
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

PART I

SECTION 1. The legislature finds that among the classes of public lands managed by the department of land and natural resources are commercial, industrial, hotel, and resort lands.

The legislature further finds that because of restrictions imposed by various land management policies, there is little incentive for lessees of various parcels to make improvements to the leased parcels. This has resulted in dilapidation, deterioration, and obsolescence of the properties, which reduces the revenue-generating potential of the parcels.

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

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



"PART . PUBLIC LANDS REDEVELOPMENT

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

- (1) Because of the policies guiding the management of public lands with commercial, industrial, hotel, and resort uses, there has been little incentive for the lessees of those properties to make major investments in improvements to their infrastructure, resulting in the deterioration of infrastructure and facilities;
- (2) The lack of improvement to property in many of these areas has resulted in dilapidation, deterioration, age, or obsolescence of the buildings and structures in those areas; and
- (3) The department has the responsibility of planning for the disposition of commercial, industrial, hotel, and resort classes of public lands to determine:
 - (A) Specific use or uses;
 - (B) Minimum size of parcels;
 - (C) Required building construction or improvements;
 - and
 - (D) Lease terms and requirements.



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

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

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

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

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

§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 legislature 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 president of the
19 senate and speaker of the house of
20 representatives in collaboration with the



1 legislators from the county in which the
2 designated district is located;

3 (B) Seven members shall be selected on the basis of
4 their knowledge, experience, and expertise in:

5 (i) Management of small or large businesses;

6 (ii) Economics, banking, investment, or finance;

7 (iii) Real estate development;

8 (iv) Real estate management;

9 (v) Marketing; or

10 (vi) Hotel and resort management; and

11 (C) Four members shall be residents of the county in
12 which the designated district is located, and

13 three members shall be residents of the State.

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

16 (d) The members of the committee shall serve without
17 compensation but shall be reimbursed for reasonable expenses,
18 including travel expenses, incurred in the performance of their
19 duties.

20 (e) The committee shall appoint a district administrator,
21 who shall be the chief executive officer for the designated



1 district. The district administrator shall have experience and
2 expertise in engineering, planning, architecture, real estate,
3 or law. The committee shall set the district administrator's
4 duties, responsibilities, holidays, vacations, leaves, hours of
5 work, and working conditions. The committee shall set the
6 salary of the district administrator, who shall serve at the
7 pleasure of the committee and shall be exempt from chapter 76.

8 (f) The committee shall be dissolved on June 30 of the
9 tenth year following the effective date of the Act establishing
10 the designated district.

11 **§171-E Planning committee; powers and duties; generally.**

12 The committee shall have the powers and duties related to its
13 functions in the designated district that are delegated to the
14 committee by the board. In addition, the committee may:

- 15 (1) Through its district administrator, appoint staff and
16 employees, prescribe their duties and qualifications,
17 and fix their salaries, without regard to chapter 76;
18 (2) Through its district administrator, allocate space or
19 spaces that are to be occupied by the committee and
20 appropriate staff, and purchase necessary supplies,
21 equipment, or furniture;



- 1 (3) Prepare a redevelopment plan for the designated
2 district;
- 3 (4) Notwithstanding any other law to the contrary, renew
4 or renegotiate any lease in connection with any
5 project contained in the redevelopment plan for the
6 designated district, on terms and conditions as the
7 committee deems advisable;
- 8 (5) Prepare or cause to be prepared plans, design
9 criteria, landscaping, and estimates of costs for the
10 construction, rehabilitation, or repair of any project
11 contained in the redevelopment plan for the designated
12 district, and from time to time to modify the plans or
13 estimates;
- 14 (6) Conduct studies in conjunction with county and state
15 agencies necessary to determine the appropriate
16 activities for redevelopment in the designated
17 district;
- 18 (7) Reduce or waive the lease rental on any lease of
19 public land for any project in the designated district
20 that requires substantial improvements; provided that



1 the reduction or waiver shall not exceed one year in
2 duration;

3 (8) Make and execute all contracts and instruments that
4 are necessary for the exercise of the committee's
5 powers and functions relating to the designated
6 district, including the engaging of the services of
7 consultants for the rendering of professional and
8 technical assistance and advice;

