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# A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

- 1           SECTION 1. Section 171-2, Hawaii Revised Statutes, is  
2 amended to read as follows:
- 3           "**§171-2 Definition of public lands.** "Public lands" means  
4 all lands or interest therein in the State classed as government  
5 or crown lands previous to August 15, 1895, or acquired or  
6 reserved by the government upon or subsequent to that date by  
7 purchase, exchange, escheat, or the exercise of the right of  
8 eminent domain, or in any other manner; including lands accreted  
9 after May 20, 2003, and not otherwise awarded, submerged lands,  
10 and lands beneath tidal waters that are suitable for  
11 reclamation, together with reclaimed lands that have been given  
12 the status of public lands under this chapter, except:
- 13           (1) Lands designated in section 203 of the Hawaiian Homes  
14           Commission Act, 1920, as amended;
- 15           (2) Lands set aside pursuant to law for the use of the  
16           United States;
- 17           (3) Lands being used for roads and streets;



- 1           (4) Lands to which the United States relinquished the  
2           absolute fee and ownership under section 91 of the  
3           Hawaiian Organic Act before the admission of Hawaii as  
4           a state of the United States unless subsequently  
5           placed under the control of the board of land and  
6           natural resources and given the status of public lands  
7           in accordance with the state constitution, the  
8           Hawaiian Homes Commission Act, 1920, as amended, or  
9           other laws;
- 10          (5) Lands to which the University of Hawaii holds title;
- 11          (6) Non-ceded lands set aside by the governor to the  
12          Hawaii housing finance and development corporation or  
13          lands to which the Hawaii housing finance and  
14          development corporation in its corporate capacity  
15          holds title;
- 16          (7) Lands to which the Hawaii community development  
17          authority in its corporate capacity holds title;
- 18          (8) Lands set aside by the governor to the Hawaii public  
19          housing authority or lands to which the Hawaii public  
20          housing authority in its corporate capacity holds  
21          title;



- 1           (9) Lands to which the department of agriculture holds  
2                   title by way of foreclosure, voluntary surrender, or  
3                   otherwise, to recover moneys loaned or to recover  
4                   debts otherwise owed the department under chapter 167;
- 5           (10) Lands that are set aside by the governor to the Aloha  
6                   Tower development corporation, lands leased to the  
7                   Aloha Tower development corporation by any department  
8                   or agency of the State, or lands to which the Aloha  
9                   Tower development corporation holds title in its  
10                  corporate capacity;
- 11          (11) Lands that are set aside by the governor to the  
12                  agribusiness development corporation, lands leased to  
13                  the agribusiness development corporation by any  
14                  department or agency of the State, or lands to which  
15                  the agribusiness development corporation in its  
16                  corporate capacity holds title;
- 17          (12) Lands to which the Hawaii technology development  
18                  corporation in its corporate capacity holds title;
- 19          (13) Lands to which the department of education holds  
20                  title;
- 21          (14) Lands to which the stadium authority holds title;



1 (15) Lands to which the school facilities authority holds  
2 title; [~~and~~]

3 (16) Lands that are set aside by the governor to the  
4 department of transportation, lands leased to the  
5 department of transportation by any department or  
6 agency of the State, or lands to which the department  
7 of transportation holds title; and

8 (17) Lands set aside by the governor to the counties for  
9 the purpose of affordable housing;

10 provided that, except as otherwise limited under federal law and  
11 except for state land used as an airport as defined in section  
12 262-1, public lands shall include the air rights over any  
13 portion of state land upon which a county mass transit project  
14 is developed after July 11, 2005; provided further that if the  
15 lands pursuant to paragraph (6) are no longer needed for housing  
16 finance and development purposes, the lands shall be returned to  
17 the agency from which they were obtained; provided further that  
18 if the lands pursuant to paragraph (14) are no longer needed for  
19 the stadium development district or related purposes, the lands  
20 shall be returned to the public land trust administered by the  
21 department."



