



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 9, 2019

GOV. MSG. NO. 1392

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 9, 2019, the following bill was signed into law:

SB1303 SD2 HD2 CD1

RELATING TO PUBLIC LANDS.
ACT 272 (19)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1

PART I

2 SECTION 1. The legislature finds that Act 155, Session
3 Laws of Hawaii 2013 (Act 155), was approved by the governor on
4 June 21, 2013. The purpose of Act 155 was to optimize the use
5 of public school lands to generate opportunities to improve
6 public school facilities and infrastructure to meet the
7 challenges of the twenty-first century and to improve the
8 overall quality of education in Hawaii. In particular, Act 155
9 established a pilot program to generate revenue from uses of
10 public school lands for public purposes, such as workforce
11 housing, to build and retrofit twenty-first century schools and
12 create more school-centered communities. The pilot program laid
13 important groundwork for a statewide approach and plan to
14 optimize the use of public school lands and modernize public
15 school facilities.

16 Pursuant to subsequent discussions with government agencies
17 and private developers, the legislature finds that the existing
18 fifty-five-year lease term allowed in Act 155 would be



1 problematic in financing redevelopment projects. Also, the
2 department of education has been working closely with the Hawaii
3 housing finance and development corporation for assistance in
4 the implementation of redevelopment projects on department of
5 education-controlled lands. The Hawaii housing finance and
6 development corporation is pursuing ninety-nine-year leasehold
7 condominiums for some of their housing projects on state-owned
8 lands. Extending the lease terms for redevelopment under Act
9 155 would allow prospective developers flexibility in securing
10 financing, as well as ensure a better long-term return to the
11 State for the use of its lands.

12 The purpose of this part is to allow the department of
13 education to lease public school lands for a term of not more
14 than ninety-nine years per lease to provide prospective
15 developers flexibility in securing financing.

16 SECTION 2. Section 302A-1151.1, Hawaii Revised Statutes,
17 is amended by amending subsection (b) to read as follows:

18 "(b) Notwithstanding sections 171-13 and 302A-1151, or any
19 other law to the contrary, the department may lease public
20 school land on terms it deems appropriate, including a leaseback



1 of all or a portion of the improvements constructed; provided
2 that:

3 (1) The board may identify and select up to five public
4 school land sites as candidates for participation in
5 the pilot program; provided that:

6 (A) During the identification and selection process,
7 the board shall be subject to chapter 92, shall
8 hold at least one public meeting in each affected
9 community, and shall foster school and community
10 participation; and

11 (B) If the site is on land owned by the county, the
12 department shall consult with the county;

13 (2) The department may lease public school land for no
14 more than three public school land sites identified
15 and selected by the board pursuant to paragraph (1)
16 under leases for a term of not more than ~~[fifty-five~~
17 ~~years per lease, unless extended pursuant to section~~
18 ~~171-367]~~ ninety-nine years per lease, to lessees who
19 shall be required to modify, construct, or utilize
20 facilities to benefit public educational purposes, in



1 accordance with specific request for proposal or
2 request for information guidelines;

3 (3) Each lease shall stipulate that the lessee may retain
4 any revenue generated from the facilities; provided
5 that:

6 (A) The lessee shall be obligated to maintain and
7 operate the facilities to benefit public
8 educational purposes for the length of the lease;

9 (B) The lessee shall be obligated to pay to the
10 county all applicable property tax on the value
11 of any improvements;

12 (C) A leasehold premium may be charged to the lessee
13 for the right to use the public school land based
14 on a competitive process that complies with
15 applicable sections of chapter 103D;

16 (D) Upon the expiration of the lease, the facilities
17 shall revert to the department; and

18 (E) All revenues and proceeds derived by the State
19 under this section shall be deposited in the
20 school facilities subaccount pursuant to section
21 302A-1151.2; and



1 the department of education in a manner similar to that in Act
2 210, Session Laws of Hawaii 2018.

3 The purpose of this part is to amend Act 206, Session Laws
4 of Hawaii 2017, to allow the city and county of Honolulu to
5 transfer lands under existing department of education facilities
6 directly to the department of education, rather than to the
7 department of land and natural resources.