9 (9) Enter into a redevelopment agreement with a developer
10 or developers for any project contained in the
11 redevelopment plan; provided that the redevelopment
12 agreement shall contain:

13 (A) The location, area, and size of the parcel to be
14 redeveloped;

15 (B) The use or uses to which the parcel shall be put
16 in conformance with the redevelopment plan, and
17 with applicable state and county laws and
18 ordinances;

19 (C) The period of time for the construction and
20 completion of the redevelopment; and



1 (D) Other terms and conditions that the committee
2 deems necessary;

3 (10) Work closely and communicate with the county
4 government to coordinate the execution of the
5 designated district's planning, incremental projects,
6 work schedules, public works, and budget; and

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

10 **§171-F District redevelopment plan.** (a) The committee
11 shall prepare a redevelopment plan for the designated district,
12 including district development policies, the district
13 improvement program, necessary public facilities, and the
14 development guidelines and rules for the designated district.
15 In carrying out its planning activities, the committee shall
16 comply with applicable state and county statutes, ordinances,
17 and rules.

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

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

21 (A) Commercial activities;



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

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

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

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

(3) Includes plans, specifications, and estimates of the
costs for the development, construction,
reconstruction, or improvement of any project in the
designated district; provided that the committee may
from time to time modify the plans, specifications, or
estimates;

(4) If possible, identifies specific uses for areas in the
designated district and the required parceling of land
into minimum size areas related to the specific uses;



(5) Determines the lease rental that should be established for the specific uses and the terms and conditions of the leases; and

(6) Establishes interim development controls to be implemented during the transition to the execution of the provisions of the redevelopment plan, such as recommending the holdover of a lessee pursuant to section 171-40 or issuance of permits pursuant to section 171-55 to existing lessees upon the expiration of their lease terms.

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

(d) The committee shall hold a public hearing on a proposed redevelopment plan for the designated district, and



1 shall consider the comments received and incorporate any
2 revisions to the plan that may be necessary.

3 (e) Two years after the date the committee is established,
4 the committee shall submit a report to the board with the
5 redevelopment plan recommended by the committee along with
6 recommendations for appropriations by the legislature, the
7 authorization of bonds, or both, to implement the redevelopment
8 plan in a timely manner. The board shall submit the report to
9 the governor and the legislature, not later than twenty days
10 prior to the convening of the 2020 regular session, with a
11 request for the required appropriations, bond authorization, or
12 both.

13 (f) The designated district redevelopment plan shall
14 supersede all other inconsistent ordinances and rules relating
15 to the use, planning, development, and construction on public
16 land in the designated district.

17 **§171-G Designated redevelopment district revolving fund.**

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



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

8 Each revolving fund shall bear the name used by the legislature
9 in designating the redevelopment district.

10 (b) Moneys in the designated redevelopment district
11 revolving fund shall be used in the designated district for the
12 purposes of this part; provided that no expenditure shall be
13 made from the fund and no obligation shall be incurred against
14 the fund in excess of the amount standing to the credit of the
15 fund."

16 **PART II**

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

20 "Public purpose", as used in this chapter, unless the
21 context clearly indicates otherwise, includes but shall not be



1 limited to all public uses, the straightening of boundaries of
2 public lands, acquisition of access to landlocked public lands,
3 the consolidation of the holdings of public lands, development
4 of houselots, farmlots, ~~[and]~~ industrial parks~~[-]~~, and the
5 redevelopment of public lands pursuant to part _____."

