

A Bill for an Act Relating to Real Property Leases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 519-3, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) For purposes of this section:

(1) “Cooperative housing corporation” means a corporation:

(A) Having one and only one class of stock outstanding;

(B) Each of the stockholders of which is entitled solely by reason of the shareholder’s ownership of stock in the corporation, to occupy for dwelling purposes the dwelling unit in a building, owned or leased by the corporation, and situated on land leased by the corporation; [and]

(C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation[.]; and

(D) Eighty per cent or more of the gross income for the taxable year in which the taxes and interest described in 26 U.S.C. section 216(a) are paid or incurred is derived from tenant stockholders.

- (2) "Offsite improvements" means all physical improvements such as, but not limited to, roads, sewer lines, sewage treatment plants, and underground utility cables, constructed or placed in a subdivision or development off the land intended for occupancy, which improvements are to be used in common by occupants of all lands adjoining such improvements or by occupants of all lands for whose benefit the improvements have been constructed or placed.
- (3) "Onsite improvements" means all physical improvements placed on a residential lot intended for occupancy which improvements are for the benefit of occupants of that lot, including, but not limited to, dwelling units, garages, service buildings, stairs, walkways, driveways, walls, trees, shrubs, landscaping, and pools.
- (4) "Owner's basis" means the value of the lessor's leased fee interest in the property that would apply if such interest were normally traded on an open market. The fair market value of the owner's basis shall be established to provide the lessor with just compensation for the lessor's interests in the lot and shall take into consideration every interest and equity of the lessee in establishing that market value. The value may be determined by any method which is normally used by qualified appraisers in establishing the fair market value of a lessor's leased fee interest in land.
- (5) "Original percentage rate" means the percentage derived by dividing the annual lease rent established for the first fixed rent period under the lease by the fair market value of the land as of the first day of the first fixed rent period."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)