

ACT 93

An Act Relating to Concessions on Public Property.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 7B, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new section to be appropriately numbered and to read as follows:

“Sec. **Definition.** ‘Concession’ as used in this chapter means the grant to a person, partnership, corporation or joint venture, the privilege to conduct operations which are essentially retail in nature, involving the sale of goods, wares, merchandise or services to the general public, such as restaurants, cocktail lounges, soda fountains, retail stores and parking lots in or on improvements constructed by or owned by any government agency.”

SECTION 2. Section 1, Act 245, Session Laws of Hawaii 1959, as amended by section 2, Act 5, Session Laws of Hawaii 1962, is hereby further amended by placing a semicolon after the last word, “law,” in subparagraph (a) of section 1 and thereafter inserting the following: “provided, that the duration of the contract or license shall be related to the investment required, but in no event to exceed ten years.”

SECTION 3. Section 1, Act 245, Session Laws of Hawaii 1959, as amended by section 2, Act 5, Session Laws of Hawaii 1962, is hereby further amended by deleting item (7) of subparagraph (b) of section 1 and redesignating item (8) as item (7).

SECTION 4. Section 53, as listed under section 2, Act 32, Session Laws of Hawaii 1962, is hereby amended to read as follows:

"Sec. 53. **Contract or license for concessions or concession space.** The board may, subject to the provisions of chapter 7B, Revised Laws of Hawaii 1955, as amended, dispose of concessions, as defined in said chapter 7B, and shall enter into contracts or issue licenses for such concessions; provided, that the duration of the contract or license shall be related to the investment required, but in no event to exceed ten years."

SECTION 5. Section 7B-8, Revised Laws of Hawaii 1955, is hereby amended by providing an additional paragraph to read as follows:

"If during the term of any such contract (including contracts which have been executed and are presently in force) there has been a reduction of 15% or more in the volume of business of the concessionaire for a period of sixty (60) days or more, computed on the average monthly gross income for the eighteen months just prior to said period or as long as the concessionaire has been in such business, whichever period is shorter, and such reduction as determined by such officer is caused by construction work conducted during said period of time on, or within or contiguous to, the public property upon which said concession is located by either the state or county governments, or both, such officer, with the approval of the governor in the case of a state officer and the chief executive of the respective county in the case of a county officer, may modify any of the terms of the contract, including the agreed upon rent, for a period which will allow said concessionaire to recoup the amount lost by such reduction. Provided that if such contract includes provisions allowing modification for the above contingencies, the provisions of this paragraph shall not be applicable thereto. Provided further, that this provision shall not apply to any particular concession if the application thereto may impair any contractual obligations with bondholders of the State or counties or with any other parties."

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

(Approved May 29, 1963.) **S.B. 68.**
