
A BILL FOR AN ACT

RELATING TO RENTALS FOR PUBLIC LAND LEASES.

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

1 SECTION 1. The legislature finds that there are a number
2 of long-term leases of public lands originally entered into in
3 the 1940s that have expired in recent years. Some of these
4 leases were used for hotels, and significant hotel improvements
5 were constructed on the premises during the lease term. In some
6 cases, the leasehold improvements have exceeded their useful
7 life and require costly demolition in the range of \$8,000,000 to
8 \$10,000,000 for a single property. However, the lease forms
9 used for these leases did not require the lessee to remove the
10 improvements at the expiration of the lease term. As a result,
11 the demolition cost falls on the State unless the State can pass
12 the cost on to a future lessee who undertakes redevelopment of
13 the land.

14 The legislature further finds that there are unimproved
15 public lands in the State's inventory that the State desires to
16 develop for resort, commercial, industrial, other business, or
17 residential use. However, substantial investments in



1 infrastructure including drainage, sewer, water, electricity,
2 and other utilities will be required to facilitate development
3 of the lands with costs in the tens of millions of dollars. The
4 State desires to pass the infrastructure and other development
5 costs of these lands on to a future lessee of the lands.

6 The legislature further finds that chapter 171, Hawaii
7 Revised Statutes, limits the amount of rent reduction or waiver
8 that a lessee of public lands can receive for redeveloping or
9 improving public lands to one year's rent for land leased for
10 resort, commercial, industrial or other business use. In many
11 cases, a rent reduction or waiver equal to one year of ground
12 rent would be an insufficient incentive to induce a developer to
13 invest in the demolition of aged improvements on and
14 redevelopment of public land or invest in the provision of basic
15 infrastructure necessary to facilitate the further development
16 of unimproved public land.

17 The purpose of this Act is to temporarily authorize the
18 board of land and natural resources to approve rental reductions
19 or waivers of up to twenty years of lease rental for leases that
20 require substantial demolition costs or infrastructure



1 improvement costs in order for the lessee to utilize the
2 premises.

3 SECTION 2. Section 171-6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§171-6 Powers. Except as otherwise provided by law, the
6 board of land and natural resources shall have the powers and
7 functions granted to the heads of departments and the board of
8 land and natural resources under chapter 26.

9 In addition to the foregoing, the board may:

- 10 (1) Adopt a seal;
- 11 (2) Administer oaths;
- 12 (3) Prescribe forms of instruments and documents;
- 13 (4) Adopt rules which, upon compliance with chapter 91,
14 shall have the force and effect of law;
- 15 (5) Set, charge, demand, and collect reasonable fees for
16 the preparation of documents to be issued, for the
17 surveying of public lands, and for the issuing of
18 certified copies of its government records, which
19 fees, when collected, shall be deposited into the
20 state general fund, unless otherwise specified in this
21 chapter;



- 1 (6) Establish additional restrictions, requirements, or
2 conditions, not inconsistent with those prescribed in
3 this chapter, relating to the use of particular land
4 being disposed of, the terms of sale, lease, license,
5 or permit, and the qualifications of any person to
6 draw, bid, or negotiate for public land;
- 7 (7) Reduce or waive the lease rental at the beginning of
8 the lease on any lease of public land to be used for
9 any agricultural or pastoral use, or for resort,
10 commercial, industrial, or other business use where
11 the land being leased requires substantial
12 improvements to be placed thereon; provided that such
13 reduction or waiver shall not exceed two years for
14 land to be used for any agricultural or pastoral use,
15 or exceed one year for land to be used for resort,
16 commercial, industrial, or other business use;
17 provided further that if a lease for resort,
18 commercial, industrial, other business, or residential
19 purposes requires a lessee to demolish existing
20 improvements or provide basic infrastructure including
21 drainage, sewer, water, electricity, and other



1 utilities before it can make productive use of the
2 land, the board may approve a reduction or waiver of
3 lease rental for up to twenty years that shall not
4 exceed the amount of the lessee's total expenditures
5 for demolition or provision of such infrastructure;

6 (8) Delegate to the chairperson or employees of the
7 department of land and natural resources, subject to
8 the board's control and responsibility, such powers
9 and duties as may be lawful or proper for the
10 performance of the functions vested in the board;

11 (9) Use arbitration under chapter 658A to settle any
12 controversy arising out of any existing or future
13 lease;

14 (10) Set, charge, and collect reasonable fees in an amount
15 sufficient to defray the cost of performing or
16 otherwise providing for the inspection of activities
17 permitted upon the issuance of a land license
18 involving a commercial purpose;

19 (11) Appoint masters or hearing officers to conduct public
20 hearings as provided by law and under such conditions
21 as the board by rules shall establish;