8 SECTION 4. Act 206, Session Laws of Hawaii 2017, section
9 2, is amended by amending subsections (a), (b), and (c) to read
10 as follows:

11 "(a) Notwithstanding any other law to the contrary, the
12 fee simple interest to the following parcels of land with the
13 existing improvements thereon (hereinafter "the properties")
14 (but not including submerged land, accreted land, or any land
15 makai of the shoreline), shall be conveyed by the city and
16 county of Honolulu to the department of [~~land and natural~~
17 ~~resources~~] education as grantee, as is, where is:

- 18 (1) TMK 1-4-5-34-14 (Castle High);
19 (2) TMKs 1-5-6-6-9, 1-5-6-6-10, and 1-5-6-6-25 (Kahuku
20 High and Elementary);
21 (3) TMK 1-4-4-34-24 (Kalaheo High);



- 1 (4) TMK 1-9-1-1-2 (portion) (Campbell High);
- 2 (5) TMK 1-8-5-15-1 (Waianae High);
- 3 (6) TMK 1-9-4-8-20 (Waipahu High);
- 4 (7) TMK 1-9-8-31-17 (Aiea High);
- 5 (8) TMK 1-7-4-18-1 (Leilehua High);
- 6 (9) TMK 1-9-9-2-23 (Radford High);
- 7 (10) TMK 1-6-7-2-10 (Waialua High and Intermediate);
- 8 (11) TMKs 1-6-003-048, 1-6-021-005 (Farrington High);
- 9 (12) TMK 2-7-024-001 (Kaimuki High);
- 10 (13) TMK 3-9-005-027 (Kaiser High); and
- 11 (14) TMK 3-5-020-004 (Kalani High).

12 (b) The city and county of Honolulu shall prepare,
 13 execute, and record, in the land court or bureau of conveyances,
 14 as appropriate, a quitclaim deed to convey each above-listed
 15 parcel with all existing improvements, subject to the property
 16 boundaries determined pursuant to subsection (d), to the
 17 department of [~~land and natural resources,~~] education, as
 18 grantee. As these are conveyances in which the city and county
 19 of Honolulu and the State and its agencies are the only parties,
 20 the tax imposed by section 247-1, Hawaii Revised Statutes, shall
 21 not apply to them. Effective on the date of transfer pursuant



1 to subsection (e), every reference to the present titleholder or
2 the head of the department or agency in each instrument, if the
3 titleholder is a department or an agency, shall be construed as
4 a reference to the department of [~~land and natural resources~~]
5 education.

6 (c) The department of [~~land and natural resources~~]
7 education shall accept the properties in their existing
8 condition. All claims and liabilities against the city and
9 county of Honolulu, if any, which the department of [~~land and~~
10 ~~natural resources~~] education has, may have had, or may have in
11 the future, regarding any injury, loss, cost, damage, or
12 liability, including reasonable attorney's fees, concerning the
13 physical, environmental, soil, economic, and legal conditions of
14 the conveyed properties, are released, waived, and
15 extinguished."

16 PART III

17 SECTION 5. Section 171-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§171-2 Definition of public lands. "Public lands" means
20 all lands or interest therein in the State classed as government
21 or crown lands previous to August 15, 1895, or acquired or



1 reserved by the government upon or subsequent to that date by
2 purchase, exchange, escheat, or the exercise of the right of
3 eminent domain, or in any other manner; including lands accreted
4 after May 20, 2003, and not otherwise awarded, submerged lands,
5 and lands beneath tidal waters that are suitable for
6 reclamation, together with reclaimed lands that have been given
7 the status of public lands under this chapter, except:

8 (1) Lands designated in section 203 of the Hawaiian Homes
9 Commission Act, 1920, as amended;

10 (2) Lands set aside pursuant to law for the use of the
11 United States;

12 (3) Lands being used for roads and streets;

