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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 among the classes of  
2 public lands managed by the department of land and natural  
3 resources are commercial, industrial, hotel, and resort lands.  
4 The legislature further finds that because of restrictions  
5 imposed by various land management policies, there is little  
6 incentive for lessees of various parcels to make improvements to  
7 the leased parcels. This has resulted in dilapidation,  
8 deterioration, and obsolescence of the properties, which reduces  
9 the revenue-generating potential of the parcels.

10           The purpose of this Act is to identify areas of commercial,  
11 industrial, resort, and hotel parcels in need of revitalization  
12 and to establish guidelines for the redevelopment of those  
13 parcels.

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

17                           "PART . PUBLIC LANDS REDEVELOPMENT



1           §171-A Findings; purpose. (a) The legislature finds  
2 that:

3           (1) Because of the policies guiding the management of  
4 public lands with commercial, industrial, hotel, and  
5 resort uses, there has been little incentive for the  
6 lessees of those properties to make major investments  
7 in improvements to their infrastructure, resulting in  
8 the deterioration of infrastructure and facilities;

9           (2) The lack of improvement to property in many of these  
10 areas has resulted in dilapidation, deterioration,  
11 age, or obsolescence of the buildings and structures  
12 in those areas; and

13           (3) The department has the responsibility of planning for  
14 the disposition of commercial, industrial, hotel, and  
15 resort classes of public lands to determine:

16           (A) Specific use or uses;

17           (B) Minimum size of parcels;

18           (C) Required building construction or improvements;

19                           and

20           (D) Lease terms and requirements.



1           (b) The purpose of this part is to authorize the  
2 designation of areas or regions of public lands classified as  
3 commercial, industrial, hotel, and resort, and the establishment  
4 and implementation of guidelines for the redevelopment of the  
5 areas or regions that will:

6           (1) Define the policies for the management of public lands  
7                 in the designated area;

8           (2) Establish a plan for the designated area, including  
9                 district-wide improvements, that is coordinated with  
10                state and county land use and planning policies; and

11           (3) Implement asset and property management concepts that  
12                can optimize income from the properties and evolve in  
13                response to changing principles of property  
14                administration.

15           (c) The legislature finds that the rejuvenation of areas  
16 of public lands that have become dilapidated, obsolete, or have  
17 deteriorated over time is in the public interest and constitutes  
18 a valid public purpose.

19           §171-B Definitions. As used in this part:



1 "Planning committee" or "committee" means the policy-making  
2 committee established for a redevelopment district pursuant to  
3 section 171-D.

4 "Public facilities" include streets and highways, storm  
5 drainage systems, water systems, street lighting systems, off-  
6 street parking facilities, and sanitary sewerage systems.

7 "Redevelopment district" or "designated district" means an  
8 area of public lands designated for redevelopment pursuant to  
9 section 171-C.

10 **§171-C Designation of redevelopment district; boundaries.**

11 (a) The legislature shall designate redevelopment districts by  
12 statute for any area of public lands designated as an industrial  
13 park pursuant to section 171-132 or classified as commercial,  
14 industrial, hotel, or resort use pursuant to section 171-10 if  
15 the legislaure determines that there is a need for planning,  
16 development, or redevelopment because the buildings and infra-  
17 structures in the area are dilapidated or have deteriorated due  
18 to age or obsolescence.

19 (b) The designation shall describe the boundaries of the  
20 redevelopment district.



1 §171-D Planning committee; district administrator; repeal.

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

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

9 (1) The chairperson of the board of land and natural  
10 resources and the director of planning of the county  
11 in which the designated district is located, or their  
12 designated representatives who shall be ex-officio,  
13 voting members of the committee; and

14 (2) Seven public, voting members appointed by the governor  
15 pursuant to section 26-34; provided that of the  
16 members appointed pursuant to this paragraph:

17 (A) Three members shall be selected from a list of  
18 six names submitted by the mayor of the county in  
19 which the designated district is located; and

20 (B) All seven members shall be residents of the  
21 county in which the designated district is



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

- 3           (i) Management of small or large businesses;
- 4           (ii) Economics, banking, investment, or finance;
- 5           (iii) Real estate development;
- 6           (iv) Real estate management;
- 7           (v) Marketing; or
- 8           (vi) Hotel and resort management.

