
A BILL FOR AN ACT

RELATING TO LEASE EXTENSIONS ON PUBLIC LAND.

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

1 SECTION 1. The legislature finds that many of the leases
2 for commercial, industrial, resort, and government properties on
3 public land statewide may be nearing the end of the lease term.
4 Faced with the uncertainty of continued tenancy, lessees have
5 little incentive to make major investments in infrastructural
6 improvements and to ensure the long-term maintenance of the
7 facilities. As a result, the infrastructure on these properties
8 has been deteriorating.

9 The legislature finds that business lessees typically sell
10 or assign their leases that are nearing the end of the lease
11 terms at a discount. The legislature further finds that it
12 would be unfair to the prior assignors of the leases if the
13 State granted extensions of leases that previously could not be
14 extended under existing law or lease terms to the newly assigned
15 lessees who acquired their leases at a discount due to short
16 remaining lease terms.



1 The purpose of this Act is to authorize the board of land
2 and natural resources to extend commercial, industrial, resort,
3 or governmental leases, other than those to which the University
4 of Hawaii is a party, that have not been sold or assigned within
5 the last five years, for lessees who commit to substantial
6 improvement to the existing improvements.

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

10 "§171- Commercial, industrial, resort, or government
11 leases; extension of term. (a) Notwithstanding section 171-36,
12 for leases that have not been assigned or transferred within
13 five years prior to receipt of an application for a lease
14 extension submitted pursuant to this section, the board may
15 extend the rental period of a lease of public lands for
16 commercial use, industrial use, resort use, or government use
17 upon approval by the board of a development agreement proposed
18 by the lessee or by the lessee and developer to make substantial
19 improvements to the existing improvements.

20 (b) Prior to entering into a development agreement, the
21 lessee or the lessee and developer shall submit to the board the



1 plans and specifications for the total development proposed.

2 The board shall review the plans and specifications and

3 determine:

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

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

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

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

19 (c) No construction shall commence until the lessee or the
20 lessee and developer have filed with the board a sufficient bond



1 conditioned upon the full and faithful performance of all the
2 terms and conditions of the development agreement.

3 (d) Any extension of a lease pursuant to this section
4 shall be based upon the substantial improvements to be made and
5 shall be for a period not longer than forty years. During the
6 extended term of the lease, the lease may be subleased, subject
7 to approval by the board.

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

13 (f) As used in this section:

14 "Government use" means a development undertaken under a
15 lease held by any agency or department of the State or its
16 political subdivisions other than the University of Hawaii or
17 any department, agency, or administratively attached entity of
18 the University of Hawaii system.

19 "Substantial improvements" means any renovation,
20 rehabilitation, reconstruction, or construction of existing
21 improvements, including minimum requirements for off-site and



1 on-site improvements, the cost of which equals or exceeds thirty
2 per cent of the market value of the existing improvements, that
3 the lessee or the lessee and developer installs, constructs, and
4 completes by the date of completion of the total development.

5 "Resort use" means a development that provides transient
6 accommodations as defined in section 237D-1 and related
7 services, which may include a front desk, housekeeping, food and
8 beverage, room service, and other services customarily
9 associated with transient accommodations; provided that no
10 development shall qualify as a resort use under this section
11 unless at least seventy-five per cent of the living or sleeping
12 quarters in the development are used solely for transient
13 accommodations for the term of any lease extension."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect on July 1, 2050 and
16 shall be repealed on June 30, 2029.



Report Title:

BLNR; Public Lands; Lease Extension; Development Agreement

Description:

Authorizes the Board of Land and Natural Resources to extend leases of public lands for commercial, industrial, resort, or government use upon approval of a proposed development agreement to make substantial improvements to the existing improvements. Sunsets on June 30, 2029. (HB1025 HD1)

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