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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) Notwithstanding the exceptions listed in paragraphs  
20 (1) and (4) through (15) of section 171-2, no lease of  
21 public lands, including submerged lands, or any



1 extension of any lease of public lands, shall be  
2 issued by the State to any individual, corporation, or  
3 federal agency that is:

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

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

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

16 (B) Noncompliant with any order, consent decree, or  
17 memoranda of agreement requiring the individual,  
18 corporation, or federal agency to perform  
19 environmental maintenance or remediation  
20 activities with regard to the subject public  
21 lands; or



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

20           SECTION 3. If any existing lessee of public lands is found  
21 not to be in good standing with the State as of the effective



1 date of this Act, the lessee shall have three years, or until  
2 the end of the lease term, whichever is sooner, to correct the  
3 violation, including remitting full payment of any unpaid  
4 balances owed to the State, carrying out any required  
5 environmental maintenance or remediation activities on the  
6 subject lands, or completing any adjudicated penalties for any  
7 relevant criminal activity, or the lease shall be terminated.

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

11 SECTION 5. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect on July 1, 2050.





**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 three years, or until the end of the lease term, whichever is sooner, to correct the violation or the lease shall be terminated. Takes effect 7/1/2050. (SD1)

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