
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 authority to periodically inspect the premises
6 under lease, license, or revocable permit. However, due to
7 staff constraints, the department's land agents are not able to
8 conduct regular inspections of every property under lease,
9 license, or revocable permit. Additionally, the department's
10 land agents are typically not architects, engineers, or licensed
11 contractors and may not be qualified to identify components of
12 existing structures on the premises in need of repair or
13 replacement. Furthermore, to the extent the department's land
14 agents are able to identify items requiring repair or
15 replacement, existing lease terms and conditions do not provide
16 the department with sufficient leverage to compel the lessee to
17 make the necessary repair or replacement. This is particularly



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

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

17 The purpose of this Act is to establish a statutory
18 framework for inspections of public land leases, licenses, and
19 revocable permits by the department, provided that:

20 (1) The inspections may be conducted by qualified third-
21 party inspectors contracted by the department but paid



1 for by the lessee, licensee, or permittee, as
 2 applicable; and
 3 (2) If the inspection identifies items needing repair or
 4 replacement, the lessee, licensee, or permittee will
 5 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 amended
 9 by adding to 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, license, or revocable permit to ensure that:

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

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

20 (3) The lease or license has not been transferred or
 21 assigned in violation of section 171-36 and the



- 1 revocable permit has not been transferred or assigned
2 in violation of its terms and conditions;
- 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, license, or revocable permit;
- 6 (5) No hazardous materials are present on the land, except
7 as specifically authorized under and in conformity
8 with the applicable lease, license, or revocable
9 permit; and
- 10 (6) All structures, buildings, and improvements to the
11 land are maintained in acceptable condition so that:
- 12 (A) The purpose of the lease, license, or revocable
13 permit may be 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,
19 license, or revocable permit are present and
20 maintained in functional and safe condition.



1 Notice of inspections shall be given in accordance with the
2 terms and conditions of lease, license, or revocable permit, as
3 applicable, or in the event the applicable disposition document
4 is silent as to the notice required, then in writing to the
5 lessee, licensee, or permittee at least five business days prior
6 to the inspection. No notice shall be required for inspections
7 conducted in response to an emergency. For the purposes of this
8 subsection, "emergency" means any occurrence, or imminent threat
9 thereof, that results or may likely result in substantial injury
10 or harm to a natural person or substantial damage to or loss of
11 property or substantial damage to or loss of the environment.

12 (b) Inspections pursuant to this section may be conducted
13 by a disinterested third-party inspector contracted by the
14 department; provided that any land agent of the department and
15 any party to the lease, license, or revocable permit may be
16 present during the inspection and may observe the inspection.
17 All costs of the inspection shall be paid by the lessee,
18 licensee, or permittee. Inspectors shall submit a report of
19 findings and recommendations to the department no later than
20 fifteen days after the inspection has been completed. The
21 department may use the inspector's report as a basis for taking



1 any corrective action in regard to the lease, license, revocable
 2 permit, or land that is allowable under this chapter. Any
 3 action taken by the department pursuant to the inspector's
 4 report shall be carried out in conformity with the requirements
 5 of this chapter. The lessee, licensee, or permittee shall be
 6 responsible for the cost of and for carrying out any corrective
 7 action required under this section.

8 (c) It shall be a violation of the provisions of the
 9 applicable lease, license, or permit for any lessee, licensee,
 10 or permittee to:

11 (1) Prevent, interfere with, unduly influence, obstruct,
 12 refuse to cooperate with, hinder, or unreasonably
 13 delay any inspection required by this section or
 14 attempt to do so;

15 (2) Harass, interfere with, unduly influence, obstruct,
 16 refuse to cooperate with, hinder, or unreasonably
 17 delay any inspector, land agent, or officer or
 18 employee of the department acting in accordance with
 19 this section or attempt to do so; or

20 (3) Refuse to comply with, interfere with, obstruct,
 21 refuse to cooperate with, hinder, or unreasonably



1 delay any corrective action ordered by the department
2 pursuant to an inspector's report submitted pursuant
3 to this section or attempt to do so;
4 provided that the board may impose any penalty allowable for
5 violation of this chapter including termination of the lease,
6 license, or revocable permit, assessment of administrative
7 penalties, and imposition of fines.

8 This section shall be incorporated as a provision of all
9 the board's hereafter entered into leases, licenses, and
10 revocable permits by operation of law as of the effective date
11 of the Act establishing this section."

12 SECTION 3. If any provision of this Act or the application
13 thereof to any person or circumstance is held invalid, the
14 invalidity does not affect other provisions or applications of
15 the Act that can be given effect without the invalid provision
16 or application, and to this end the provisions of this Act are
17 severable.

18 SECTION 4. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

DLNR; Public Land; Inspections

Description:

Establishes a statutory framework for inspections of public land leases, licenses, and revocable permits by the Department of Land and Natural Resources. Takes effect 7/1/2050. (SD1)

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