9           (c) The committee shall elect its chairperson from among  
10          its public, voting members.

11          (d) The members of the committee shall serve without  
12          compensation but shall be reimbursed for reasonable expenses,  
13          including travel expenses, incurred in the performance of their  
14          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 be dissolved on June 30 of the  
4 tenth year following the effective date of the Act establishing  
5 the designated district.

6 §171-E Planning committee; powers and duties; generally.

7 The committee shall have the powers and duties related to its  
8 functions in the designated district that are delegated to the  
9 committee by the 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 redevelopment 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 redevelopment plan for the



- 1 designated district, on terms and conditions as the  
2 committee 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 redevelopment plan for the designated  
7 district, and from time to time to modify the plans or  
8 estimates;
- 9 (6) Conduct studies in conjunction with county and state  
10 agencies necessary to determine the appropriate  
11 activities for redevelopment in the designated  
12 district;
- 13 (7) Reduce or waive the lease rental on any lease of  
14 public land for any project in the designated district  
15 that requires substantial improvements; provided that  
16 the reduction or waiver shall not exceed one year in  
17 duration;
- 18 (8) Make and execute all contracts and instruments that  
19 are necessary for the exercise of the committee's  
20 powers and functions relating to the designated  
21 district, including the engaging of the services of





- 1 consultants for the rendering of professional and  
2 technical assistance and advice;
- 3 (9) Enter into a redevelopment agreement with a developer  
4 or developers for any project contained in the  
5 redevelopment plan; provided that the redevelopment  
6 agreement shall contain:
- 7 (A) The location, area, and size of the parcel to be  
8 redeveloped;
- 9 (B) The use or uses to which the parcel shall be put  
10 in conformance with the redevelopment plan, and  
11 with applicable state and county laws and  
12 ordinances;
- 13 (C) The period of time for the construction and  
14 completion of the redevelopment; and
- 15 (D) Other terms and conditions that the committee  
16 deems necessary;
- 17 (10) Work closely and communicate with the county  
18 government to coordinate the execution of the  
19 designated district's planning, incremental projects,  
20 work schedules, public works, and budget; and



1 (11) Do any and all things necessary to carry out the  
2 committee's purposes and exercise the powers  
3 established pursuant to this part.

4 §171-F District redevelopment plan. (a) The committee  
5 shall prepare a redevelopment plan for the designated district,  
6 including district development policies, the district  
7 improvement program, necessary public facilities, and the  
8 development guidelines and rules for the designated district.  
9 In carrying out its planning activities, the committee shall  
10 comply with applicable state and county statutes, ordinances,  
11 and rules.

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

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

15 (A) Commercial activities;

16 (B) Processing, construction, manufacturing,  
17 transportation, wholesaling, storage and similar  
18 industrial activities;

19 (C) Resort and hotel activities, including uses that  
20 provide facilities and services for visitors; or



- 1 (D) Public facilities and recreational facilities;
- 2 with detailed standards for height, bulk, size,
- 3 and location of buildings;
- 4 (2) Includes a district-wide improvement program for
- 5 necessary district-wide public facilities within the
- 6 designated district;
- 7 (3) Includes plans, specifications, and estimates of the
- 8 costs for the development, construction,
- 9 reconstruction, or improvement of any project in the
- 10 designated district; provided that the committee may
- 11 from time to time modify the plans, specifications, or
- 12 estimates;
- 13 (4) If possible, identifies specific uses for areas in the
- 14 designated district and the required parceling of land
- 15 into minimum size areas related to the specific uses;
- 16 (5) Determines the lease rental that should be established
- 17 for the specific uses and the terms and conditions of
- 18 the leases; and
- 19 (6) Establishes interim development controls to be
- 20 implemented during the transition to the execution of
- 21 the provisions of the redevelopment plan, such as



1           recommending the holdover of a lessee pursuant to  
2           section 171-40 or issuance of permits pursuant to  
3           section 171-55 to existing lessees upon the expiration  
4           of their lease terms.

