to run;~~

18          ~~(4)]~~ (2) No lease shall be made to any person who is in

19          arrears in the payment of taxes, rents, or other

20          obligations owing the State or any county;



1       ~~[-5-]~~ (3) No lease shall be transferable or assignable,  
2           except by devise, bequest, or intestate succession;  
3           provided that with the approval of the board of land  
4           and natural resources, the assignment and transfer of  
5           a lease or unit thereof may be made in accordance with  
6           current industry standards, as determined by the  
7           board; provided further that prior to the approval of  
8           any assignment of lease, the board shall have the  
9           right to review and approve the consideration to be  
10          paid by the assignee and may condition its consent to  
11          the assignment of the lease on payment by the lessee  
12          of a premium based on the amount by which the  
13          consideration for the assignment, whether by cash,  
14          credit, or otherwise, exceeds the depreciated cost of  
15          improvements and trade fixtures being transferred to  
16          the assignee; provided further that with respect to  
17          state agricultural leases, ~~[in the event of]~~ if a  
18          foreclosure or sale~~[-7]~~ occurs, the premium, if any,  
19          shall be assessed only after the encumbrances of  
20          record and any other advances made by the holder of a  
21          security interest are paid;





1       ~~[(6)]~~ (4) The lessee shall not sublet the whole or any part  
2           of the demised premises except with the approval of  
3           the board; provided that prior to the approval, the  
4           board shall have the right to review and approve the  
5           rent to be charged to the sublessee; provided further  
6           that in the case where the lessee is required to pay  
7           rent based on a percentage of its gross receipts, the  
8           receipts of the sublessee shall be included as part of  
9           the lessee's gross receipts; provided further that the  
10          board shall have the right to review and, if  
11          necessary, revise the rent of the demised premises  
12          based upon the rental rate charged to the sublessee  
13          including the percentage rent, if applicable, and  
14          provided that the rent may not be revised downward;

15       ~~[(7)]~~ (5) The lease shall be for a specific use or uses and  
16           shall not include waste lands, unless it is  
17           impractical to provide otherwise;

18       ~~[(8)]~~ (6) Mineral and metallic rights and surface and  
19           ground water shall be reserved to the State; and

20       ~~[(9)]~~ (7) No lease of public lands, including submerged  
21           lands, nor any extension of any ~~[such]~~ lease~~[-]~~ of



1           public or submerged lands shall be issued by the State  
2           to any person to construct, use, or maintain a  
3           sunbathing or swimming pier or to use the lands for  
4           [~~such~~] those purposes, unless [~~such~~] the lease, or any  
5           extension thereof, contains provisions permitting the  
6           general public to use the pier facilities on the  
7           public lands and requiring that a sign or signs be  
8           placed on the pier, clearly visible to the public[~~,~~  
9           ~~which~~] that indicates the public's right to the use of  
10          the pier. The board, at the earliest practicable  
11          date, and where legally possible, shall cause all  
12          existing leases to be amended to conform to this  
13          paragraph. The term "lease", for the purposes of this  
14          paragraph, includes month-to-month rental agreements  
15          and similar tenancies.

16          (b) The board, from time to time, upon the issuance or  
17          during the term of any intensive agricultural, aquaculture,  
18          commercial, mariculture, special livestock, pasture, hotel,  
19          resort, or industrial lease, may:

- 20           (1) Modify or eliminate any of the restrictions specified  
21           in subsection (a);



1           (2) Extend or modify the fixed rental period of the  
2           lease [~~7 provided that the aggregate of the initial~~  
3           ~~term and any extension granted shall not exceed sixty~~  
4           ~~five years;~~] upon approval by the board of a  
5           development agreement proposed by the lessee to make  
6           substantial improvements to the existing improvements  
7           or to construct new improvements; or

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

20               (1) The demised premises have been used substantially for  
21               the purpose for which they were originally leased;



