

---

# A BILL FOR AN ACT

RELATING TO LAND LEASES.

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

1       SECTION 1. The legislature finds that most landlords  
2       require their tenants to be in good standing, especially before  
3       renewing a lease. This includes ensuring that the tenant has  
4       met all financial, contractual, and legal obligations. Standard  
5       lease agreements also allow a landlord to terminate a lease when  
6       the tenant commits a crime on the property. Where the State  
7       leases out public lands, lessees' obligations include paying all  
8       moneys owed to the State, carrying out environmental maintenance  
9       and necessary remediations on the subject lands, and refraining  
10      from criminal activity. The legislature believes that, as a  
11      landlord, the State should ensure that all of its lessees meet  
12      these obligations, whether the lessees are private individuals,  
13      corporations, or the federal government. The legislature also  
14      believes that the State should exercise its right to terminate a  
15      lease when a lessee engages in criminal activity on the  
16      property.



1       Accordingly, the purpose of this Act is to prohibit the  
2       State from leasing any public lands, or extending the lease of  
3       any public lands, to any individual, corporation, or federal  
4       agency that is not in good standing with the State or that has  
5       not met all financial, contractual, and legal obligations.

6       SECTION 2. Section 171-36, Hawaii Revised Statutes, is  
7       amended by amending subsection (a) to read as follows:

8       "(a) Except as otherwise provided, the following  
9       restrictions shall apply to all leases:

10       (1) Options for renewal of terms are prohibited;

11       (2) No lease shall be for a longer term than sixty-five  
12       years, except in the case of a residential leasehold,  
13       which may provide for an initial term of fifty-five  
14       years with the privilege of extension to meet the  
15       requirements of the Federal Housing Administration,  
16       Federal National Mortgage Association, Federal Land  
17       Bank of Berkeley, Federal Intermediate Credit Bank of  
18       Berkeley, Berkeley Bank for Cooperatives, or  
19       Department of Veterans Affairs requirements; provided  
20       that the aggregate of the initial term and extension  
21       shall in no event exceed seventy-five years;



1 (3) No lease shall be made for any land under a lease that  
2 has more than two years to run;

3 (4) No lease shall be made to any person who is in arrears  
4 in the payment of taxes, rents, or other obligations  
5 owed to the State or any county;

6 (5) No lease shall be transferable or assignable, except  
7 by devise, bequest, or intestate succession; provided  
8 that with the approval of the board, the assignment  
9 and transfer of a lease or unit thereof may be made in  
10 accordance with current industry standards, as  
11 determined by the board; provided further that prior  
12 to the approval of any assignment of lease, the board  
13 shall have the right to review and approve the  
14 consideration to be paid by the assignee and may  
15 condition its consent to the assignment of the lease  
16 on payment by the lessee of a premium based on the  
17 amount by which the consideration for the assignment,  
18 whether by cash, credit, or otherwise, exceeds the  
19 depreciated cost of improvements and trade fixtures  
20 being transferred to the assignee; provided further  
21 that with respect to state agricultural leases, in the



1 event of foreclosure or sale, the premium, if any,  
2 shall be assessed only after the encumbrances of  
3 record and any other advances made by the holder of a  
4 security interest are paid;

5 (6) The lessee shall not sublet the whole or any part of  
6 the demised premises, except with the approval of the  
7 board; provided that prior to the approval, the board  
8 shall have the right to review and approve the rent to  
9 be charged to the sublessee; provided further that in  
10 the case where the lessee is required to pay rent  
11 based on a percentage of its gross receipts, the  
12 receipts of the sublessee shall be included as part of  
13 the lessee's gross receipts; provided further that the  
14 board shall have the right to review and, if  
15 necessary, revise the rent of the demised premises  
16 based upon the rental rate charged to the sublessee,  
17 including the percentage rent, if applicable, and  
18 provided that the rent may not be revised downward;

19 (7) The lease shall be for a specific use or uses and  
20 shall not include waste lands, unless it is  
21 impractical to provide otherwise;



(8) Mineral and metallic rights and surface and ground  
water shall be reserved to the State; ~~[and]~~

