

JAN 21 2022

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# A BILL FOR AN ACT

RELATING TO THE BOARD OF LAND AND NATURAL RESOURCES.

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

1       SECTION 1. The legislature finds that in order to  
2 effectively manage public lands, oversight of usage is necessary  
3 to ensure Hawaii's people thrive. The department of land and  
4 natural resources land division has significant discretion to  
5 revoke, limit, remove, or shorten leases granted by the  
6 department, issue condemnations, and rescind revocable permits  
7 without prior approval from the board of land and natural  
8 resources. Accordingly, the legislature further finds that  
9 enhanced review of public land leases and revocable permits  
10 would allow the State to repurpose land for the benefit of  
11 Hawaii's people.

12       The purpose of this Act is to limit the discretion of the  
13 department of land and natural resources land division by  
14 requiring all decisions to revoke, limit, remove, or shorten  
15 department of land and natural resources leases and revocable  
16 permits, and issuance of condemnations to be approved by the  
17 board of land and natural resources.



SECTION 2. Section 171-6, Hawaii Revised Statutes, is amended to read as follows:

**"§171-6 Powers.** Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26.

In addition to the foregoing, the board may:

- (1) Adopt a seal;
- (2) Administer oaths;
- (3) Prescribe forms of instruments and documents;
- (4) Adopt rules which, upon compliance with chapter 91, shall have the force and effect of law;
- (5) Set, charge, demand, and collect reasonable fees for the preparation of documents to be issued, for the surveying of public lands, and for the issuing of certified copies of its government records, which fees, when collected, shall be deposited into the state general fund, unless otherwise specified in this chapter;
- (6) Establish additional restrictions, requirements, or conditions, consistent with those prescribed in this



chapter, relating to the use of particular land being disposed of, the terms of sale, lease, license, or permit, and the qualifications of any person to draw, bid, or negotiate for public land;

- (7) Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that the reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use, or exceed one year for land to be used for resort, commercial, industrial, or other business use. When a lease for resort, commercial, industrial, or other business or residential purposes requires a lessee to demolish existing improvements or provide basic infrastructure, including drainage, sewer, water, electricity, and other utilities, before the lessee can make productive use of the land, the board may approve a reduction or waiver of lease rental for a



1 period of up to twenty years; provided that the  
2 aggregate amount of the reduced or waived lease rental  
3 shall not exceed the amount of the lessee's total  
4 expenditures for demolition or provision of the  
5 infrastructure;

6 (8) Delegate to the chairperson or employees of the  
7 department of land and natural resources, subject to  
8 the board's control and responsibility, powers and  
9 duties as may be lawful or proper for the performance  
10 of the functions vested in the board; provided that  
11 any decision relating to the revocation, limitation,  
12 condemnation, removal, or modification of land leases  
13 and revocable permits shall be subject to prior  
14 approval by the board;

15 (9) Use arbitration under chapter 658A to settle any  
16 controversy arising out of any existing or future  
17 lease;

18 (10) Set, charge, and collect reasonable fees in an amount  
19 sufficient to defray the cost of performing or  
20 otherwise providing for the inspection of activities



1           permitted upon the issuance of a land license  
2           involving a commercial purpose;

3       (11) Appoint hearing officers to conduct public hearings as  
4           provided by law and under conditions as the board by  
5           rules shall establish;

6       (12) Bring actions as may be necessary to remove or remedy  
7           encroachments upon public lands. Any person causing  
8           an encroachment upon public land shall:

9           (A) Be fined no more than \$1,000 a day for the first  
10           offense;

11          (B) Be fined no less than \$1,000 nor more than \$4,000  
12           per day upon the second offense and thereafter;

13          (C) If required by the board, restore the land to its  
14           original condition if altered and assume the  
15           costs thereof;

16          (D) Assume costs as may result from adverse effects  
17           from restoration; and

18          (E) Be liable for administrative costs incurred by  
19           the department and for payment of damages;

20       (13) Set, charge, and collect interest and a service charge  
21           on delinquent payments due on leases, sales, or other



1 accounts. The rate of interest shall not exceed one  
2 per cent a month and the service charge shall not  
3 exceed \$50 a month for each delinquent payment;  
4 provided that the contract shall state the interest  
5 rate and the service charge and be signed by the party  
6 to be charged;

