

JAN 20 2017

A BILL FOR AN ACT

RELATING TO LANDS CONTROLLED BY THE STATE.

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

1 SECTION 1. The legislature finds that a significant
2 portion of state lands located adjacent to or near the planned
3 rail transit stations in the city and county of Honolulu are
4 owned by the department of land and natural resources and the
5 Hawaii community development authority. The legislature further
6 finds that it is in the public interest to promote mixed-use
7 development of state lands adjacent to or near the planned rail
8 transit stations, including development for affordable housing,
9 to foster economic development in those areas and help increase
10 future transit ridership.

11 The legislature further finds that other states and
12 municipalities have incentivized private developments on
13 government-owned lands near transit stations through the
14 negotiation of ninety-nine year lease terms to encourage long-
15 term, sustainable development planning. However, at present,
16 the maximum term for leases for state lands is sixty-five years.



1 The purpose of this Act is to authorize the department of
2 land and natural resources and the Hawaii community development
3 authority to negotiate and enter into leases with terms up to
4 ninety-nine years on parcels located within one-half mile of the
5 city and county of Honolulu's planned rail-transit stations if
6 affordable housing is included in the mixed-use development.

7 SECTION 2. Section 171-36, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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

- 11 (1) Options for renewal of terms are prohibited;
- 12 (2) No lease shall be for a longer term than sixty-five
13 years, except:

14 (A) ~~[in]~~ In the case of a residential leasehold which
15 may provide for an initial term of fifty-five
16 years with the privilege of extension to meet the
17 requirements of the Federal Housing
18 Administration, Federal National Mortgage
19 Association, Federal Land Bank of Berkeley,
20 Federal Intermediate Credit Bank of Berkeley,
21 Berkeley Bank for Cooperatives, or Veterans



1 Administration requirements; provided that the
2 aggregate of the initial term and extension shall
3 in no event exceed seventy-five years; and

4 (B) In the case of leases of lands located within
5 one-half mile of a planned transit station of a
6 high capacity transit corridor project, which may
7 be for a term not to exceed ninety-nine years in
8 duration; provided that affordable housing is
9 included in the mixed-use development plan for
10 the lands to be leased;

11 (3) No lease shall be made for any land under a lease
12 which has more than two years to run;

13 (4) No lease shall be made to any person who is in arrears
14 in the payment of taxes, rents, or other obligations
15 owing the State or any county;

16 (5) No lease shall be transferable or assignable, except
17 by devise, bequest, or intestate succession; provided
18 that with the approval of the board of land and
19 natural resources, the assignment and transfer of a
20 lease or unit thereof may be made in accordance with
21 current industry standards, as determined by the



1 board; provided further that prior to the approval of
2 any assignment of lease, the board shall have the
3 right to review and approve the consideration to be
4 paid by the assignee and may condition its consent to
5 the assignment of the lease on payment by the lessee
6 of a premium based on the amount by which the
7 consideration for the assignment, whether by cash,
8 credit, or otherwise, exceeds the depreciated cost of
9 improvements and trade fixtures being transferred to
10 the assignee; provided further that with respect to
11 state agricultural leases, in the event of foreclosure
12 or sale, the premium, if any, shall be assessed only
13 after the encumbrances of record and any other
14 advances made by the holder of a security interest are
15 paid;

16 (6) The lessee shall not sublet the whole or any part of
17 the demised premises except with the approval of the
18 board; provided that prior to the approval, the board
19 shall have the right to review and approve the rent to
20 be charged to the sublessee; provided further that in
21 the case where the lessee is required to pay rent



1 based on a percentage of its gross receipts, the
2 receipts of the sublessee shall be included as part of
3 the lessee's gross receipts; provided further that the
4 board shall have the right to review and, if
5 necessary, revise the rent of the demised premises
6 based upon the rental rate charged to the sublessee
7 including the percentage rent, if applicable, and
8 provided that the rent may not be revised downward;

9 (7) The lease shall be for a specific use or uses and
10 shall not include waste lands, unless it is
11 impractical to provide otherwise;

12 (8) Mineral and metallic rights and surface and ground
13 water shall be reserved to the State; and

14 (9) No lease of public lands, including submerged lands,
15 nor any extension of any such lease, shall be issued
16 by the State to any person to construct, use, or
17 maintain a sunbathing or swimming pier or to use the
18 lands for such purposes, unless such lease, or any
19 extension thereof, contains provisions permitting the
20 general public to use the pier facilities on the
21 public lands and requiring that a sign or signs be



1 placed on the pier, clearly visible to the public,
2 which indicates the public's right to the use of the
3 pier. The board, at the earliest practicable date,
4 and where legally possible, shall cause all existing
5 leases to be amended to conform to this paragraph.
6 The term "lease", for the purposes of this paragraph,
7 includes month-to-month rental agreements and similar
8 tenancies."

9 SECTION 3. Section 206E-14, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) [~~The~~] Except as provided for ninety-nine year leases
12 under section 171-36(a), the authority may, without recourse to
13 public auction, sell, or lease for a term not exceeding sixty-
14 five years, all or any portion of the real or personal property
15 constituting a redevelopment project to any person, upon such
16 terms and conditions as may be approved by the authority, if the
17 authority finds that the sale or lease is in conformity with the
18 community development plan."

19 SECTION 4. Section 206E-31.6, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) Notwithstanding any law to the contrary, including
2 [+]section[+] 206E-14, except as prohibited by section
3 206E-31.5[-] and except as provided for ninety-nine year leases
4 under section 171-36(a), the authority may, without recourse to
5 public auction or public notice for sealed bids, lease for a
6 term not exceeding sixty-five years all or any portion of the
7 real or personal property constituting a project to any person,
8 upon such terms and conditions as may be approved by the
9 authority, if the authority finds that the lease is in
10 conformity with the community development plan."

11 SECTION 5. Any other law to the contrary notwithstanding,
12 including chapters 171 and 206E, Hawaii Revised Statutes, the
13 department of land and natural resources and the Hawaii
14 community development authority are hereby authorized to
15 negotiate and enter into lease agreements in accordance with the
16 provisions and limitations of this Act.

17 SECTION 6. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect upon its approval;
20 provided that on June 30, 2050, this Act shall be repealed and
21 sections 171-36(a), 206E-14(a), and 206E-31.6(a), Hawaii Revised



1 Statutes, shall be reenacted in the form in which they read on
2 the day prior to the effective date of this Act.

3

INTRODUCED BY: Bruce Hunt
Will Egan
~~AC. Rich Agura~~
Francis L. Prange
Elvis



S.B. NO. 671

Report Title:

Affordable Housing; Lands Controlled by the State; Transit Stations

Description:

Authorizes the department of land and natural resources and the Hawaii community development authority to negotiate and execute ninety-nine year leases on the department's and authority's lands located within one-half mile of the city and county of Honolulu's planned rail transit stations, provided that affordable housing is included in the development plan for the lands to be leased. Sunsets on 6/30/50.

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

