
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 SECTION 1. The legislature finds that among the classes of
2 public lands managed by the department of land and natural
3 resources are commercial, industrial, hotel, and resort lands.
4 The legislature further finds that because of restrictions
5 imposed by various land management policies, there is little
6 incentive for lessees of various parcels to make improvements to
7 the leased parcels. This has resulted in dilapidation,
8 deterioration, and obsolescence of the properties, which reduces
9 the revenue-generating potential of the parcels.

10 The purpose of this Act is to identify areas of commercial,
11 industrial, resort, and hotel parcels in need of revitalization
12 and to establish guidelines for the redevelopment of those
13 parcels.

14 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
15 amended by adding a new part to be appropriately designated and
16 to read as follows:

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"PART . PUBLIC LANDS REDEVELOPMENT

§171-A Findings; purpose. (a) The legislature finds that:

- (1) Because of the policies guiding the management of public lands with commercial, industrial, hotel, and resort uses, there has been little incentive for the lessees of those properties to make major investments in improvements to their infrastructure, resulting in the deterioration of infrastructure and facilities;
- (2) The lack of improvement to property in many of these areas has resulted in dilapidation, deterioration, age, or obsolescence of the buildings and structures in those areas; and
- (3) The department has the responsibility of planning for the disposition of commercial, industrial, hotel, and resort classes of public lands to determine:
 - (A) Specific use or uses;
 - (B) Minimum size of parcels;
 - (C) Required building construction or improvements;and



1 (D) Lease terms and requirements.

2 (b) The purpose of this part is to authorize the
3 designation of areas or regions of public lands classified as
4 commercial, industrial, hotel, and resort, and the establishment
5 and implementation of guidelines for the redevelopment of the
6 areas or regions that will:

7 (1) Define the policies for the management of public lands
8 in the designated area;

9 (2) Establish a plan for the designated area, including
10 district-wide improvements, that is coordinated with
11 state and county land use and planning policies; and

12 (3) Implement asset and property management concepts that
13 can optimize income from the properties and evolve in
14 response to changing principles of property
15 administration.

16 (c) The legislature finds that the rejuvenation of areas
17 of public lands that have become dilapidated, obsolete, or have
18 deteriorated over time is in the public interest and constitutes
19 a valid public purpose.

20 §171-B Definitions. As used in this part:



1 "Planning committee" or "committee" means the policy-making
2 committee established for a redevelopment district pursuant to
3 section 171-D.

4 "Public facilities" include streets and highways, storm
5 drainage systems, water systems, street lighting systems, off-
6 street parking facilities, and sanitary sewerage systems.

7 "Redevelopment district" or "designated district" means an
8 area of public lands designated for redevelopment pursuant to
9 section 171-C.

10 **§171-C Designation of redevelopment district; boundaries.**

11 (a) The legislature shall designate redevelopment districts by
12 statute for any area of public lands designated as an industrial
13 park pursuant to section 171-132 or classified as commercial,
14 industrial, hotel, or resort use pursuant to section 171-10 if
15 the legislature determines that there is a need for planning,
16 development, or redevelopment because the buildings and infra-
17 structures in the area are dilapidated or have deteriorated due
18 to age or obsolescence.

19 (b) The designation shall describe the boundaries of the
20 redevelopment district.



1 §171-D Planning committee; district administrator; repeal.

2 (a) Upon the designation of a redevelopment district pursuant
3 to section 171-C, a planning committee for the designated
4 district shall be established and placed in the department for
5 administrative purposes.

6 (b) The committee shall be a policy-making committee for
7 the designated district and shall consist of nine members. The
8 members shall consist of:

9 (1) The chairperson of the board of land and natural
10 resources and the director of planning of the county
11 in which the designated district is located, or their
12 designated representatives, who shall be ex-officio,
13 voting members of the committee; and

14 (2) Seven public, voting members appointed by the governor
15 pursuant to section 26-34; provided that of the
16 members appointed pursuant to this paragraph:

17 (A) Three members shall be selected from a list of
18 six names submitted by the president of the
19 senate and speaker of the house of
20 representatives in collaboration with the



1 legislators from the county in which the
2 designated district is located; and
3 (B) Seven members shall be selected on the basis of
4 their knowledge, experience, and expertise in:
5 (i) Management of small or large businesses;
6 (ii) Economics, banking, investment, or finance;
7 (iii) Real estate development;
8 (iv) Real estate management;
9 (v) Marketing; or
10 (vi) Hotel and resort management;
11 provided that of the seven members, four members
12 shall be residents of the county in which the
13 designated district is located and three members
14 shall be residents of the State.
15 (c) The committee shall elect its chairperson from among
16 its public, voting members.
17 (d) The members of the committee shall serve without
18 compensation but shall be reimbursed for reasonable expenses,
19 including travel expenses, incurred in the performance of their
20 duties.



