

JAN 16 2025

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 is:

4 (A) In arrears in the payment of any moneys owed to
5 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) Noncompliant with any order, consent decree, or
17 memoranda of agreement requiring the individual,
18 corporation, or federal agency to perform
19 environmental maintenance or remediation
20 activities with regard to the subject public
21 lands; or



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

20 SECTION 3. If any existing lessee of public lands is found
21 not to be in good standing with the State as of the effective



1 date of this Act, the lessee shall have three years, or until
2 the end of the lease term, whichever is sooner, to correct the
3 violation, including remitting full payment of any unpaid
4 balances owed to the State, carrying out any required
5 environmental maintenance or remediation activities on the
6 subject lands, or completing any adjudicated penalties for any
7 relevant criminal activity, or the lease shall be terminated.

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

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval.

14
INTRODUCED BY:

Karl Rhoads



S.B. NO. 427

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, 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 convicted of a crime. 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.

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