7 (14) Set, charge, and collect additional rentals for the  
8 unauthorized use of public lands by a lessee,  
9 licensee, grantee, or permittee who is in violation of  
10 any term or condition of a lease, license, easement,  
11 or revocable permit, retroactive to the date of the  
12 occurrence of the violation. The amounts shall be  
13 considered delinquent payments and shall be subject to  
14 interest and service charges as provided in paragraph  
15 (13);

16 (15) Set, charge, and collect reasonable fines for  
17 violation of this chapter or any rule adopted  
18 thereunder. Any person engaging in any prohibited use  
19 of public lands or conducting any prohibited activity  
20 on public lands, or violating any of the other  
21 provisions of this chapter or any rule adopted



1           thereunder, for which violation a penalty is not  
2           otherwise provided, shall be:

3           (A)   Fined no more than \$5,000 per violation for a  
4               first violation or a violation beyond five years  
5               of the last violation; provided that, after  
6               written or verbal notification from the  
7               department, an additional \$1,000 per day per  
8               violation may be assessed for each day in which  
9               the violation persists;

10          (B)   Fined no more than \$10,000 per violation for a  
11               second violation within five years of the last  
12               violation; provided that, after written or verbal  
13               notification from the department, an additional  
14               \$2,000 per day per violation may be assessed for  
15               each day in which the violation persists;

16          (C)   Fined no more than \$20,000 per violation for a  
17               third or subsequent violation within five years  
18               of the last violation; provided that, after  
19               written or verbal notification from the  
20               department, an additional \$4,000 per day per



1 violation may be assessed for each day in which  
2 the violation persists; and

3 (D) Liable for administrative costs and expenses  
4 incurred by the department and for payment for  
5 damages, including but not limited to natural  
6 resource damages.

7 In addition to the fines, administrative costs, and  
8 damages provided for hereinabove, for damage to or  
9 theft of natural resources, the board may also set,  
10 charge, and collect a fine that, in its discretion, is  
11 appropriate considering the value of the natural  
12 resource that is damaged or the subject of the theft.

13 In arriving at an appropriate fine, the board may  
14 consider the market value of the natural resource  
15 damaged or taken and any other factor it deems  
16 appropriate, such as the loss of the natural resource  
17 to its natural habitat and environment and the cost of  
18 restoration or replacement. The remedies provided for  
19 in this paragraph are cumulative and in addition to  
20 any other remedies allowed by law.





1 No person shall be sanctioned pursuant to this section  
2 for the exercise of native Hawaiian gathering rights  
3 and traditional cultural practices as authorized by  
4 law or as permitted by the department pursuant to  
5 article XII, section 7, of the Hawaii state  
6 constitution;

7 (16) Issue revenue bonds, subject to the approval of the  
8 legislature. All revenue bonds shall be issued  
9 pursuant to part III of chapter 39, except as provided  
10 in this chapter. All revenue bonds shall be issued in  
11 the name of the department and not in the name of the  
12 State. The final maturity date of the revenue bonds  
13 may be any date not exceeding thirty years from the  
14 date of issuance;

15 (17) Pledge or assign all or any part of the receipts and  
16 revenues of the department. The revenue bonds shall  
17 be payable from and secured solely by the revenue  
18 derived by the department from the industrial park or  
19 parks for which the bonds are issued;

20 (18) Reimburse the state general fund for debt service on  
21 general obligation bonds or reimbursable general



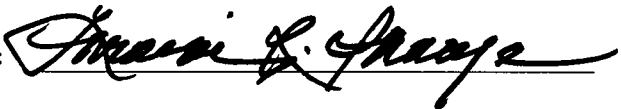
obligation bonds issued by the State for purposes of  
this chapter;

(19) Notwithstanding part II of chapter 205A to the  
contrary, plan, design, construct, operate, and  
maintain any lands or facilities under the  
jurisdiction of the division of boating and ocean  
recreation of the department without the need to  
obtain a special management area minor permit or  
special management area use permit; and

(20) Do any and all things necessary to carry out its  
purposes and exercise the powers granted in this  
chapter."

SECTION 3. New statutory material is underscored.

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

INTRODUCED BY: 



# S.B. NO. 2755

**Report Title:**

Board of Land and Natural Resources; Public Land Leases;  
Revocable Permits; Department of Land and Natural Resources

**Description:**

Requires the Board of Land and Natural Resources to approve all  
revoked, limited, condemned, removed, or shortened public land  
leases or revocable permits.

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