5           (c) The district redevelopment plan may provide for the  
6           withdrawal or taking for public purposes of the public land or  
7           portion of the public land under a lease. The rental shall be  
8           reduced in proportion to the value of the portion of the  
9           premises condemned, and the lessee shall be entitled to receive  
10          the proportionate value of the permanent improvements legally  
11          made to or constructed upon the land by the lessee taken in the  
12          proportion that it bears to the unexpired term of the lease.

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

17          (e) Two years after the date it is established, the  
18          committee shall submit a report to the board with the  
19          redevelopment plan recommended by the committee along with  
20          recommendations for appropriations by the legislature, the  
21          authorization of bonds, or both, to implement the redevelopment



1 plan in a timely manner. The board shall submit the report to  
2 the governor and the legislature, not later than twenty days  
3 prior to the convening of the 2020 regular session, with a  
4 request for the required appropriations, bond authorization, or  
5 both.

6 (f) The designated district redevelopment plan shall  
7 supersede all other inconsistent ordinances and rules relating  
8 to the use, planning, development, and construction on public  
9 land in the designated district.

10 **§171-G Designated redevelopment district revolving fund.**

11 (a) A separate revolving fund shall be established for each  
12 redevelopment district designated pursuant to section 171-C,  
13 into which shall be deposited:

- 14 (1) Fifty per cent of the revenues, income, and receipts  
15 of the department from the public lands in the  
16 designated district, notwithstanding section 171-19;
- 17 (2) Moneys appropriated by the legislature to the  
18 revolving fund; and
- 19 (3) Any gifts, grants, and other funds accepted by the  
20 department.



1 Each revolving fund shall bear the name used by the legislature  
2 in designating the redevelopment district.

3 (b) Moneys in the designated redevelopment district  
4 revolving fund shall be used in the designated district for the  
5 purposes of this part; provided that no expenditure shall be  
6 made from the fund and no obligation shall be incurred against  
7 the fund in excess of the amount standing to the credit of the  
8 fund."

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

12 "Public purpose", as used in this chapter, unless the  
13 context clearly indicates otherwise, includes but shall not be  
14 limited to all public uses, the straightening of boundaries of  
15 public lands, acquisition of access to landlocked public lands,  
16 the consolidation of the holdings of public lands, development  
17 of houselots, farmlots, ~~and~~ industrial parks~~[-]~~, and the  
18 redevelopment of public lands pursuant to part ."

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



1           "§171-35 Lease provisions; generally. Every lease issued  
2 by the board of land and natural resources shall contain:

3           (1) The specific use or uses to which the land is to be  
4           employed;

5           (2) The exact commencement and termination dates for the  
6           lease, and the term and type of notice required to  
7           exercise any renewal option, if applicable;

8           ~~[(2)]~~ (3) The improvements required; provided that a  
9           minimum reasonable time be allowed for the completion  
10          of the improvements;

11          ~~[(3)]~~ (4) Restrictions against alienation as set forth in  
12          section 171-36;

13          ~~[(4)]~~ (5) The rent, as established by the board or at  
14          public auction, which shall be payable not more than  
15          one year in advance, in monthly, quarterly,  
16          semiannual, or annual payments;

17          ~~[(5)]~~ (6) Where applicable, adequate protection of forests,  
18          watershed areas, game management areas, wildlife  
19          sanctuaries, and public hunting areas, reservation of  
20          rights-of-way and access to other public lands, public



1 hunting areas, game management areas, or public  
 2 beaches, and prevention of nuisance and waste; and  
 3 ~~[(+6)]~~ (7) ~~[Such]~~ Any other terms and conditions as the  
 4 board deems advisable to more nearly effectuate the  
 5 purposes of the state constitution and of this  
 6 chapter."