6 SECTION 4. Section 171-36, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (b) to read:

9 "(b) The board, from time to time, upon the issuance or
10 during the term of any intensive agricultural, aquaculture,
11 commercial, mariculture, special livestock, pasture, hotel,
12 resort, or industrial lease, may:

13 [~~(1)~~ ~~Modify~~] modify or eliminate any of the restrictions
14 specified in subsection (a) ~~[-]~~,

15 [~~(2)~~ ~~Extend~~] extend or modify the fixed rental period of
16 the lease~~[-]~~ ~~provided that the aggregate of the initial~~
17 ~~term and any extension granted shall not exceed sixty~~
18 ~~five years;~~ upon approval by the board of a
19 development agreement proposed by the lessee to make
20 substantial improvements to the existing improvements
21 or to construct new improvements, or



1 ~~[-(3) Extend]~~ extend the term and modify any provisions of
2 the lease,
3 to the extent necessary to qualify the lease for mortgage
4 lending or guaranty purposes with any federal mortgage lending
5 agency~~[-]~~; to qualify the lessee for any state or private
6 lending institution loan, private loan guaranteed by the State,
7 or any loan in which the State and any private lender
8 participates~~[-]~~; or to amortize the cost of substantial
9 improvements to the demised premises that are paid for by the
10 lessee without institutional financing~~[-, such]~~. An extension
11 ~~[being]~~ of the fixed rental period or term of the lease shall be
12 based on the economic life of the improvements as determined by
13 the board or an independent appraiser; provided that the
14 approval of any extension shall be subject to the following:
15 (1) The demised premises have been used substantially for
16 the purpose for which they were originally leased;
17 ~~[-(2) The aggregate of the initial term and any extension~~
18 ~~granted shall not be for more than sixty five years;]~~
19 (2) The length of the extension granted for the lease or
20 the fixed rental period of the lease shall not extend



1 the fixed rental period of the original lease by more
2 than twenty years;

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

6 (4) Any federal or private lending institution shall be
7 qualified to do business in the State;

8 (5) Proceeds of any mortgage or loan shall be used solely
9 for the operations or improvements on the demised
10 premises;

11 (6) Where improvements are financed by the lessee, the
12 lessee shall submit receipts of expenditures within a
13 time period specified by the board, otherwise the
14 lease extension shall be canceled; and

15 (7) The rules of the board, setting forth any additional
16 terms and conditions, which shall ensure and promote
17 the purposes of the demised lands."

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

19 "(d) The board, from time to time, during the term of any
20 agriculture, intensive agriculture, aquaculture, commercial,
21 mariculture, special livestock, pasture, hotel, resort, or



1 industrial lease, may modify or eliminate any of the
2 [{}restrictions[{} specified in subsection (a), extend or modify
3 the fixed rental period of the lease, or extend the term of the
4 lease upon a showing of significant economic hardship directly
5 caused by:

6 (1) State disaster, pursuant to chapter 209, including
7 seismic or tidal wave, tsunami, hurricane, volcanic
8 eruption, typhoon, earthquake, flood, or severe
9 drought; or

10 (2) A taking of a portion of the area of the lease by
11 government action by eminent domain, withdrawal, or
12 conservation easement; provided that the portion taken
13 shall not be less than ten per cent of the entire
14 leased area unless otherwise approved by the board;
15 and provided that the board determines that the lessee
16 will not be adequately compensated pursuant to the
17 lease provisions.

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

20 (1) The demised premises has been used substantially for
21 the purposes 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 fifty five years;~~

3 ~~+(3)]~~ (2) The rental shall not be less than the rental for
4 the preceding term;

5 ~~[(4)]~~ (3) The rules of the board, setting forth any
6 additional terms and conditions which shall ensure and
7 promote the purposes of the demised lands; and

8 ~~[(5)]~~ (4) The length of the extension shall not exceed a
9 reasonable length of time for the purpose of providing
10 relief and shall in no case ~~[exceed five years.]~~
11 extend the original lease's fixed rental period by
12 more than twenty years."

13 SECTION 5. There is appropriated out of the special land
14 and development fund the sum of \$ or so much thereof
15 as may be necessary for fiscal year 2018-2019 to carry out the
16 purposes of this Act.

17 The sum appropriated shall be expended by the department of
18 land and natural resources for the purposes of this Act.

19 **PART III**

20 SECTION 6. The legislature finds that:



1 (1) The Waiakea peninsula of the island of Hawaii contains
2 approximately eighty-five per cent of the overnight
3 visitor accommodations in east Hawaii county;

4 (2) The State owns a large part of the Waiakea peninsula
5 area;

6 (3) There has been little incentive for the lessees of the
7 properties in the area to make major investments in
8 improvements to their infrastructure, resulting in the
9 deterioration of the area's infrastructure and
10 facilities; and

11 (4) The State has a responsibility to ensure that the
12 Waiakea peninsula area does not deteriorate nor have a
13 harmful impact on the economy of the community as a
14 whole.

