
A BILL FOR AN ACT

RELATING TO INSPECTIONS ON PUBLIC LAND.

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

1 SECTION 1. The legislature finds that under chapter 171,
2 Hawaii Revised Statutes, and the terms and conditions of the
3 various land dispositions approved by the board of land and
4 natural resources, the department of land and natural resources
5 (department) has the authority to periodically inspect the
6 premises under lease or license. However, due to staff
7 constraints, the department's land agents are not able to
8 conduct regular inspections of every property under lease or
9 license. Additionally, the department's land agents are
10 typically not architects, engineers, or licensed contractors and
11 may not be qualified to identify components of existing
12 structures on the premises in need of repair or replacement.
13 Furthermore, to the extent the department's land agents are able
14 to identify items requiring repair or replacement, existing
15 lease terms and conditions do not provide the department with
16 sufficient leverage to compel the lessee to make the necessary
17 repair or replacement. This is particularly problematic at the



1 end of a long-term lease when the lessee has little incentive to
2 invest significant funds in the upkeep of the property.

3 The legislature further finds that the house investigative
4 committee (committee) established under House Resolution No. 164
5 during the regular session of 2021 was tasked with, among other
6 things, reviewing audit report No. 19-12 by the state auditor,
7 regarding the department's special land and development fund.
8 Rather than having the department's land agents conduct the
9 inspections, the committee recommended that the department
10 require lessees to pay for third-party inspectors selected by
11 the department to conduct physical inspections of the leased
12 property every five years. The committee further recommended
13 that if the third-party inspector finds any defaults with the
14 lease terms, the lessee should be required to take any
15 corrective actions recommended by the inspector.

16 The purpose of this Act is to establish a statutory
17 framework for inspections of public land subject to a department
18 of land and natural resources lease or license; provided that:

- 19 (1) The inspections of structures or buildings may be
20 conducted by qualified third-party inspectors



1 contracted by the department but paid for by the
2 lessee or licensee as applicable; and

3 (2) If the inspection identifies structures or buildings
4 needing repair or replacement, the lessee or licensee
5 shall be required to make the necessary repair or
6 replacement at its expense or risk termination of its
7 land disposition.

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

11 "§171- Inspection of demised premises. (a) The
12 department may conduct inspections of all public land subject to
13 a lease or license under this chapter only. The inspection is
14 to ensure that:

15 (1) The land is being used for the purpose for which it
16 was originally leased or an alternative use as
17 provided and approved by the board pursuant to section
18 171-36;

19 (2) No unauthorized activities are taking place on the
20 land;



- 1 (3) The lease or license has not been transferred or
- 2 assigned in violation of section 171-36;
- 3 (4) No portion of the land has been sublet in violation of
- 4 section 171-36 or the terms and conditions of the
- 5 lease or license;
- 6 (5) No hazardous materials are present on the land, except
- 7 as specifically authorized under and in conformity
- 8 with the applicable lease or license; and
- 9 (6) All structures on, buildings on, and improvements to
- 10 the land are maintained in acceptable condition so
- 11 that:
- 12 (A) The purpose of the lease or license may be
- 13 adequately and safely fulfilled;
- 14 (B) The use or conditions of the land do not endanger
- 15 the health and safety of individuals present on
- 16 the land or the public; and
- 17 (C) All property and improvements that may revert to
- 18 the State at the termination of the lease or
- 19 license are present and maintained in functional
- 20 and safe condition.



1 (b) Inspection of structures or buildings pursuant to this
2 section may be conducted by a disinterested third-party
3 inspector contracted by the department; provided that any land
4 agent of the department and any party to the lease or license
5 may be present during the inspection and may observe the
6 inspection. All costs of the inspection of structures or
7 buildings shall be paid by the lessee or licensee. Inspectors
8 shall submit a report of their findings and recommendations to
9 the department no later than fifteen days after the inspection
10 has been completed. The department may use the inspector's
11 report as a basis for taking any corrective action in regard to
12 a structure or building that is allowable under this chapter.
13 Any action taken by the department pursuant to the inspector's
14 report shall be carried out in conformity with the requirements
15 of this chapter. The lessee or licensee shall be responsible
16 for the cost of and for carrying out any corrective action
17 required under this section.

18 (c) It shall be a violation of the applicable lease or
19 license for any lessee or licensee to:

20 (1) Prevent, interfere with, unduly influence, obstruct,
21 refuse to cooperate with, hinder, or unreasonably



1 delay any inspection or attempt to inspect pursuant to
2 this section;

3 (2) Harass, interfere with, unduly influence, obstruct,
4 refuse to cooperate with, hinder, or unreasonably
5 delay any inspector, land agent, or officer or
6 employee of the department acting or attempting to act
7 in accordance with this section; or

8 (3) Refuse to comply with, interfere with, obstruct,
9 refuse to cooperate with, hinder, or unreasonably
10 delay any corrective action ordered by the department
11 pursuant to an inspector's report submitted pursuant
12 to this section or attempted corrective action;

13 provided that the board may impose any penalty allowable for
14 violation of this chapter, including termination of the lease or
15 license; assessment of administrative penalties; and imposition
16 of fines.

17 (d) This section shall be incorporated by operation of law
18 as a provision of all leases or licenses entered into by the
19 board after the effective date of this Act."

20 SECTION 3. If any provision of this Act or the application
21 thereof to any person or circumstance is held invalid, the



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

5 SECTION 4. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2024.



Report Title:

DLNR; Public Land; Inspections

Description:

Establishes a statutory framework for inspections by the Department of Land and Natural Resources of public land subject to certain leases or licenses, including inspections of structures or buildings by third-party inspectors contracted by the Department. (CD1)

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