7 SECTION 5. Section 171-36, Hawaii Revised Statutes, is  
 8 amended as follows:

9 1. By amending subsections (a) and (b) to read:

10 "(a) Except as otherwise provided, the following  
 11 restrictions shall apply to all leases:

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

13 ~~-(2)]~~ (1) No lease shall be for a longer term than sixty-  
 14 five years, except in the case of a residential  
 15 leasehold which may provide for an initial term of  
 16 fifty-five years with the privilege of extension to  
 17 meet the requirements of the Federal Housing  
 18 Administration, Federal National Mortgage Association,  
 19 Federal Land Bank of Berkeley, Federal Intermediate  
 20 Credit Bank of Berkeley, Berkeley Bank for  
 21 Cooperatives, or Veterans Administration requirements;





1           ~~[provided that the aggregate of the initial term and~~  
2           ~~extension shall in no event exceed seventy five years;~~  
3           ~~(3) No lease shall be made for any land under a lease~~  
4           ~~which has more than two years to run;~~  
5           ~~(4)]~~ (2) No lease shall be made to any person who is in  
6           arrears in the payment of taxes, rents, or other  
7           obligations owing the State or any county;  
8           ~~[(5)]~~ (3) No lease shall be transferable or assignable,  
9           except by devise, bequest, or intestate succession;  
10          provided that with the approval of the board of land  
11          and natural resources, the assignment and transfer of  
12          a lease or unit thereof may be made in accordance with  
13          current industry standards, as determined by the  
14          board; provided further that prior to the approval of  
15          any assignment of lease, the board ~~[shall have the~~  
16          ~~right to]~~ may review and approve the consideration to  
17          be paid by the assignee and may condition its consent  
18          to the assignment of the lease on payment by the  
19          lessee of a premium based on the amount by which the  
20          consideration for the assignment, whether by cash,  
21          credit, or otherwise, exceeds the depreciated cost of



1 improvements and trade fixtures being transferred to  
2 the assignee; provided further that with respect to  
3 state agricultural leases, [~~in the event of~~] if a  
4 foreclosure or sale[~~7~~] occurs, the premium, if any,  
5 shall be assessed only after the encumbrances of  
6 record and any other advances made by the holder of a  
7 security interest are paid;

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



1           rent, if applicable, and provided that the rent may  
2           not be revised downward;

3       ~~[(7)]~~ (5)   The lease shall be for a specific use or uses and  
4           shall not include waste lands, unless it is  
5           impractical to provide otherwise;

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

8       ~~[(9)]~~ (7)   No lease of public lands, including submerged  
9           lands, nor any extension of any ~~[such]~~ lease, shall be  
10          issued by the State to any person to construct, use,  
11          or maintain a sunbathing or swimming pier or to use  
12          the lands for ~~[such]~~ these purposes, unless ~~[such]~~ the  
13          lease, or any extension thereof, contains provisions  
14          permitting the general public to use the pier  
15          facilities on the public lands and requiring that a  
16          sign or signs be placed on the pier, clearly visible  
17          to the public, which indicates the public's right to  
18          the use of the pier. The board, at the earliest  
19          practicable date, and where legally possible, shall  
20          cause all existing leases to be amended to conform to  
21          this paragraph. The term "lease", for the purposes of



1           this paragraph, includes month-to-month rental  
2           agreements and similar tenancies.

3           (b) The board, from time to time, upon the issuance or  
4           during the term of any intensive agricultural, aquaculture,  
5           commercial, mariculture, special livestock, pasture, hotel,  
6           resort, or industrial lease, may:

7           (1) Modify or eliminate any of the restrictions specified  
8           in subsection (a);

9           (2) Extend or modify the fixed rental period of the  
10          lease [~~provided that the aggregate of the initial~~  
11          ~~term and any extension granted shall not exceed sixty~~  
12          ~~five years;~~] upon approval by the board of a  
13          development agreement proposed by the lessee to make  
14          substantial improvements to the existing improvements  
15          or to construct new improvements; or

16          (3) Extend the term of the lease,  
17          to the extent necessary to qualify the lease for mortgage  
18          lending or guaranty purposes with any federal mortgage lending  
19          agency, to qualify the lessee for any state or private lending  
20          institution loan, private loan guaranteed by the State, or any  
21          loan in which the State and any private lender participates, or



