
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 State of Hawaii
2 owns a large amount of land that is currently leased to
3 businesses for commercial, industrial, hotel, and resort
4 purposes. The legislature further finds that these leases are
5 statutorily limited to sixty-five years without the possibility
6 of renewing the terms of the lease. In previous years, the
7 legislature has identified significant problems caused by these
8 restrictions on leasehold tenancy and has tried to address the
9 deficiencies by allowing existing lessees of resort properties
10 to renew or extend their leases.

11 The legislature finds that the uncertainty of future tenure
12 has had a catastrophic effect on Hawaii's tourism industry,
13 especially to hotel lands in east Hawaii such as in the Banyan
14 Drive and Kanoelehua industrial areas. During the regular
15 session of 2011, the legislature successfully addressed the
16 restrictions on leasehold tenancy by passing Act 219, Session
17 Laws of Hawaii 2011, which authorized the board of land and



1 natural resources to extend leases of public lands for hotel or
2 resort use upon approval of a proposed development agreement to
3 make substantial improvements to the existing improvements.
4 This change eliminated the "wasting asset" nature of state
5 leasehold properties by incentivizing lessees to invest in
6 infrastructural improvements which promoted the State's economy
7 and the most efficient use of these state lands. While
8 effective, Act 219, Session Laws of Hawaii 2011, was repealed in
9 2015, and the future tenure of these public lands is once again
10 uncertain.

11 The legislature recognizes that the amount of state land
12 sited and zoned for commercial purposes is small, and great
13 economic harm is caused by not keeping such properties at their
14 highest and best use. It is important that lessees be able to
15 respond to constantly changing communities and community needs
16 by investing immediately and avoiding economic obsolescence.
17 The legislature concludes that while lease restrictions may be
18 productive for certain classes of state lands, the purpose of
19 commercial leases is to be economically productive and the
20 current lease restrictions result in the opposite.



1 The purpose of this Act is to serve the public use and
2 public purpose of state lands used for commercial purposes by
3 authorizing the board of land and natural resources to authorize
4 the extension of commercial, hotel, resort, and industrial
5 leases for the lessees' substantial improvement to the leased
6 premises for state lands in the Banyan Drive and Kanoelehua
7 industrial areas of Hilo, Hawaii.

8 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§171- Commercial, hotel, resort, or industrial leases;
12 extension of term. (a) Notwithstanding section 171-36, the
13 board may extend the lease term of public lands for commercial,
14 hotel, resort, or industrial use, in the Banyan drive and
15 Kanoelehua industrial areas of Hilo, Hawaii, upon the approval
16 by the board of a development agreement proposed by the lessee
17 or lessee and developer to make substantial improvements to the
18 demised premises.

19 (b) Prior to entering into a development agreement, the
20 lessee or lessee and developer shall submit to the board the
21 plans and specifications for the total development being



1 proposed. The board shall review the plans and specifications
2 and determine:

3 (1) Whether the development proposed in the development
4 agreement is of sufficient worth and value to justify
5 the extension of the lease;

6 (2) The estimated period of time to complete the
7 improvements and expected date of completion of the
8 improvements; and

9 (3) The minimum revised annual rent based on the fair
10 market value of the lands to be developed, as
11 determined by an appraiser for the board, and the
12 percentage of rent where gross receipts exceed a
13 specified amount for a ten year period.

14 No lease extension shall be approved until the board and the
15 lessee or lessee and developer mutually agree to the terms and
16 conditions of the development agreement.

17 (c) No construction shall commence until the lessee or
18 lessee and developer have filed with the board a sufficient bond
19 conditioned upon the full and faithful performance of all the
20 terms and conditions of the development agreement.



1 (d) Any extension of a lease pursuant to this section
2 shall be based upon the substantial improvements to be made and
3 shall be for a period not to exceed fifteen years.

4 (e) Similar to the issuance of a new lease, any extension
5 of a lease granted pursuant to this section shall be
6 effectuated, documented, and executed using the most current
7 lease form and leasing practices and policies of the board.

8 (f) The applicant for a lease extension shall pay all
9 costs and expenses incurred by the department in connection with
10 processing, analyzing, and negotiating any lease extension
11 request and document, and the development agreement in
12 subsections (a) and (b).

13 (g) As used in this section "substantial improvements"
14 means any renovation, rehabilitation, reconstruction, or
15 construction of the demised premises, including minimum
16 requirements for off-site and on-site improvements, the cost of
17 which equals or exceeds fifty per cent of the market value of
18 the demised premises, that the lessee or lessee and developer
19 shall install, construct, and complete by the date of completion
20 of the total development."

21 SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

Public Lands; Leases; Board of Land and Natural Resources

Description:

Authorizes the board of land and natural resources to extend commercial, hotel, resort, and industrial leases in the Banyan Drive and Kanoelehua industrial area of Hilo, Hawaii, when the lessee makes qualifying substantial improvements to the leased land. (HB575 HD1)

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