- 1 (12) Bring such actions as may be necessary to remove or
- 2 remedy encroachments upon public lands. Any person
- 3 causing an encroachment upon public land shall:
- 4 (A) Be fined not more than \$1,000 a day for the first
- 5 offense;
- 6 (B) Be fined not less than \$1,000 nor more than
- 7 \$4,000 per day upon the second offense and
- 8 thereafter;
- 9 (C) If required by the board, restore the land to its
- 10 original condition if altered and assume the
- 11 costs thereof;
- 12 (D) Assume such costs as may result from adverse
- 13 effects from such restoration; and
- 14 (E) Be liable for administrative costs incurred by
- 15 the department and for payment of damages;
- 16 (13) Set, charge, and collect interest and a service charge
- 17 on delinquent payments due on leases, sales, or other
- 18 accounts. The rate of interest shall not exceed one
- 19 per cent a month and the service charge shall not
- 20 exceed \$50 a month for each delinquent payment;
- 21 provided that the contract shall state the interest



1 rate and the service charge and be signed by the party
2 to be charged;

3 (14) Set, charge, and collect additional rentals for the
4 unauthorized use of public lands by a lessee,
5 licensee, grantee, or permittee who is in violation of
6 any term or condition of a lease, license, easement,
7 or revocable permit, retroactive to the date of the
8 occurrence of the violation. Such amounts shall be
9 considered delinquent payments and shall be subject to
10 interest and service charges as provided in paragraph
11 (13);

12 (15) Set, charge, and collect reasonable fines for
13 violation of this chapter or any rule adopted
14 thereunder. Any person engaging in any prohibited use
15 of public lands or conducting any prohibited activity
16 on public lands, or violating any of the other
17 provisions of this chapter or any rule adopted
18 thereunder, for which violation a penalty is not
19 otherwise provided, shall be:

20 (A) Fined not more than \$5,000 per violation for a
21 first violation or a violation beyond five years



1 of the last violation; provided that, after
2 written or verbal notification from the
3 department, an additional \$1,000 per day per
4 violation may be assessed for each day in which
5 the violation persists;

6 (B) Fined not more than \$10,000 per violation for a
7 second violation within five years of the last
8 violation; provided that, after written or verbal
9 notification from the department, an additional
10 \$2,000 per day per violation may be assessed for
11 each day in which the violation persists;

12 (C) Fined not more than \$20,000 per violation for a
13 third or subsequent violation within five years
14 of the last violation; provided that, after
15 written or verbal notification from the
16 department, an additional \$4,000 per day per
17 violation may be assessed for each day in which
18 the violation persists; and

19 (D) Liable for administrative costs and expenses
20 incurred by the department and for payment for



1 damages, including but not limited to natural
2 resource damages.

3 In addition to the fines, administrative costs, and
4 damages provided for hereinabove, for damage to or
5 theft of natural resources, the board may also set,
6 charge, and collect a fine that, in its discretion, is
7 appropriate considering the value of the natural
8 resource that is damaged or the subject of the theft.

9 In arriving at an appropriate fine, the board may
10 consider the market value of the natural resource
11 damaged or taken and any other factor it deems
12 appropriate, such as the loss of the natural resource
13 to its natural habitat and environment and the cost of
14 restoration or replacement. The remedies provided for
15 in this paragraph are cumulative and in addition to
16 any other remedies allowed by law.

17 No person shall be sanctioned pursuant to this section
18 for the exercise of native Hawaiian gathering rights
19 and traditional cultural practices as authorized by
20 law or as permitted by the department pursuant to

- 1 article XII, section 7, of the Hawaii state
2 constitution;
- 3 (16) Issue revenue bonds, subject to the approval of the
4 legislature. All revenue bonds shall be issued
5 pursuant to part III of chapter 39, except as provided
6 in this chapter. All revenue bonds shall be issued in
7 the name of the department and not in the name of the
8 State. The final maturity date of the revenue bonds
9 may be any date not exceeding thirty years from the
10 date of issuance;
- 11 (17) pledge or assign all or any part of the receipts and
12 revenues of the department. The revenue bonds shall
13 be payable from and secured solely by the revenue
14 derived by the department from the industrial park or
15 parks for which the bonds are issued;
- 16 (18) Reimburse the state general fund for debt service on
17 general obligation bonds or reimbursable general
18 obligation bonds issued by the State for purposes of
19 this chapter;
- 20 (19) Notwithstanding part II of chapter 205A to the
21 contrary, plan, design, construct, operate, and



1 maintain any lands or facilities under the
2 jurisdiction of the division of boating and ocean
3 recreation of the department without the need to
4 obtain a special management area minor permit or
5 special management area use permit; and

6 (20) Do any and all things necessary to carry out its
7 purposes and exercise the powers granted in this
8 chapter."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on December 31,
11 2050, and shall be repealed on June 30, 2024; provided that
12 section 171-6, Hawaii Revised Statutes, shall be reenacted in
13 the form in which it read on June 30, 2019.

14



Report Title:

Board of Land and Natural Resources; Public Lands; Lease Rental Reduction or Waiver

Description:

Authorizes the Board of Land and Natural Resources to approve rental reductions or waivers for lease rentals on public lands that require substantial demolition or infrastructure improvement costs in order for the lessee to utilize the premises. Takes effect 12/31/2050. (SD1)

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