(9) No lease of public lands, including submerged lands,  
or any extension of any lease of public lands shall be  
issued by the State to any person to construct, use,  
or maintain a sunbathing or swimming pier or to use  
the lands for those purposes, unless the lease, or any  
extension thereof, contains provisions permitting the  
general public to use the pier facilities on the  
public lands and requiring that a sign or signs be  
placed on the pier, clearly visible to the public,  
that indicates the public's right to the use of the  
pier. The board, at the earliest practicable date,  
and where legally possible, shall cause all existing  
leases to be amended to conform to this paragraph.  
The term "lease", for the purposes of this paragraph,  
includes month-to-month rental agreements and similar  
tenancies~~[-]~~; and

(10) Notwithstanding the exceptions listed in paragraphs  
(1) and (4) through (15) of section 171-2, no lease of  
public lands, including submerged lands, or any



1 extension of any lease of public lands, shall be  
2 issued by the State to any individual, corporation, or  
3 federal agency that:

4 (A) Is in arrears in the payment of any moneys owed  
5 to the State, including:

6 (i) Impact aid owed to the State pursuant to  
7 section 3 of Public Law 81-874, calculated  
8 based on the full cost recovery methodology  
9 in compliance with Government Accountability  
10 Office guidelines, in an amount determined  
11 by the office of the governor; or

12 (ii) Reimbursement to the State for actual costs  
13 incurred by the State pursuant to any  
14 compact of free association, in an amount  
15 determined by the office of the governor;

16 (B) Is noncompliant with any order, consent decree,  
17 or memorandum of agreement requiring the  
18 individual, corporation, or federal agency to  
19 perform environmental maintenance or remediation  
20 activities with regard to the subject public  
21 lands; or



1           (C) Is or has been found to be in violation of  
2           federal or state laws aimed at protecting the  
3           environment;  
4           provided that the board shall request and obtain  
5           certification from the office of the governor before  
6           the issuance or extension of any lease to an  
7           individual, corporation, or federal agency that the  
8           individual, corporation, or federal agency is in good  
9           standing with the State pursuant to this section;  
10          provided further that, if the individual, corporation,  
11          or federal agency is not in good standing with the  
12          State, the governor shall not certify the lease or  
13          lease extension until the individual, corporation, or  
14          federal agency has remitted full payment of any unpaid  
15          balances owed to the State, carried out any required  
16          environmental maintenance or remediation activities on  
17          the subject lands, or completed any adjudicated  
18          penalties for any relevant criminal activity; provided  
19          further that this paragraph shall not apply to leases  
20          and dispositions made by the department of  
21          transportation."



1       SECTION 3. If any existing lessee of public lands is found  
2 not to be in good standing with the State as of the effective  
3 date of this Act, the lessee shall have three years, or until  
4 the end of the lease term, whichever is sooner, to correct the  
5 violation, including remitting full payment of any unpaid  
6 balances owed to the State, carrying out any required  
7 environmental maintenance or remediation activities on the  
8 subject lands, or completing any adjudicated penalties for any  
9 relevant criminal activity, or the lease shall be terminated.

10       SECTION 4. This Act does not waive the right of the State  
11 to terminate a lease at any time for any other grounds  
12 identified in the lease.

13       SECTION 5. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15       SECTION 6. This Act shall take effect on July 1, 3000.





**Report Title:**

Office of the Governor; Board of Land and Natural Resources;  
Impact Aid; Public Lands; Leases

**Description:**

Prohibits the State from leasing any public lands, or extending the lease of any public lands, to any individual, corporation, or federal agency that is in arrears in the payment of certain moneys to the State, is noncompliant with a consent decree or memoranda of agreement with the State that requires environmental maintenance or remediation with regard to the subject public lands, or has been found to be in violation of federal or state laws aimed at protecting the environment. Requires certification by the Office of the Governor before the issuance or extension of any federal lease that the individual, corporation, or federal agency is in good standing with the State. Provides that, if any existing lessee of public lands is found not to be in good standing with the State as of the effective date of this Act, the lessee shall have three years, or until the end of the lease term, whichever is sooner, to correct the violation or the lease shall be terminated. Effective 7/1/3000. (HD1)

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

