
A BILL FOR AN ACT

RELATING TO INSPECTIONS ON PUBLIC LAND.

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

1 SECTION 1. The legislature finds that under chapter 171,
2 Hawaii Revised Statutes, and the terms and conditions of the
3 various land dispositions approved by the board of land and
4 natural resources, the department of land and natural resources
5 (department) has the authority to periodically inspect the
6 premises under lease or license. However, due to staff
7 constraints, the department's land agents are not able to
8 conduct regular inspections of every property under lease or
9 license. Additionally, the department's land agents are
10 typically not architects, engineers, or licensed contractors and
11 may not be qualified to identify components of existing
12 structures on the premises in need of repair or replacement.
13 Furthermore, to the extent the department's land agents are able
14 to identify items requiring repair or replacement, existing
15 lease terms and conditions do not provide the department with
16 sufficient leverage to compel the lessee to make the necessary
17 repair or replacement. This is particularly problematic at the



1 end of a long-term lease when the lessee has little incentive to
2 invest significant funds in the upkeep of the property.

3 The legislature further finds that the house investigative
4 committee (committee) established under House Resolution No. 164
5 during the regular session of 2021 was tasked with, among other
6 things, reviewing audit report No. 19-12 by the state auditor,
7 regarding the department's special land and development fund.
8 Rather than having the department's land agents conduct the
9 inspections, the committee recommended that the department
10 require lessees to pay for third-party inspectors selected by
11 the department to conduct physical inspections of the leased
12 property every five years. The committee further recommended
13 that if the third-party inspector finds any defaults with the
14 lease terms, the lessee should be required to take any
15 corrective actions recommended by the inspector.

16 The purpose of this Act is to establish a statutory
17 framework for inspections of public land leases and licenses by
18 the department; provided that:

19 (1) The inspections may be conducted by qualified third-
20 party inspectors contracted by the department but paid
21 for by the lessee or licensee as applicable; and



1 (2) If the inspection identifies items needing repair or
2 replacement, the lessee or licensee shall be required
3 to make the necessary repair or replacement at its
4 expense or risk termination of its land disposition.

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

8 "§171- Inspection of demised premises. (a) The
9 department may conduct inspections of all public land subject to
10 a lease or license to ensure that:

11 (1) The land is being used for the purpose for which it
12 was originally leased or an alternative use as
13 provided and approved by the board pursuant to section
14 171-36;

15 (2) No unauthorized activities are taking place on the
16 land;

17 (3) The lease or license has not been transferred or
18 assigned in violation of section 171-36;

19 (4) No portion of the land has been sublet in violation of
20 section 171-36 or the terms and conditions of the
21 lease or license;



1 (5) No hazardous materials are present on the land, except
2 as specifically authorized under and in conformity
3 with the applicable lease or license; and

4 (6) All structures on, buildings on, and improvements to
5 the land are maintained in acceptable condition so
6 that:

7 (A) The purpose of the lease or license may be
8 adequately and safely fulfilled;

9 (B) The use or conditions of the land do not endanger
10 the health and safety of individuals present on
11 the land or the public; and

12 (C) All property and improvements that may revert to
13 the State at the termination of the lease or
14 license are present and maintained in functional
15 and safe condition.

16 (b) Inspections pursuant to this section may be conducted
17 by a disinterested third-party inspector contracted by the
18 department; provided that any land agent of the department and
19 any party to the lease or license may be present during the
20 inspection and may observe the inspection. All costs of the
21 inspection shall be paid by the lessee or licensee. Inspectors



1 shall submit a report of their findings and recommendations to
2 the department no later than fifteen days after the inspection
3 has been completed. The department may use the inspector's
4 report as a basis for taking any corrective action in regard to
5 the lease, license, or land that is allowable under this
6 chapter. Any action taken by the department pursuant to the
7 inspector's report shall be carried out in conformity with the
8 requirements of this chapter. The lessee or licensee shall be
9 responsible for the cost of and for carrying out any corrective
10 action required under this section.

11 (c) It shall be a violation of the applicable lease or
12 license for any lessee or licensee to:

13 (1) Prevent, interfere with, unduly influence, obstruct,
14 refuse to cooperate with, hinder, or unreasonably
15 delay any inspection or attempt to inspect pursuant to
16 this section;

17 (2) Harass, interfere with, unduly influence, obstruct,
18 refuse to cooperate with, hinder, or unreasonably
19 delay any inspector, land agent, or officer or
20 employee of the department acting or attempting to act
21 in accordance with this section; or



1 (3) Refuse to comply with, interfere with, obstruct,
2 refuse to cooperate with, hinder, or unreasonably
3 delay any corrective action ordered by the department
4 pursuant to an inspector's report submitted pursuant
5 to this section or attempted corrective action;
6 provided that the board may impose any penalty allowable for
7 violation of this chapter, including termination of the lease or
8 license; assessment of administrative penalties; and imposition
9 of fines.

10 (d) This section shall be incorporated by operation of law
11 as a provision of all leases or licenses entered into by the
12 board as of the effective date of this Act."

13 SECTION 3. If any provision of this Act or the application
14 thereof to any person or circumstance is held invalid, the
15 invalidity does not affect other provisions or applications of
16 the Act that can be given effect without the invalid provision
17 or application, and to this end the provisions of this Act are
18 severable.

19 SECTION 4. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

DLNR; Public Land; Inspections

Description:

Establishes a statutory framework for inspections of public land leases or licenses by the Department of Land and Natural Resources, including by third-party inspectors contracted by the Department. Effective 7/1/3000. (SD1)

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