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# 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 development 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.

17          The purpose of this Act is to authorize the department of  
18          land and natural resources and the Hawaii community development



1 authority to negotiate and enter into leases with terms up to  
2 ninety-nine years on parcels located within one mile of the city  
3 and county of Honolulu's planned rail-transit stations if all  
4 housing built in the mixed-use development is reserved for  
5 residents or families earning up to sixty per cent of the area  
6 median income as determined by the United States Department of  
7 Housing and Urban Development.

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

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) No lease shall be for a longer term than sixty-five  
14 years, except:

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



1 Berkeley Bank for Cooperatives, or Veterans  
2 Administration requirements; provided that the  
3 aggregate of the initial term and extension shall  
4 in no event exceed seventy-five years; and

5 (B) In the case of leases of lands located within one  
6 mile of a planned transit station of a high  
7 capacity transit corridor project, which may be  
8 for a term not to exceed ninety-nine years in  
9 duration; provided that all housing built in the  
10 mixed-use development shall be reserved for  
11 residents or families earning up to sixty per  
12 cent of the area median income as determined by  
13 the United States Department of Housing and Urban  
14 Development;

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

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

20 (5) No lease shall be transferable or assignable, except  
21 by devise, bequest, or intestate succession; provided



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

20          (6) The lessee shall not sublet the whole or any part of  
21          the demised premises except with the approval of the



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

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

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

18 (9) No lease of public lands, including submerged lands,  
19 nor any extension of any such lease, shall be issued  
20 by the State to any person to construct, use, or  
21 maintain a sunbathing or swimming pier or to use the



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

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

15 "(a) ~~[The]~~ Except as provided for ninety-nine year leases  
16 under section 171-36(a), the authority may, without recourse to  
17 public auction, sell, or lease for a term not exceeding sixty-  
18 five years, all or any portion of the real or personal property  
19 constituting a redevelopment project to any person, upon such  
20 terms and conditions as may be approved by the authority, if the



1 authority finds that the sale or lease is in conformity with the  
2 community development plan."

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

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

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



1 SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on March 15, 2050;  
4 provided that on June 30, 2050, this Act shall be repealed and  
5 sections 171-36(a), 206E-14(a), and 206E-31.6(a), Hawaii Revised  
6 Statutes, shall be reenacted in the form in which they read on  
7 the day prior to the effective date of this Act.

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**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 mile of the city and county of Honolulu's planned rail transit stations, provided that all housing in the mixed-use development for the lands to be leased is reserved for residents and families earning up to sixty per cent of the area median income. Effective 3/15/2050. Sunsets on 6/30/2050. (SD1)

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

