
A BILL FOR AN ACT

RELATING TO LEASE EXTENSIONS ON PUBLIC LAND.

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

1 SECTION 1. The legislature finds that many of the leases
2 for commercial, industrial, resort, mixed-use, and government
3 properties on public land statewide may be nearing the end of
4 the lease term. Faced with the uncertainty of continued
5 tenancy, lessees have little incentive to make major investments
6 in infrastructural improvements and to ensure the long-term
7 maintenance of the facilities. As a result, the infrastructure
8 on these properties has been deteriorating.

9 The legislature finds that business lessees typically sell
10 or assign their leases that are nearing the end of the lease
11 terms at a discount. The legislature further finds that it
12 would be unfair to the prior assignors of the leases if the
13 State granted extensions of leases that previously could not be
14 extended under existing law or lease terms to the newly assigned
15 lessees who acquired their leases at a discount due to short
16 remaining lease terms.



1 The purpose of this Act is to require the board of land and
2 natural resources to establish a public lands lease extension
3 pilot project in which the board of land and natural resources
4 may extend commercial, industrial, resort, mixed-use, or
5 governmental leases, other than those to which the university of
6 Hawaii is a party, that have not been sold or assigned within
7 the last ten years, for lessees who commit to substantial
8 improvement to the existing improvements.

9 SECTION 2. (a) Notwithstanding section 171-36, Hawaii
10 Revised Statutes, or any other law to the contrary, the board of
11 land and natural resources shall establish a five-year public
12 lands lease extension pilot project in which the board of land
13 and natural resources may extend the rental period of any lease
14 of public lands for commercial use, industrial use, resort use,
15 mixed-use, or government use upon approval by the board of land
16 and natural resources of a development agreement proposed by the
17 lessee or by the lessee and developer to make substantial
18 improvements to the existing improvements; provided that the
19 leases shall have not been assigned or transferred within ten
20 years prior to receipt of an application for a lease extension
21 submitted pursuant to this Act; provided further that the pilot



1 project shall only include public lands that are located at any
2 of the following within the area designated by zip code 96720:

- 3 (1) TMK 2-2-047-006;
- 4 (2) TMK 2-2-047-066;
- 5 (3) TMK 2-2-047-069; or
- 6 (4) TMK 2-2-047-073.

7 For the purposes of this subsection, the terms "assigned" or
8 "transferred" shall not include a sale or change in ownership of
9 a lessee that is a company or entity or a collateral assignment
10 of lease or other security granted to a leasehold mortgagee in
11 connection with leasehold financing by a lessee.

12 (b) Prior to entering into a development agreement, the
13 lessee or the lessee and the developer shall submit to the board
14 of land and natural resources the plans and specifications for
15 the total development proposed. The board of land and natural
16 resources shall review the plans and specifications and
17 determine:

- 18 (1) Whether the development proposed in the development
19 agreement is of sufficient worth and value to justify
20 the extension of the lease;



1 (2) The estimated period of time to complete the
2 improvements and expected date of completion of the
3 improvements; and

4 (3) The minimum revised annual rent based on the fair
5 market value of the lands to be developed, as
6 determined by an appraiser for the board of land and
7 natural resources, and if deemed appropriate by an
8 appraiser, the appropriate percentage of rent where
9 gross receipts exceed a specified amount.

10 No lease extension shall be approved until the board of land and
11 natural resources and the lessee or the lessee and developer
12 mutually agree to the terms and conditions of the development
13 agreement.

14 (c) No construction shall commence until the lessee or the
15 lessee and developer have filed with the board of land and
16 natural resources a sufficient bond conditioned upon the full
17 and faithful performance of all the terms and conditions of the
18 development agreement.

19 (d) Any extension of a lease pursuant to this Act shall be
20 based upon the substantial improvements to be made and shall be
21 for a period not to exceed forty years. No lease shall be



1 transferable or assignable throughout the first ten years of the
2 extended term, except by devise, bequest, intestate succession,
3 a collateral assignment of lease or other security granted to a
4 leasehold mortgagee in connection with leasehold financing by a
5 lessee, a change in direct ownership of less than fifty per cent
6 of a lessee that is a company or entity, a change in indirect
7 ownership of a lessee that is a company or entity, or by
8 operation of law. The prohibition on assignments and transfer
9 of leases shall include a prohibition on conveyances of leases.
10 During subsequent periods of the extended term of the lease, the
11 lease may be assigned or transferred, subject to approval by the
12 board of land and natural resources.

13 (e) The applicant for a lease extension shall pay all
14 costs and expenses incurred by the department in connection with
15 processing, analyzing, or negotiating any lease extension
16 request, lease document, or development agreement under this
17 Act.

18 (f) The public lands lease extension pilot project,
19 including the authority of the board of land and natural
20 resources to approve the extension of rental periods pursuant to
21 the pilot project, shall end on July 1, 2026; provided that any



1 lease extension executed pursuant to the pilot project shall run
2 for the full term of the executed lease extension unless
3 shortened by mutual agreement of the parties.

4 (g) As used in this Act:

5 "Government use" means a development undertaken under a
6 lease held by any agency or department of the State or its
7 political subdivisions other than the university of Hawaii or
8 any department, agency, or administratively attached entity of
9 the university of Hawaii system.

10 "Mixed use" means a development that combines two or more
11 of the following uses in a single project: commercial use,
12 resort use, multifamily residential use, or governmental use.

13 "Resort use" means a development that provides transient
14 accommodations as defined in section 237D-1, Hawaii Revised
15 Statutes, and related services, which may include a front desk,
16 housekeeping, food and beverage, room service, and other
17 services customarily associated with transient accommodations;
18 provided that no development shall qualify as a resort use under
19 this Act unless at least seventy-five per cent of the living or
20 sleeping quarters in the development are used solely for
21 transient accommodations for the term of any lease extension.



1 "Substantial improvements" means any renovation,
2 rehabilitation, reconstruction, or construction of existing
3 improvements, including minimum requirements for off-site and
4 on-site improvements, the cost of which equals or exceeds thirty
5 per cent of the market value of the existing improvements, that
6 the lessee or the lessee and developer installs, constructs, and
7 completes by the date of completion of the total development.

8 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

BLNR; Public Lands; Lease Extension; Development Agreement

Description:

Requires the board of land and natural resources to establish a public lands lease extension pilot project to extend certain leases of public lands for commercial, industrial, resort, mixed-use, or government use upon approval of a proposed development agreement to make substantial improvements to the existing improvements. Effective 7/1/2050. (SD2)

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

