

JAN 19 2024

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# A BILL FOR AN ACT

RELATING TO LAND LEASES.

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

1           SECTION 1. The legislature finds that most landlords  
2 require their tenants to be in good standing, especially before  
3 renewing a lease. This includes ensuring that the tenant has  
4 met all financial, contractual, and legal obligations. Standard  
5 lease agreements also allow a landlord to terminate a lease when  
6 the tenant commits a crime on the property. Where the State  
7 leases out public lands, lessees' obligations include paying all  
8 moneys owed to the State, carrying out environmental maintenance  
9 and necessary remediations on the subject lands, and refraining  
10 from criminal activity. The legislature believes that, as a  
11 landlord, the State should ensure that all of its lessees meet  
12 these obligations, whether the lessees are private individuals,  
13 corporations, or the federal government. The legislature also  
14 believes that the State should exercise its right to terminate a  
15 lease when a lessee engages in criminal activity on the  
16 property.



1           Accordingly, the purpose of this Act is to prohibit the  
2 State from leasing any public lands, or extending the lease of  
3 any public lands, to any individual, corporation, or federal  
4 agency that is not in good standing with the State or that has  
5 not met all financial, contractual, and legal obligations.

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

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

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



- 1           (3) No lease shall be made for any land under a lease that  
2           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           owed to 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, the assignment  
9           and transfer of a lease or unit thereof may be made in  
10          accordance with current industry standards, as  
11          determined by the board; provided further that prior  
12          to the approval of any assignment of lease, the board  
13          shall have the right to review and approve the  
14          consideration to be paid by the assignee and may  
15          condition its consent to the assignment of the lease  
16          on payment by the lessee of a premium based on the  
17          amount by which the consideration for the assignment,  
18          whether by cash, credit, or otherwise, exceeds the  
19          depreciated cost of improvements and trade fixtures  
20          being transferred to the assignee; provided further  
21          that with respect to state agricultural leases, in the



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

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

19 (7) The lease shall be for a specific use or uses and  
20 shall not include waste lands, unless it is  
21 impractical to provide otherwise;



- 1 (8) Mineral and metallic rights and surface and ground  
2 water shall be reserved to the State; [~~and~~]
- 3 (9) No lease of public lands, including submerged lands,  
4 or any extension of any lease of public lands shall be  
5 issued by the State to any person to construct, use,  
6 or maintain a sunbathing or swimming pier or to use  
7 the lands for those purposes, unless the lease, or any  
8 extension thereof, contains provisions permitting the  
9 general public to use the pier facilities on the  
10 public lands and requiring that a sign or signs be  
11 placed on the pier, clearly visible to the public,  
12 that indicates the public's right to the use of the  
13 pier. The board, at the earliest practicable date,  
14 and where legally possible, shall cause all existing  
15 leases to be amended to conform to this paragraph.  
16 The term "lease", for the purposes of this paragraph,  
17 includes month-to-month rental agreements and similar  
18 tenancies[~~-~~]; and
- 19 (10) No lease of public lands, including submerged lands,  
20 or any extension of any lease of public lands, shall



1           be issued by the State to any individual, corporation,  
2           or federal agency that is:

3           (A) In arrears in the payment of any moneys owed to  
4           the State, including:

5           (i) Impact aid owed to the State pursuant to  
6           section 3 of Public Law 81-874, calculated  
7           based on the full cost recovery methodology  
8           in compliance with Government Accountability  
9           Office guidelines, in an amount determined  
10          by the office of the governor;

11          (ii) Reimbursement to the State for actual costs  
12          incurred by the State pursuant to any  
13          compact of free association, in an amount  
14          determined by the office of the governor; or

15          (iii) Reimbursement to the State for the increased  
16          cost of consumer goods in Hawaii pursuant to  
17          title 46 United States Code sections  
18          861-889, in an amount determined by the  
19          office of the governor;

20          (B) Noncompliant with any order, consent decree, or  
21          memoranda of agreement requiring the individual,



1           corporation, or federal agency to perform  
2           environmental maintenance or remediation  
3           activities with regard to the subject public  
4           lands; or

5           (C) Convicted of a crime;

6           provided that the board shall request and obtain  
7           certification from the office of the governor before  
8           the issuance or extension of any lease to an  
9           individual, corporation, or federal agency that the  
10          individual, corporation, or federal agency is in good  
11          standing with the State pursuant to this section;  
12          provided further that, if the individual, corporation,  
13          or federal agency is not in good standing with the  
14          State, the governor shall not certify the lease or  
15          lease extension until the individual, corporation, or  
16          federal agency has remitted full payment of any unpaid  
17          balances owed to the State, carried out any required  
18          environmental maintenance or remediation activities on  
19          the subject lands, or completed any adjudicated  
20          penalties for any relevant criminal activity."



1 SECTION 3. If any existing lessee of public lands is found  
2 not to be in good standing with the State as of the effective  
3 date of this Act, the lessee shall have three years, or until  
4 the end of the lease term, whichever is sooner, to correct the  
5 violation, including remitting full payment of any unpaid  
6 balances owed to the State, carrying out any required  
7 environmental maintenance or remediation activities on the  
8 subject lands, or completing any adjudicated penalties for any  
9 relevant criminal activity, or the lease shall be terminated.

10 SECTION 4. This Act does not waive the right of the State  
11 to terminate a lease at any time for any other grounds  
12 identified in the lease.

13 SECTION 5. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_





# S.B. NO. 2759

**Report Title:**

Office of the Governor; Board of Land and Natural Resources;  
Impact Aid; Public Lands; Leases

**Description:**

Prohibits the State from leasing any public lands, or extending the lease of any public lands, to any individual, corporation, or federal agency that is in arrears in the payment of certain moneys to the State, noncompliant with a consent decree or memoranda of agreement with the State that requires environmental maintenance or remediation with regard to the subject public lands, or convicted of a crime. Requires certification by the Office of the Governor before the issuance or extension of any federal lease that the individual, corporation, or federal agency is in good standing with the State. Provides that, if any existing lessee of public lands is found not to be in good standing with the State as of the effective date of this Act, the lessee shall have 3 years, or until the end of the lease term, whichever is sooner, to correct the violation or the lease shall be terminated.

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