

ACT 37

H.B. NO. 2215

A Bill for an Act Relating to Concessions on Public Property.

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

SECTION 1. Currently, according to state law, concessionaires are required to post a bond as security for performance under a concession contract with the State. However, it has become increasingly difficult and costly for smaller concessionaires at airports to obtain performance bonds.

The legislature finds that smaller concessionaires that must provide security in an amount less than four months' rental and other charges, would carry a lesser burden if they could post security other than a performance bond for their concession contracts.

The purpose of this Act is to assist these smaller concessionaires by giving the State the flexibility to accept as security for the performance of their concession contracts, legal tender and financial instruments other than performance bonds.

SECTION 2. Section 102-11, Hawaii Revised Statutes, is amended to read as follows:

“§102-11 [~~Bond;~~] Security for performance; conditions. (a) Before any contract is entered into, the party with whom the contract is proposed to be made shall give security for the performance thereof [~~by a good and sufficient bond~~] as follows:

- (1) For a concession required to provide security under the contract in an amount less than four months' rental and other charges, if any:
 - (A) A good and sufficient bond;
 - (B) A deposit of legal tender; or
 - (C) A certificate of deposit, share certificate, cashier's check, treasurer's check, teller's check, or official check drawn by, or a certified check accepted by, a bank, savings institution, or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration; and
- (2) For a concession required to provide security under the contract in an amount equal to or greater than four months' rental and other charges, if any: a good and sufficient bond.
- (b) All security provided under this section shall:
 - (1) Be conditioned [~~for~~] on the full and faithful performance of the contract in accordance with the terms and intent thereof[, which bond shall be];
 - (2) Be in an amount not less than two months' rental and other charges, if any, required under the contract; provided that any contract for the sale and delivery of in bond merchandise at Honolulu International Airport shall require a bond in an amount not less than four months of the highest minimum annual rental guaranty required under the contract[. The bond shall also be]; and
 - (3) By its terms inure to the benefit of the State or of the county, as the case may be.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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SECTION 4. This Act shall take effect upon its approval.

(Approved April 27, 2006.)