



GOV. MSG. NO. 1364

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 7, 2021

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Thirty First State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Thirty First State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Re: HB499 HD2 SD2 CD1

Pursuant to Section 16 of Article III of the State Constitution, HB499 HD2 SD2 CD1, entitled "A BILL FOR AN ACT RELATING TO LEASE EXTENSIONS ON PUBLIC LAND" became law without my signature.

This bill authorizes the board of land and natural resources 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.

Since most of Department of Land and Natural Resources' (DLNR) lands are for forest protection, state parks, or other natural resource protection, it is estimated that the lands under DLNR that could benefit from the extension bill make up less than 1% of the State lands (1.3 million acres) under the jurisdiction of the DLNR.

Lands that are subject to Hawaii Revised Statutes (HRS) chapter 171, include those under DLNR and lands under the Department of Hawaiian Home Lands (DHHL) that are not needed for homestead leases.

Neither military leases nor any properties of the University of Hawai'i can be extended under HB499.


Public lands are generally used for public trust purposes including: support of public schools; betterment of the conditions of native Hawaiians; development of farm and home ownership on as widespread a basis as possible; making of public improvements; and provision of lands for public use.

Some public trust lands are better suited as commercial properties, which earn revenue for the State. HB499 provides stability for both the State and the community by providing a dependable source of income for the State to use for public trust purposes.

Leases can only be extended if the lessee agrees to make substantial improvements equal to or exceeding 30 percent of the market value of the existing improvements. The Administration bill introduced on this topic had a higher threshold of a 50 percent of fair market value of existing improvements.

For the foregoing reasons, I have allowed HB499 HD2 SD2 CD1 to become law as Act 236, Session Laws of Hawaii 2021, on July 6, 2021, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "David Y. Ige". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

DAVID Y. IGE  
Governor, State of Hawaii

# 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 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 authorize the board of land  
2 and natural resources to extend commercial, industrial, resort,  
3 mixed-use, or government leases, other than those to which the  
4 University of Hawaii is a party, that have not been sold or  
5 assigned within the last ten years, for lessees who commit to  
6 substantial improvement to the existing improvements.

7           SECTION 2. Chapter 171, Hawaii Revised Statutes, is  
8 amended by adding a new section to part II to be appropriately  
9 designated and to read as follows:

10           "§171-       Commercial, industrial, resort, mixed-use, or  
11 government leases; extension of term. (a) Notwithstanding  
12 section 171-36, for leases that have not been assigned or  
13 transferred within ten years prior to receipt of an application  
14 for a lease extension submitted pursuant to this section, the  
15 board may extend the rental period of a lease of public lands  
16 for commercial use, industrial use, resort use, mixed-use, or  
17 government use upon the board's approval of a development  
18 agreement proposed by the lessee or by the lessee and developer  
19 to make substantial improvements to the existing improvements.  
20 For the purposes of this subsection, "assigned or transferred"  
21 shall not include:



1       (1) A sale or change in ownership of a lessee that is a  
2           company or entity; or

3       (2) A collateral assignment of lease or other security  
4           granted to a leasehold mortgagee in connection with  
5           leasehold financing by a lessee.

6       (b) Before entering into a development agreement, the  
7       lessee or the lessee and developer shall submit to the board the  
8       plans and specifications for the total development proposed.

9       The board shall review the plans and specifications and  
10       determine:

11       (1) Whether the development proposed in the development  
12           agreement is of sufficient worth and value to justify  
13           the extension of the lease;

14       (2) The estimated period of time necessary to complete the  
15           improvements and expected date of completion of the  
16           improvements; and

17       (3) The minimum revised annual rent based on the fair  
18           market value of the lands to be developed, as  
19           determined by an appraiser for the board and, if  
20           deemed appropriate by an appraiser, the appropriate



1           percentage of rent where gross receipts exceed a  
2           specified amount.

3           No lease extension shall be approved until the board and  
4           the lessee or the lessee and developer mutually agree to the  
5           terms and conditions of the development agreement.

6           (c) No construction shall commence until the lessee or the  
7           lessee and developer have filed with the board a sufficient bond  
8           conditioned upon the full and faithful performance of all the  
9           terms and conditions of the development agreement.

10          (d) Any extension of a lease pursuant to this section  
11          shall be based upon the substantial improvements to be made and  
12          shall be for a period no longer than forty years. No lease  
13          shall be transferable or assignable throughout the first ten  
14          years of the extended term, except by devise, bequest, intestate  
15          succession, a collateral assignment of lease or other security  
16          granted to a leasehold mortgagee in connection with leasehold  
17          financing by a lessee, a change in direct ownership of less than  
18          fifty per cent of a lessee that is a company or entity, a change  
19          in indirect ownership of a lessee that is a company or entity,  
20          or by operation of law. The prohibition on assignments and  
21          transfer of leases shall include a prohibition on conveyances of



1 leases. During subsequent periods of the extended term of the  
2 lease, the lease may be assigned or transferred, subject to  
3 approval by the board.

4 (e) The applicant for a lease extension shall pay all  
5 costs and expenses incurred by the department in connection with  
6 processing, analyzing, or negotiating any lease extension  
7 request, lease document, or development agreement under this  
8 section.

9 (f) As used in this section:

10 "Government use" means a development undertaken under a  
11 lease held by any agency or department of the State or its  
12 political subdivisions other than the University of Hawaii or  
13 any department, agency, or administratively attached entity of  
14 the University of Hawaii system.

15 "Mixed-use" means a development that combines two or more  
16 of the following uses in a single project: commercial use,  
17 resort use, multifamily residential use, or government use.

18 "Resort use" means a development that:

19 (1) Provides transient accommodations as defined in  
20 section 237D-1 and related services, which may include  
21 a front desk, housekeeping, food and beverage, room







HB No. 499, HD 2, SD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki  
Speaker  
House of Representatives




Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI'I**

Date: April 27, 2021  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate  
of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021.

  
President of the Senate

  
Clerk of the Senate