1 SECTION 2. Section 171-73, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§171-73 **Term, rent, and other conditions of residential**  
4 **leases.** (a) Residential leases made by the board of land and  
5 natural resources may be for an initial term of fifty-five years  
6 with the privilege of extension to meet Federal Housing  
7 Administration requirements~~[7]~~; provided that the aggregate of  
8 the initial terms and extension shall ~~[in no event]~~ not exceed  
9 seventy-five years. Residential leases made by the board of  
10 land and natural resources for affordable housing may be for an  
11 initial term of fifty-five years with the privilege of  
12 extension; provided that the aggregate of the initial terms and  
13 extension shall not exceed ninety-nine years.

14 (b) ~~[It]~~ Residential leases made by the board of land and  
15 natural resources may contain such terms and conditions as the  
16 board may in its discretion determine, except that the following  
17 shall in any event be complied with in each residential lease:

18 (1) Rent and taxes. The annual rent shall be not less  
19 than an amount representing a fair return on the value  
20 of the premises at the inception of the rental period  
21 under the lease, which value shall be determined by



1            appraisers. The lessee shall pay all real property  
2            taxes, assessments for the lessee's pro rata share of  
3            the costs of the improvements of the tract in which  
4            the land is located, and such other charges made  
5            against or levied upon the lessee's premises. "Value  
6            of premises" as used in this section means the fair  
7            market value of the raw land, including in such value  
8            the pro rata share of the cost of improvements only if  
9            the lessee has not already been assessed or has not  
10           already paid the lessee's pro rata share thereof or if  
11           the State has not assumed the costs.

12           (2) Construction of residence. Each residential lease  
13           shall contain requirements that the lessee construct a  
14           residence upon the premises, pursuant to plans and  
15           specifications approved by the board and using a  
16           licensed contractor, within such time and having such  
17           minimum value or ground floor area as may be  
18           determined by the board in its discretion.

19           (3) Use. Upon the completion of improvements upon the  
20           premises, the lessee shall use and occupy the premises  
21           as the lessee's residence and shall not rent or use



1 for any business purposes the whole or any part of the  
2 premises, except with the written consent of the  
3 board.

4 (4) Alienation. Each residential lease shall contain  
5 conditions prohibiting the lessee from subletting or  
6 parting with the possession of the whole or any part  
7 of the premises and from selling, assigning,  
8 transferring, or otherwise disposing of or  
9 encumbering, except by way of mortgage as hereinafter  
10 permitted, any interest in the lease or any  
11 improvements erected on the premises, except with the  
12 written consent of the board.

13 (5) Right of purchase. Each residential lease shall also  
14 state that no right or privilege of purchasing the fee  
15 title to the land demised shall be created by the  
16 lease, except as provided in section 171-79,  
17 notwithstanding any other provision of the law to the  
18 contrary.

19 (6) Construction and mortgages. Each residential lease  
20 shall provide that the lessee may mortgage the lease  
21 and improvements only for the purpose of financing the



1 construction of a residence upon the premises or,  
2 after the requirement of construction of a residence  
3 upon the premises has been fulfilled, for the purpose  
4 of financing the purchase of the lease and  
5 improvements. The mortgages shall be made only to  
6 recognized lending institutions and may provide for  
7 foreclosure and for sale at the foreclosure to any  
8 purchaser, without regard to whether the purchaser at  
9 the sale is qualified or disqualified to take a  
10 residential lease under this part. The mortgagee's  
11 interest in any such mortgage shall be freely  
12 assignable.

13 (7) Mortgage qualification. The foregoing provisions to  
14 the contrary notwithstanding, the board is authorized  
15 from time to time, upon the issuance of any such lease  
16 to adopt or modify or eliminate any provision  
17 contained in sections 171-70 to 171-83, to the extent  
18 necessary to qualify the lease for mortgage lending or  
19 guaranty purposes with the Federal Housing  
20 Administration, Federal National Mortgage Association,



1 and Department of Veterans Affairs, and their  
2 respective successors and assigns."

3 SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

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

6

INTRODUCED BY: ZNC

JAN 22 2025



# H.B. NO. 1318

**Report Title:**

Affordable Housing; Board of Land and Natural Resources; Ninety-nine-year Residential Leases

**Description:**

Removes from the definition of "public lands" lands set aside by the Governor to the counties for the purpose of affordable housing. Allows the Board of Land and Natural Resources to issue residential leases for affordable housing with an aggregate of initial terms and extension up to ninety-nine years.

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