1 (e) The committee shall appoint a district administrator,
 2 who shall be the chief executive officer for the designated
 3 district. The district administrator shall have experience and
 4 expertise in engineering, planning, architecture, real estate,
 5 or law. The committee shall set the district administrator's
 6 duties, responsibilities, holidays, vacations, leaves, hours of
 7 work, and working conditions. The committee shall set the
 8 salary of the district administrator, who shall serve at the
 9 pleasure of the committee and shall be exempt from chapter 76.

10 (f) The committee shall be dissolved on June 30 of the
 11 tenth year following the effective date of the Act establishing
 12 the designated district.

13 **§171-E Planning committee; powers and duties; generally.**

14 The committee shall have the powers and duties related to its
 15 functions in the designated district that are delegated to the
 16 committee by the board. In addition, the committee may:

- 17 (1) Through its district administrator, appoint staff and
- 18 employees, prescribe their duties and qualifications,
- 19 and fix their salaries, without regard to chapter 76;
- 20 (2) Through its district administrator, allocate space or
- 21 spaces that are to be occupied by the committee and



- 1 appropriate staff, and purchase necessary supplies,
2 equipment, or furniture;
- 3 (3) Prepare a redevelopment plan for the designated
4 district;
- 5 (4) Notwithstanding any other law to the contrary, renew
6 or renegotiate any lease in connection with any
7 project contained in the redevelopment plan for the
8 designated district, on terms and conditions as the
9 committee deems advisable;
- 10 (5) Prepare or cause to be prepared plans, design
11 criteria, landscaping, and estimates of costs for the
12 construction, rehabilitation, or repair of any project
13 contained in the redevelopment plan for the designated
14 district, and from time to time to modify the plans or
15 estimates;
- 16 (6) Conduct studies in conjunction with county and state
17 agencies necessary to determine the appropriate
18 activities for redevelopment in the designated
19 district;
- 20 (7) Reduce or waive the lease rental on any lease of
21 public land for any project in the designated district



1 that requires substantial improvements; provided that
2 the reduction or waiver shall not exceed one year in
3 duration;

4 (8) Make and execute all contracts and instruments that
5 are necessary for the exercise of the committee's
6 powers and functions relating to the designated
7 district, including the engaging of the services of
8 consultants for the rendering of professional and
9 technical assistance and advice;

10 (9) Enter into a redevelopment agreement with a developer
11 or developers for any project contained in the
12 redevelopment plan; provided that the redevelopment
13 agreement shall contain:

14 (A) The location, area, and size of the parcel to be
15 redeveloped;

16 (B) The use or uses to which the parcel shall be put
17 in conformance with the redevelopment plan, and
18 with applicable state and county laws and
19 ordinances;

20 (C) The period of time for the construction and
21 completion of the redevelopment; and



1 (D) Other terms and conditions that the committee
2 deems necessary;

3 (10) Work closely and communicate with the county
4 government to coordinate the execution of the
5 designated district's planning, incremental projects,
6 work schedules, public works, and budget; and

7 (11) Do any and all things necessary to carry out the
8 committee's purposes and exercise the powers
9 established pursuant to this part.

10 **§171-F District redevelopment plan.** (a) The committee
11 shall prepare a redevelopment plan for the designated district,
12 including district development policies, the district
13 improvement program, necessary public facilities, and the
14 development guidelines and rules for the designated district.
15 In carrying out its planning activities, the committee shall
16 comply with applicable state and county statutes, ordinances,
17 and rules.

18 (b) The committee shall prepare a redevelopment plan for
19 the designated district that:

20 (1) Establishes, if applicable, areas principally for:

21 (A) Commercial activities;



- 1 (B) Processing, construction, manufacturing,
2 transportation, wholesaling, storage and similar
3 industrial activities;
- 4 (C) Resort and hotel activities, including uses that
5 provide facilities and services for visitors; or
- 6 (D) Public facilities and recreational facilities;
7 with detailed standards for height, bulk, size,
8 and location of buildings;
- 9 (2) Includes a district-wide improvement program for
10 necessary district-wide public facilities within the
11 designated district;
- 12 (3) Includes plans, specifications, and estimates of the
13 costs for the development, construction,
14 reconstruction, or improvement of any project in the
15 designated district; provided that the committee may
16 from time to time modify the plans, specifications, or
17 estimates;
- 18 (4) If possible, identifies specific uses for areas in the
19 designated district and the required parceling of land
20 into minimum size areas related to the specific uses;



1 (5) Determines the lease rental that should be established
2 for the specific uses and the terms and conditions of
3 the leases; and

4 (6) Establishes interim development controls to be
5 implemented during the transition to the execution of
6 the provisions of the redevelopment plan, such as
7 recommending the holdover of a lessee pursuant to
8 section 171-40 or issuance of permits pursuant to
9 section 171-55 to existing lessees upon the expiration
10 of their lease terms.