1       ~~[(2) The aggregate of the initial term and any extension~~  
2           ~~granted shall not be for more than sixty five years,~~  
3       ~~(3)]~~ (2)   ~~[In the event of]~~ If a reopening~~[7]~~ occurs, the  
4           rental for any ensuing period shall be the fair market  
5           rental at the time of reopening;  
6       ~~[(4)]~~ (3). Any federal or private lending institution shall  
7           be qualified to do business in the State;  
8       ~~[(5)]~~ (4) Proceeds of any mortgage or loan shall be used  
9           solely for the operations or improvements on the  
10          demised premises;  
11       ~~[(6)]~~ (5) Where improvements are financed by the lessee,  
12           the lessee shall submit receipts of expenditures  
13           within a time period specified by the board, otherwise  
14           the lease extension shall be canceled; and  
15       ~~[(7)]~~ (6) The rules of the board, setting forth any  
16           additional terms and conditions, which shall ensure  
17           and promote the purposes of the demised lands.  
18       (c) The board at any time during the term of any intensive  
19       agricultural, aquaculture, or mariculture lease and when  
20       justified by sound economic practices or other circumstances,  
21       may permit an alternative agricultural, aquaculture, or



1 mariculture use or uses for any portion or portions of the land  
2 demised. As a condition to permitting alternative uses, the  
3 board may require [~~such~~] other modifications, including rental  
4 adjustments or changes in the lease as may be necessary to  
5 effect or accommodate the alternative use or uses. An  
6 alternative use or uses may be allowed by the board upon:

- 7 (1) The application of the lessee;
- 8 (2) Consent of each holder of record having a security  
9 interest in the leasehold; and
- 10 (3) A finding by the board that the alternative use or  
11 uses are in the public interest.
- 12 (d) The board, from time to time, during the term of any  
13 agriculture, intensive agriculture, aquaculture, commercial,  
14 mariculture, special livestock, pasture, hotel, resort, or  
15 industrial lease, may modify or eliminate any of the  
16 [{}restrictions[{}]] specified in subsection (a), extend or modify  
17 the fixed rental period of the lease, or extend the term of the  
18 lease upon a showing of significant economic hardship directly  
19 caused by:
- 20 (1) State disaster, pursuant to chapter 209, including  
21 seismic or tidal wave, tsunami, hurricane, volcanic



1 eruption, typhoon, earthquake, flood, or severe  
2 drought; or

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

11 (e) The approval of any extension granted pursuant to  
12 subsection (d) shall be subject to the following:

13 (1) The demised premises has been used substantially for  
14 the purposes for which they were originally leased;

15 ~~[(2) The aggregate of the initial term and any extension  
16 granted shall not be for more than fifty five years;~~

17 ~~-(3)]~~ (2) The rental shall not be less than the rental for  
18 the preceding term;

19 ~~[(4)]~~ (3) The rules of the board, setting forth any  
20 additional terms and conditions which shall ensure and  
21 promote the purposes of the demised lands; and



1        [~~5~~] (4)    The length of the extension shall not exceed a  
2                    reasonable length of time for the purpose of providing  
3                    relief [~~and shall in no case exceed five years~~]."

4            SECTION 6.    In codifying the new sections added by section  
5            2 of this Act, the revisor of statutes shall substitute  
6            appropriate section numbers for the letters used in designating  
7            the new sections in this Act.

8            SECTION 7.    There is appropriated out of the general  
9            revenues of the State of Hawaii the sum of \$                    or so much  
10           thereof as may be necessary for fiscal year 2015-2016 and the  
11           same sum or so much thereof as may be necessary for fiscal year  
12           2016-2017 to carry out the purposes of this Act.

13           The sums appropriated shall be expended by the department  
14           of land and natural resources for the purposes of this Act.

15           SECTION 8.    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 that can be given effect without the  
19           invalid provision or application, and to this end the provisions  
20           of this Act are severable.



1 SECTION 9. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on July 1, 2015.

4

INTRODUCED BY: *Hakushima*

JAN 28 2015





# H.B. NO. 1267

**Report Title:**

Public Lands; Redevelopment

**Description:**

Establishes redevelopment districts for public lands for purposes of rejuvenating areas that have become dilapidated, obsolete, or deteriorated. Establishes a committee for each redevelopment district. Appropriates moneys.

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