13 (4) Lands to which the United States relinquished the
14 absolute fee and ownership under section 91 of the
15 Hawaiian Organic Act prior to the admission of Hawaii
16 as a state of the United States unless subsequently
17 placed under the control of the board of land and
18 natural resources and given the status of public lands
19 in accordance with the state constitution, the
20 Hawaiian Homes Commission Act, 1920, as amended, or
21 other laws;



- 1 (5) Lands to which the University of Hawaii holds title;
- 2 (6) Lands to which the Hawaii housing finance and
3 development corporation in its corporate capacity
4 holds title;
- 5 (7) Lands to which the Hawaii community development
6 authority in its corporate capacity holds title;
- 7 (8) Lands set aside by the governor to the Hawaii public
8 housing authority or lands to which the Hawaii public
9 housing authority in its corporate capacity holds
10 title;
- 11 [~~8~~] (9) Lands to which the department of agriculture
12 holds title by way of foreclosure, voluntary
13 surrender, or otherwise, to recover moneys loaned or
14 to recover debts otherwise owed the department under
15 chapter 167;
- 16 [~~9~~] (10) Lands that are set aside by the governor to the
17 Aloha Tower development corporation; lands leased to
18 the Aloha Tower development corporation by any
19 department or agency of the State; or lands to which
20 the Aloha Tower development corporation holds title in
21 its corporate capacity;



1 ~~[(10)]~~ (11) Lands that are set aside by the governor to the
2 agribusiness development corporation; lands leased to
3 the agribusiness development corporation by any
4 department or agency of the State; or lands to which
5 the agribusiness development corporation in its
6 corporate capacity holds title;

7 ~~[(11)]~~ (12) Lands to which the Hawaii technology development
8 corporation in its corporate capacity holds title; and

9 ~~[(12)]~~ (13) Lands to which the department of education holds
10 title;

11 provided that, except as otherwise limited under federal law and
12 except for state land used as an airport as defined in section
13 262-1, public lands shall include the air rights over any
14 portion of state land upon which a county mass transit project
15 is developed after July 11, 2005."

16 SECTION 6. Section 171-64.7, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) This section applies to all lands or interest therein
19 owned or under the control of state departments and agencies
20 classed as government or crown lands previous to August 15,
21 1895, or acquired or reserved by the government upon or



1 subsequent to that date by purchase, exchange, escheat, or the
2 exercise of the right of eminent domain, or any other manner,
3 including accreted lands not otherwise awarded, submerged lands,
4 and lands beneath tidal waters that are suitable for
5 reclamation, together with reclaimed lands that have been given
6 the status of public lands under this chapter, including:

- 7 (1) Land set aside pursuant to law for the use of the
8 United States;
- 9 (2) Land to which the United States relinquished the
10 absolute fee and ownership under section 91 of the
11 Organic Act prior to the admission of Hawaii as a
12 state of the United States;
- 13 (3) Land to which the University of Hawaii holds title;
- 14 (4) Land to which the Hawaii housing finance and
15 development corporation in its corporate capacity
16 holds title;
- 17 (5) Land to which the department of agriculture holds
18 title by way of foreclosure, voluntary surrender, or
19 otherwise, to recover moneys loaned or to recover
20 debts otherwise owed the department under chapter 167;



- 1 (6) Land that is set aside by the governor to the Aloha
- 2 Tower development corporation; or land to which the
- 3 Aloha Tower development corporation holds title in its
- 4 corporate capacity;
- 5 (7) Land that is set aside by the governor to the
- 6 agribusiness development corporation; or land to which
- 7 the agribusiness development corporation in its
- 8 corporate capacity holds title;
- 9 (8) Land to which the Hawaii technology development
- 10 corporation in its corporate capacity holds title;
- 11 [and]
- 12 (9) Land to which the department of education holds
- 13 title[-]; and
- 14 (10) Land to which the Hawaii public housing authority in
- 15 its corporate capacity holds title."

PART IV

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect on July 1, 2019.

APPROVED this 9 day of JUL 2019

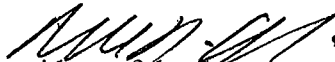


GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: April 30, 2019
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2019.


President of the Senate


Clerk of the Senate

SB No. 1303, SD 2, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 30, 2019
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives