
A BILL FOR AN ACT

RELATING TO WAIIAHOLE VALLEY.

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

1 SECTION 1. The legislature finds that in November 1977,
2 the State of Hawaii acquired seven hundred ninety-five acres of
3 land in Waiahole valley from Elizabeth Low McCandless Marks. In
4 1998, after a series of protests, discussions, and compromises,
5 the State, as lessor, entered into long-term agricultural and
6 residential leases for lands within the valley. The Hawaii
7 housing finance and development corporation is the current
8 lessor of ninety-two long-term ground leases for residential,
9 agricultural, and commercial lots within the Waiahole
10 subdivision. Generally, the agricultural leases currently set
11 rent at \$100 per acre plus 0.9 per cent of the gross
12 agricultural products, and rents of the residential leases are
13 set at \$600 per lot plus additional amounts for larger lots.
14 The initial twenty-five-year term of the leases will end on
15 June 29, 2023, and the lessees and Hawaii housing finance and
16 development corporation currently are in negotiations to
17 establish increased rents for the next term of fifteen years.



1 The legislature further finds that the Hawaii housing
2 finance and development corporation's initial offer for the next
3 term of the lease proposes to increase lease rents by
4 approximately 6.6 times the current rates. A rental rate of 6.6
5 times the current rate is estimated to be below the current
6 market rate, which is approximately ten times the current lease
7 rent rate. The additional income from a 6.6 times lease rent
8 increase would only offset seventy-nine percent of the State's
9 cost in operating the valley. However, a 6.6 times lease rent
10 increase would mean that many farmers leasing more than ten
11 acres would be forced to pay thousands of dollars in additional
12 rent per year. Consequently, the increased rent may not be
13 affordable for many of these farmers.

14 The legislature believes that there is no law or policy
15 that requires the Hawaii housing finance and development
16 corporation to increase rent. Leasing land is not within the
17 primary mission of the Hawaii housing finance and development
18 corporation, nor is supporting agriculture. The Hawaii housing
19 finance and development corporation does not provide
20 agricultural support services to the farmers of Waiahole valley,
21 despite the obvious need. The Hawaii housing finance and



1 development corporation's annual expenses for management of
2 Waiahole valley have exceeded revenues, with an estimated
3 deficit of \$500,000 in 2016. The deficit is funded from moneys
4 in the dwelling unit revolving fund, which was established to
5 fund housing development programs and regional state
6 infrastructure programs, not agriculture. Part of that
7 operating expense is related to the water supply system, which
8 requires multiple pumps, is reliant on powerlines that run
9 through the forest to fill a faulty reservoir, and requires
10 expensive maintenance. The State has recommended replacing the
11 water supply system with a system based upon the old and
12 deteriorating system, which would not help to reduce the State's
13 operating costs of the valley. A gravity-fed system fed from
14 the waters of the higher elevation Waiahole ditch would require
15 no electricity, would reduce maintenance costs, and could
16 potentially generate electricity.

17 The legislature further finds that changing the management
18 of the valley to a community-based management system supported
19 by state agencies with expertise in agriculture and leasing
20 could significantly reduce the State's costs while improving
21 farmer productivity. The lessees and the Hawaii housing finance



1 and development corporation are currently in the process of
2 developing a more comprehensive plan for Waiahole valley, but
3 are not expected to complete that plan before the end of the
4 current lease term.

5 The purpose of this Act is to require the Hawaii housing
6 finance and development corporation to submit a report to the
7 legislature on the progress and ultimate outcome of the ongoing
8 lease rent renegotiations and to recommend whether the
9 management duties for the valley should be transferred from the
10 Hawaii housing finance and development corporation to a
11 different state entity.

12 SECTION 2. (a) The Hawaii housing finance and development
13 corporation shall submit a report to the legislature no later
14 than twenty days prior to the regular session of 2024 detailing
15 the progress and ultimate outcome of the presently ongoing
16 Waiahole valley lease rent renegotiations, as well as how the
17 Hawaii housing finance and development corporation's approach to
18 the renegotiations furthers the original purpose for which its
19 predecessor acquired the leased lands -- to preserve the rural,
20 agricultural nature of Waiahole valley. At a minimum, the
21 report should contain an analysis of the following items:



- 1 (1) The proposed lease rents offered to each lessee by the
2 Hawaii housing finance and development corporation or,
3 if new rents have already been set, the new lease
4 rents set for each lessee during the most recent rent
5 renegotiation;
- 6 (2) The fairness of the proposed or actual lease rents
7 offered during the most recent rent renegotiation
8 considering the following factors:
- 9 (A) The size of the lot;
- 10 (B) The current use or uses of the lot;
- 11 (C) The lessee's income as verified by relevant
12 documentation such as the lessee's most recent
13 income tax returns;
- 14 (D) Comparable market rents for the area; and
- 15 (E) Comparable rents charged by other state or county
16 agencies for similar agricultural or residential
17 ground leases or licenses;
- 18 (3) The ability of Waiahole valley lessees to pay their
19 rents when due;
- 20 (4) Any eviction or other enforcement action that the
21 Hawaii housing finance and development corporation has



1 taken against Waiahole valley lessees due to
2 nonpayment of rent, and the outcome of that action;
3 and

4 (5) Any attempt to resolve issues with nonpayment of rents
5 through mediation or other alternative dispute
6 resolution mechanisms, and the outcome of that
7 attempt.

8 In preparing the report, the Hawaii housing finance and
9 development corporation shall protect the confidentiality of
10 lessees' personal and financial information and may provide de-
11 identified or aggregated data to the extent necessary to protect
12 the privacy of the lessees.

13 (b) The Hawaii housing finance and development corporation
14 shall recommend as part of its report to the legislature
15 pursuant to subsection (a), whether:

16 (1) The Hawaii housing finance and development corporation
17 should retain its responsibilities regarding Waiahole
18 valley; or

19 (2) A different state agency should serve as the landlord
20 of the properties and manager of Waiahole valley, and



1 if so, determining the state agency that is most
2 appropriate.

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



Report Title:

Waiahole Valley; HHFDC; Lease Extension; Report

Description:

Requires the Hawaii Housing Finance and Development Corporation to report to the Legislature on the progress and ultimate outcome of the ongoing lease rent renegotiations and to recommend whether the management duties for the valley should be transferred from the Hawaii Housing Finance and Development Corporation to a different state entity. Effective 7/1/2050.
(SD1)

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