11 (c) The district redevelopment plan may provide for the
12 withdrawal or taking for public purposes of the public land or
13 portion of the public land under a lease. The rental shall be
14 reduced in proportion to the value of the portion of the
15 premises condemned, and the lessee shall be entitled to receive
16 the proportionate value of the permanent improvements legally
17 made to or constructed upon the land by the lessee taken in the
18 proportion that it bears to the unexpired term of the lease.

19 (d) The committee shall hold a public hearing on a
20 proposed redevelopment plan for the designated district, and



1 shall consider the comments received and incorporate any
2 revisions to the plan that may be necessary.

3 (e) Two years after the date it is established, the
4 committee shall submit a report to the board with the
5 redevelopment plan recommended by the committee along with
6 recommendations for appropriations by the legislature, the
7 authorization of bonds, or both, to implement the redevelopment
8 plan in a timely manner. The board shall submit the report to
9 the governor and the legislature, not later than twenty days
10 prior to the convening of the 2020 regular session, with a
11 request for the required appropriations, bond authorization, or
12 both.

13 (f) The designated district redevelopment plan shall
14 supersede all other inconsistent ordinances and rules relating
15 to the use, planning, development, and construction on public
16 land in the designated district.

17 **§171-G Designated redevelopment district revolving fund.**

18 (a) A separate revolving fund shall be established for each
19 redevelopment district designated pursuant to section 171-C,
20 into which shall be deposited:



- 1 (1) Fifty per cent of the revenues, income, and receipts
- 2 of the department from the public lands in the
- 3 designated district, notwithstanding section 171-19;
- 4 (2) Moneys appropriated by the legislature to the
- 5 revolving fund; and
- 6 (3) Any gifts, grants, and other funds accepted by the
- 7 department.

8 Each revolving fund shall bear the name used by the legislature
 9 in designating the redevelopment district.

10 (b) Moneys in the designated redevelopment district
 11 revolving fund shall be used in the designated district for the
 12 purposes of this part; provided that no expenditure shall be
 13 made from the fund and no obligation shall be incurred against
 14 the fund in excess of the amount standing to the credit of the
 15 fund."

16 SECTION 3. Section 171-1, Hawaii Revised Statutes, is
 17 amended by amending the definition of "public purpose" to read
 18 as follows:

19 "Public purpose", as used in this chapter, unless the
 20 context clearly indicates otherwise, includes but shall not be
 21 limited to all public uses, the straightening of boundaries of



1 public lands, acquisition of access to landlocked public lands,
2 the consolidation of the holdings of public lands, development
3 of houselots, farmlots, [~~and~~] industrial parks[-], and the
4 redevelopment of public lands pursuant to part ."

5 SECTION 4. Section 171-35, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§171-35 Lease provisions; generally.** Every lease issued
8 by the board of land and natural resources shall contain:

9 (1) The specific use or uses to which the land is to be
10 employed;

11 (2) The exact commencement and termination dates for the
12 lease, and the term and type of notice required to
13 exercise any renewal option, if applicable;

14 [~~(2)~~] (3) The improvements required; provided that a
15 minimum reasonable time be allowed for the completion
16 of the improvements;

17 [~~(3)~~] (4) Restrictions against alienation as set forth in
18 section 171-36;

19 [~~(4)~~] (5) The rent, as established by the board or at
20 public auction, which shall be payable not more than



1 one year in advance, in monthly, quarterly,
 2 semiannual, or annual payments;
 3 ~~[-(5)]~~ (6) Where applicable, adequate protection of forests,
 4 watershed areas, game management areas, wildlife
 5 sanctuaries, and public hunting areas, reservation of
 6 rights-of-way and access to other public lands, public
 7 hunting areas, game management areas, or public
 8 beaches, and prevention of nuisance and waste; and
 9 ~~[-(6)]~~ (7) ~~[Such]~~ Any other terms and conditions as the
 10 board deems advisable to more nearly effectuate the
 11 purposes of the state constitution and of this
 12 chapter."