15 The public lands in the area present an opportunity for the
16 revitalization and redevelopment of a district where hotel and
17 resort, commercial, and public uses may coexist compatibly
18 within the same area.

19 SECTION 7. The legislature designates the public lands on
20 the Waiakea peninsula on the island of Hawaii as the Waiakea
21 peninsula redevelopment district.



SECTION 8. The Waiakea peninsula redevelopment district shall include the area bounded by the shoreline from the intersection of Lihiwai street and Kamehameha avenue; Kamehameha avenue to its intersection with Kalanianaʻole avenue; Kalanianaʻole avenue to its intersection with Banyan way; Banyan way from its intersection with Kalanianaʻole avenue to its intersection with Banyan drive; from the intersection of Banyan way and Banyan drive to the shoreline; the shoreline around the Waiakea peninsula, including Mokuola island, to the intersection of Lihiwai street and Kamehameha avenue.

SECTION 9. There is established a Waiakea peninsula redevelopment district planning committee. The committee shall be appointed as provided in section 171-D, Hawaii Revised Statutes, established by part I of this Act, and shall exercise the powers and duties in the designated district as authorized by chapter 171, part , Hawaii Revised Statutes, established by part I of this Act.

SECTION 10. There is established the Waiakea peninsula redevelopment district revolving fund, into which shall be deposited:



1 (1) Fifty per cent of the revenues, income, and receipts
2 from the public lands in the Waiakea peninsula
3 redevelopment district;

4 (2) Moneys appropriated by the legislature to the
5 revolving fund; and

6 (3) Any gifts, grants, and other funds accepted by the
7 Waiakea peninsula redevelopment district planning
8 committee.

9 The moneys in the revolving fund shall be used in the
10 Waiakea peninsula redevelopment district for the purposes
11 described in chapter 171, part , Hawaii Revised Statutes,
12 established by part I of this Act.

13 SECTION 11. Upon the repeal of this part, all leases,
14 contracts, agreements, permits, or other documents executed or
15 entered into, by or on behalf of the Waiakea peninsula
16 redevelopment district planning committee shall remain in full
17 force and effect and shall be administered by the department of
18 land and natural resources.

19 SECTION 12. Upon the repeal of this part, all
20 appropriations, records, equipment, machines, files, supplies,
21 contracts, books, papers, documents, maps, and other personal



1 property held by the Waiakea peninsula redevelopment district
2 planning committee shall be transferred to the department of
3 land and natural resources, and moneys remaining in the Waiakea
4 peninsula redevelopment district revolving fund shall be
5 transferred to the special land and development fund established
6 pursuant to section 171-19, Hawaii Revised Statutes.

7 **PART IV**

8 SECTION 13. In codifying the new part added by section 2
9 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 14. 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.

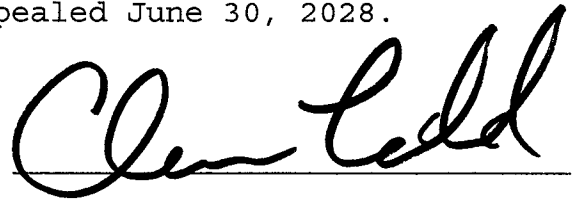


18 SECTION 15. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20



1 SECTION 16. This Act shall take effect on July 1, 2018;
2 provided that part III shall be repealed June 30, 2028.
3

INTRODUCED BY:

JAN 24 2018



H.B. NO. 2641

Report Title:

Public Lands; Redevelopment; Redevelopment Districts; Boundaries; Planning Committees; Powers and Duties; District Redevelopment Plans; Designated Redevelopment District Revolving Funds; Establishment; Lease Restrictions; Special Land and Development Fund; Appropriation

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. Establishes the Waiakea peninsula redevelopment district, planning committee, and revolving fund until 6/30/2028.

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