

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1           SECTION 1. Section 171-36, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) Except as otherwise provided, the following  
4 restrictions shall apply to all leases:

5           (1) Options for renewal of terms are prohibited;

6           (2) No lease shall be for a longer term than sixty-five  
7 years, except in the case of a residential leasehold  
8 which may provide for an initial term of fifty-five  
9 years with the privilege of extension to meet the  
10 requirements of the Federal Housing Administration,  
11 Federal National Mortgage Association, Federal Land  
12 Bank of Berkeley, Federal Intermediate Credit Bank of  
13 Berkeley, Berkeley Bank for Cooperatives, or  
14 Department of Veterans Affairs requirements; provided  
15 that the aggregate of the initial term and extension  
16 shall in no event exceed seventy-five years;



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- 1           (3) No lease shall be made for any land under a lease  
2                    which has more than two years to run;
- 3           (4) No lease shall be made to any person who is in arrears  
4                    in the payment of taxes, rents, or other obligations  
5                    owing the State or any county;
- 6           (5) No lease shall be transferable or assignable, except  
7                    by devise, bequest, or intestate succession; provided  
8                    that with the approval of the board of land and  
9                    natural resources, the assignment and transfer of a  
10                   lease or unit thereof may be made in accordance with  
11                   current industry standards, as determined by the  
12                   board; provided further that prior to the approval of  
13                   any assignment of lease, the board shall have the  
14                   right to review and approve the consideration to be  
15                   paid by the assignee and may condition its consent to  
16                   the assignment of the lease on payment by the lessee  
17                   of a premium based on the amount by which the  
18                   consideration for the assignment, whether by cash,  
19                   credit, or otherwise, exceeds the depreciated cost of  
20                   improvements and trade fixtures being transferred to  
21                   the assignee; provided further that with respect to



1 state agricultural leases, in the event of foreclosure  
2 or sale, the premium, if any, shall be assessed only  
3 after the encumbrances of record and any other  
4 advances made by the holder of a security interest are  
5 paid;

6 (6) The lessee shall not sublet the whole or any part of  
7 the demised premises except with the approval of the  
8 board; provided that prior to the approval, the board  
9 shall have the right to review and approve the rent to  
10 be charged to the sublessee; provided further that in  
11 the case where the lessee is required to pay rent  
12 based on a percentage of its gross receipts, the  
13 receipts of the sublessee shall be included as part of  
14 the lessee's gross receipts; provided further that the  
15 board shall have the right to review and, if  
16 necessary, revise the rent of the demised premises  
17 based upon the rental rate charged to the sublessee  
18 including the percentage rent, if applicable, and  
19 provided that the rent may not be revised downward;



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- 1           (7) The lease shall be for a specific use or uses and  
2           shall not include waste lands, unless it is  
3           impractical to provide otherwise;
- 4           (8) Mineral and metallic rights and surface and ground  
5           water shall be reserved to the State; [~~and~~]
- 6           (9) No lease of public lands, including submerged lands,  
7           nor any extension of any such lease, shall be issued  
8           by the State to any person to construct, use, or  
9           maintain a sunbathing or swimming pier or to use the  
10          lands for such purposes, unless such lease, or any  
11          extension thereof, contains provisions permitting the  
12          general public to use the pier facilities on the  
13          public lands and requiring that a sign or signs be  
14          placed on the pier, clearly visible to the public,  
15          which indicates the public's right to the use of the  
16          pier. The board, at the earliest practicable date,  
17          and where legally possible, shall cause all existing  
18          leases to be amended to conform to this paragraph.  
19          The term "lease", for the purposes of this paragraph,  
20          includes month-to-month rental agreements and similar  
21          tenancies[~~-~~]; and



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1        (10) The board shall conduct a rent review of every lease  
 2                    and sublease of public land every ten years."

3            SECTION 2. Statutory material to be repealed is bracketed  
 4 and stricken. New statutory material is underscored.

5            SECTION 3. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:

*SP Aviere*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*



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**Report Title:**

Public Lands; Rent Review; Leases and Subleases; Board of Land and Natural Resources

**Description:**

Requires that the board of land and natural resources conduct a rent review of all leases and subleases of public land once every ten years.

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

