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

13 There are unimproved public lands in the State's inventory
14 that the State desires to develop for resort, commercial,
15 industrial, other business or residential use. However,
16 substantial investments in infrastructure including drainage,
17 sewer, water, electricity, and other utilities will be required



1 to facilitate development of the lands with costs in the tens of
2 millions of dollars. The State desires to pass the
3 infrastructure and other development costs of these lands on to
4 a future lessee of the lands.

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

15 The purpose of this Act is to authorize the board of land
16 and natural resources to approve rental reductions or waivers
17 for leases that require substantial demolition costs or
18 infrastructure improvement costs in order for the lessee to
19 utilize the premises.

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



1 "**§171-6 Powers.** Except as otherwise provided by law, the
2 board of land and natural resources shall have the powers and
3 functions granted to the heads of departments and the board of
4 land and natural resources under chapter 26.

5 In addition to the foregoing, the board may:

- 6 (1) Adopt a seal;
- 7 (2) Administer oaths;
- 8 (3) Prescribe forms of instruments and documents;
- 9 (4) Adopt rules which, upon compliance with chapter 91,
10 shall have the force and effect of law;
- 11 (5) Set, charge, demand, and collect reasonable fees for
12 the preparation of documents to be issued, for the
13 surveying of public lands, and for the issuing of
14 certified copies of its government records, which
15 fees, when collected, shall be deposited into the
16 state general fund, unless otherwise specified in this
17 chapter;
- 18 (6) Establish additional restrictions, requirements, or
19 conditions, not inconsistent with those prescribed in
20 this chapter, relating to the use of particular land
21 being disposed of, the terms of sale, lease, license,



1 or permit, and the qualifications of any person to
2 draw, bid, or negotiate for public land;

3 (7) Reduce or waive the lease rental at the beginning of
4 the lease on any lease of public land to be used for
5 any agricultural or pastoral use, or for resort,
6 commercial, industrial, or other business use where
7 the land being leased requires substantial
8 improvements to be placed thereon; provided that such
9 reduction or waiver shall not exceed two years for
10 land to be used for any agricultural or pastoral use,
11 or exceed one year for land to be used for resort,
12 commercial, industrial, or other business use;
13 provided further that, if a lease for resort,
14 commercial, industrial, other business, or residential
15 purposes requires a lessee to demolish existing
16 improvements or provide basic infrastructure,
17 including drainage, sewer, water, electricity, and
18 other utilities, before it can make productive use of
19 the land, the board may approve a reduction or waiver
20 of lease rental up to twenty years that shall not



- 1 exceed the amount of the lessee's total expenditures
2 for demolition or provision of such infrastructure;
- 3 (8) Delegate to the chairperson or employees of the
4 department of land and natural resources, subject to
5 the board's control and responsibility, such powers
6 and duties as may be lawful or proper for the
7 performance of the functions vested in the board;
- 8 (9) Use arbitration under chapter 658A to settle any
9 controversy arising out of any existing or future
10 lease;
- 11 (10) Set, charge, and collect reasonable fees in an amount
12 sufficient to defray the cost of performing or
13 otherwise providing for the inspection of activities
14 permitted upon the issuance of a land license
15 involving a commercial purpose;
- 16 (11) Appoint masters or hearing officers to conduct public
17 hearings as provided by law and under such conditions
18 as the board by rules shall establish;
- 19 (12) Bring such actions as may be necessary to remove or
20 remedy encroachments upon public lands. Any person
21 causing an encroachment upon public land shall:



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



- 1 (14) Set, charge, and collect additional rentals for the
2 unauthorized use of public lands by a lessee,
3 licensee, grantee, or permittee who is in violation of
4 any term or condition of a lease, license, easement,
5 or revocable permit, retroactive to the date of the
6 occurrence of the violation. Such amounts shall be
7 considered delinquent payments and shall be subject to
8 interest and service charges as provided in paragraph
9 (13);
- 10 (15) Set, charge, and collect reasonable fines for
11 violation of this chapter or any rule adopted
12 thereunder. Any person engaging in any prohibited use
13 of public lands or conducting any prohibited activity
14 on public lands, or violating any of the other
15 provisions of this chapter or any rule adopted
16 thereunder, for which violation a penalty is not
17 otherwise provided, shall be:
- 18 (A) Fined not more than \$5,000 per violation for a
19 first violation or a violation beyond five years
20 of the last violation; provided that, after
21 written or verbal notification from the



- 1 department, an additional \$1,000 per day per
2 violation may be assessed for each day in which
3 the violation persists;
- 4 (B) Fined not more than \$10,000 per violation for a
5 second violation within five years of the last
6 violation; provided that, after written or verbal
7 notification from the department, an additional
8 \$2,000 per day per violation may be assessed for
9 each day in which the violation persists;
- 10 (C) Fined not more than \$20,000 per violation for a
11 third or subsequent violation within five years
12 of the last violation; provided that, after
13 written or verbal notification from the
14 department, an additional \$4,000 per day per
15 violation may be assessed for each day in which
16 the violation persists; and
- 17 (D) Liable for administrative costs and expenses
18 incurred by the department and for payment for
19 damages, including but not limited to natural
20 resource damages.



1 In addition to the fines, administrative costs, and
2 damages provided for hereinabove, for damage to or
3 theft of natural resources, the board may also set,
4 charge, and collect a fine that, in its discretion, is
5 appropriate considering the value of the natural
6 resource that is damaged or the subject of the theft.
7 In arriving at an appropriate fine, the board may
8 consider the market value of the natural resource
9 damaged or taken and any other factor it deems
10 appropriate, such as the loss of the natural resource
11 to its natural habitat and environment and the cost of
12 restoration or replacement. The remedies provided for
13 in this paragraph are cumulative and in addition to
14 any other remedies allowed by law.

15 No person shall be sanctioned pursuant to this section
16 for the exercise of native Hawaiian gathering rights
17 and traditional cultural practices as authorized by
18 law or as permitted by the department pursuant to
19 article XII, section 7, of the Hawaii state
20 constitution;



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



1 recreation of the department without the need to
2 obtain a special management area minor permit or
3 special management area use permit; and

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

7 SECTION 3. New statutory material is underscored.

8 SECTION 4. This Act shall take effect on January 1, 2050,
9 and shall be repealed on June 30, 2026; provided that
10 section 171-6, Hawaii Revised Statutes, shall be reenacted in
11 the form in which it read on June 30, 2021.



Report Title:

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

Description:

Authorizes the board of land and natural resources to approve
rental reductions or waivers for leases on public lands that
require substantial demolition or infrastructure improvement
costs in order for the lessee to utilize the premises.
Effective 1/1/2050. (HD1)

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not legislation or evidence of legislative intent.*