13 SECTION 5. Section 171-36, Hawaii Revised Statutes, is
 14 amended as follows:

15 1. By amending subsections (a) and (b) to read:

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

18 ~~[-(1)] Options for renewal of terms are prohibited;~~

19 ~~[-(2)]~~ (1) No lease shall be for a longer term than sixty-
 20 five years, except in the case of a residential
 21 leasehold which may provide for an initial term of



1 fifty-five years with the privilege of extension to
2 meet the requirements of the Federal Housing
3 Administration, Federal National Mortgage Association,
4 Federal Land Bank of Berkeley, Federal Intermediate
5 Credit Bank of Berkeley, Berkeley Bank for
6 Cooperatives, or Veterans Administration requirements;
7 ~~[provided that the aggregate of the initial term and~~
8 ~~extension shall in no event exceed seventy five years;~~
9 ~~(3) No lease shall be made for any land under a lease~~
10 ~~which has more than two years to run;~~
11 ~~(4)]~~ (2) No lease shall be made to any person who is in
12 arrears in the payment of taxes, rents, or other
13 obligations owing the State or any county;
14 ~~[(5)]~~ (3) No lease shall be transferable or assignable,
15 except by devise, bequest, or intestate succession;
16 provided that with the approval of the board of land
17 and natural resources, the assignment and transfer of
18 a lease or unit thereof may be made in accordance with
19 current industry standards, as determined by the
20 board; provided further that prior to the approval of
21 any assignment of lease, the board ~~[shall have the~~



1 ~~right to~~ may review and approve the consideration to
2 be paid by the assignee and may condition its consent
3 to the assignment of the lease on payment by the
4 lessee of a premium based on the amount by which the
5 consideration for the assignment, whether by cash,
6 credit, or otherwise, exceeds the depreciated cost of
7 improvements and trade fixtures being transferred to
8 the assignee; provided further that with respect to
9 state agricultural leases, [~~in the event of~~] if a
10 foreclosure or sale~~[7]~~ occurs, the premium, if any,
11 shall be assessed only after the encumbrances of
12 record and any other advances made by the holder of a
13 security interest are paid;

14 [~~(6)~~] (4) The lessee shall not sublet the whole or any part
15 of the demised premises except with the approval of
16 the board; provided that prior to the approval, the
17 board [~~shall have the right to~~] may review and approve
18 the rent to be charged to the sublessee; provided
19 further that in the case where the lessee is required
20 to pay rent based on a percentage of its gross
21 receipts, the receipts of the sublessee shall be



1 included as part of the lessee's gross receipts;
 2 provided further that the board [~~shall have the right~~
 3 ~~to~~] may review and, if necessary, revise the rent of
 4 the demised premises based upon the rental rate
 5 charged to the sublessee including the percentage
 6 rent, if applicable, and provided that the rent may
 7 not be revised downward;

8 [~~7~~] (5) The lease shall be for a specific use or uses and
 9 shall not include waste lands, unless it is
 10 impractical to provide otherwise;

11 [~~8~~] (6) Mineral and metallic rights and surface and
 12 ground water shall be reserved to the State; and

13 [~~9~~] (7) No lease of public lands, including submerged
 14 lands, nor any extension of any [~~such~~] lease, shall be
 15 issued by the State to any person to construct, use,
 16 or maintain a sunbathing or swimming pier or to use
 17 the lands for [~~such~~] these purposes, unless [~~such~~] the
 18 lease, or any extension thereof, contains provisions
 19 permitting the general public to use the pier
 20 facilities on the public lands and requiring that a
 21 sign or signs be placed on the pier, clearly visible



1 to the public, which indicates the public's right to
 2 the use of the pier. The board, at the earliest
 3 practicable date, and where legally possible, shall
 4 cause all existing leases to be amended to conform to
 5 this paragraph. The term "lease", for the purposes of
 6 this paragraph, includes month-to-month rental
 7 agreements and similar tenancies.

8 (b) The board, from time to time, upon the issuance or
 9 during the term of any intensive agricultural, aquaculture,
 10 commercial, mariculture, special livestock, hotel,
 11 resort, school or government entity pursuant to section 171-95,
 12 eleemosynary organization pursuant to section 171-43.1, or
 13 industrial lease, may:

- 14 (1) Modify or eliminate any of the restrictions specified
- 15 in subsection (a);
- 16 (2) Extend or modify the fixed rental period of the
- 17 lease [~~; provided that the aggregate of the initial~~
- 18 ~~term and any extension granted shall not exceed sixty~~
- 19 ~~five years;] upon approval by the board of a~~
- 20 development agreement proposed by the lessee to make



1 substantial improvements to the existing improvements
2 or to construct new improvements; or