1 to amortize the cost of substantial improvements to the demised  
 2 premises that are paid for by the lessee without institutional  
 3 financing, [~~such~~] the extension being based on the economic life  
 4 of the improvements as determined by the board or an independent  
 5 appraiser; provided that the approval of any extension shall be  
 6 subject to the following:

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

9 [~~(2)~~] ~~The aggregate of the initial term and any extension~~  
 10 ~~granted shall not be for more than sixty five years;~~

11 [~~(3)~~] (2) [~~In the event of~~] If a reopening~~[7]~~ occurs, the  
 12 rental for any ensuing period shall be the fair market  
 13 rental at the time of reopening;

14 [~~(4)~~] (3) Any federal or private lending institution shall  
 15 be qualified to do business in the State;

16 [~~(5)~~] (4) Proceeds of any mortgage or loan shall be used  
 17 solely for the operations or improvements on the  
 18 demised premises;

19 [~~(6)~~] (5) Where improvements are financed by the lessee,  
 20 the lessee shall submit receipts of expenditures



1           within a time period specified by the board, otherwise  
2           the lease extension shall be canceled; and  
3        ~~[(7)]~~ (6)   The rules of the board, setting forth any  
4           additional terms and conditions, which shall ensure  
5           and promote the purposes of the demised lands."

6           2. By amending subsections (d) and (e) to read:

7           "(d) The board, from time to time, during the term of any  
8    agriculture, intensive agriculture, aquaculture, commercial,  
9    mariculture, special livestock, pasture, hotel, resort, or  
10   industrial lease, may modify or eliminate any of the  
11   ~~[+]restrictions[+]~~ specified in subsection (a), extend or modify  
12   the fixed rental period of the lease, or extend the term of the  
13   lease upon a showing of significant economic hardship directly  
14   caused by:

15           (1) State disaster, pursuant to chapter 209, including  
16           seismic or tidal wave, tsunami, hurricane, volcanic  
17           eruption, typhoon, earthquake, flood, or severe  
18           drought; or

19           (2) A taking of a portion of the area of the lease by  
20           government action by eminent domain, withdrawal, or  
21           conservation easement; provided that the portion taken



1 shall not be less than ten per cent of the entire  
 2 leased area unless otherwise approved by the board;  
 3 and provided that the board determines that the lessee  
 4 will not be adequately compensated pursuant to the  
 5 lease provisions.

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

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

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

12 ~~-(3)]~~ (2) The rental shall not be less than the rental for  
 13 the preceding term;

14 ~~[(4)]~~ (3) The rules of the board, setting forth any  
 15 additional terms and conditions which shall ensure and  
 16 promote the purposes of the demised lands; and

17 ~~[(5)]~~ (4) The length of the extension shall not exceed a  
 18 reasonable length of time for the purpose of providing  
 19 relief ~~[and shall in no case exceed five years]."~~



1 SECTION 6. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so much  
3 thereof as may be necessary for fiscal year 2017-2018 and the  
4 same sum or so much thereof as may be necessary for fiscal year  
5 2018-2019 to carry out the purposes of this Act.

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

8 SECTION 7. In codifying the new part added by section 2 of  
9 this Act, the revisor of statutes shall substitute appropriate  
10 section numbers for the letters used in designating the new  
11 sections in this Act.

12 SECTION 8. If any provision of this Act, or the  
13 application thereof to any person or circumstance, is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the Act that can be given effect without the  
16 invalid provision or application, and to this end the provisions  
17 of this Act are severable.

18 SECTION 9. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.





1 SECTION 10. This Act shall take effect on July 1, 2017.

2

INTRODUCED BY:

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JAN 25 2017



# H.B. NO. 1469

**Report Title:**

Public Lands; Redevelopment; Redevelopment Districts; Boundaries; Planning Committees; Powers and Duties; District Redevelopment Plans; Designated Redevelopment District Revolving Funds; Establishment; Lease Restrictions; Appropriations

**Description:**

Establishes procedures for designating public land redevelopment districts, planning committees, district redevelopment plans, and designated redevelopment district revolving funds. Establishes powers and duties of planning committees. Modifies public land lease restrictions. Appropriates funds.

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