3 (3) Extend the term of the lease,
4 to the extent necessary to qualify the lease for mortgage
5 lending or guaranty purposes with any federal mortgage lending
6 agency, to qualify the lessee for any state or private lending
7 institution loan, private loan guaranteed by the State, or any
8 loan in which the State and any private lender participates, or
9 to amortize the cost of substantial improvements to the demised
10 premises that are paid for by the lessee without institutional
11 financing, [~~such~~] the extension being based on the economic life
12 of the improvements as determined by the board or an independent
13 appraiser; provided that the approval of any extension shall be
14 subject to the following:

15 (1) The demised premises have been used substantially for
16 the purpose for which they were originally leased;

17 ~~-(2)- The aggregate of the initial term and any extension~~
18 ~~granted shall not be for more than sixty five years;~~

19 ~~-(3)]~~ (2) ~~[In the event of]~~ If a reopening~~[,]~~ occurs, the
20 rental for any ensuing period shall be the fair market
21 rental at the time of reopening;



1 ~~[(4)]~~ (3) Any federal or private lending institution shall
2 be qualified to do business in the State;

3 ~~[(5)]~~ (4) Proceeds of any mortgage or loan shall be used
4 solely for the operations or improvements on the
5 demised premises;

6 ~~[(6)]~~ (5) Where improvements are financed by the lessee,
7 the lessee shall submit receipts of expenditures
8 within a time period specified by the board, otherwise
9 the lease extension shall be canceled; and

10 ~~[(7)]~~ (6) The rules of the board, setting forth any
11 additional terms and conditions, which shall ensure
12 and promote the purposes of the demised lands."

13 2. By amending subsections (d) and (e) to read:

14 "(d) The board, from time to time, during the term of any
15 agriculture, intensive agriculture, aquaculture, commercial,
16 mariculture, special livestock, pasture, hotel, resort, school
17 or government entity pursuant to section 171-95, eleemosynary
18 organization pursuant to section 171-43.1, or industrial lease,
19 may modify or eliminate any of the ~~[+]restrictions[+]~~ specified
20 in subsection (a), extend or modify the fixed rental period of



1 the lease, or extend the term of the lease upon a showing of
2 significant economic hardship directly caused by:

3 (1) State disaster, pursuant to chapter 209, including
4 seismic or tidal wave, tsunami, hurricane, volcanic
5 eruption, typhoon, earthquake, flood, or severe
6 drought; or

7 (2) A taking of a portion of the area of the lease by
8 government action by eminent domain, withdrawal, or
9 conservation easement; provided that the portion taken
10 shall not be less than ten per cent of the entire
11 leased area unless otherwise approved by the board;
12 and provided that the board determines that the lessee
13 will not be adequately compensated pursuant to the
14 lease provisions.

15 (e) The approval of any extension granted pursuant to
16 subsection (d) shall be subject to the following:

17 (1) The demised premises has been used substantially for
18 the purposes for which they were originally leased;

19 ~~[-(2) The aggregate of the initial term and any extension~~
20 ~~granted shall not be for more than fifty five years;~~



1 ~~(3)~~ (2) The rental shall not be less than the rental for
2 the preceding term;

3 ~~(4)~~ (3) The rules of the board, setting forth any
4 additional terms and conditions which shall ensure and
5 promote the purposes of the demised lands; and

6 ~~(5)~~ (4) The length of the extension shall not exceed a
7 reasonable length of time for the purpose of providing
8 relief [~~and shall in no case exceed five years~~]."

9 SECTION 6. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so much
11 thereof as may be necessary for fiscal year 2017-2018 and the
12 same sum or so much thereof as may be necessary for fiscal year
13 2018-2019 to carry out the purposes of this Act.

14 The sums appropriated shall be expended by the department
15 of land and natural resources for the purposes of this Act.

16 SECTION 7. In codifying the new part added by section 2 of
17 this Act, the revisor of statutes shall substitute appropriate
18 section numbers for the letters used in designating the new
19 sections in this Act.

20 SECTION 8. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 9. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 10. This Act shall take effect on July 1, 2117.



Report Title:

Public Lands; Redevelopment; Redevelopment Districts;
Boundaries; Planning Committees; Powers and Duties; District
Redevelopment Plans; Designated Redevelopment District Revolving
Funds; Establishment; Lease Restrictions; Appropriations

Description:

Establishes procedures for designating public land redevelopment
districts, planning committees, district redevelopment plans,
and designated redevelopment district revolving funds.

Establishes powers and duties of planning committees. Modifies
public land lease restrictions. Appropriates funds. (HB1469
HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

