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A Bill for An Act Relating to Public Lands and the Disposition Thereof to Victims of a Natural Disaster.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Definitions. As used in this Act:

- (a) "Disaster area" means an area proclaimed by the Governor to be a disaster area;
- (b) "Natural disaster" means any disaster caused by seismic or tidal wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake or flood;
- (c) "Board" means the board of land and natural resources; and
- (d) "Person" means an individual (citizen and non-citizen), partnership, corporation and association.

SECTION 2. Purpose. In the past natural disasters have struck the state of Hawaii and have devastated large tracts of lands and caused the necessity for immediate relocation of persons from the devastated areas.

It is the purpose of this Act, in the public interest, to protect human life and property and to provide for immediate relocation and rehabilitation of disaster victims by making public lands available in the manner hereinafter provided.

SECTION 3. Authorization. Notwithstanding any law to the contrary, the board, by a two-thirds vote, is authorized to dispose of public lands to victims of a natural disaster by direct negotiations and without recourse to public auction for other than residential or agricultural purposes as hereinafter provided.

(a) To effectuate such disposition for the purpose of relocating victims on public lands and placing them in circumstances similar to those which existed prior to the natural disaster, the board shall:

(1) Do the subdividing and improvement of such lands to be disposed of, including roads, in conformity with applicable zoning and subdivision ordinances and good city planning;

(2) Lease such lands at fair market rental as determined by the board based on appraisals by at least one (1) but not more than three (3) disinterested appraisers, provided that the board shall waive rental for the first two years of the term of the lease;

(3) Limit the size of any lot leased under this Act in accord with need and use, provided that such lot shall not exceed four (4) acres of usable land;

(4) Lease only one lot to a person eligible under this Act, provided that if such person owned, leased or occupied another lot for another use, the board may lease a maximum of two (2) lots to such person if there is a different use for each lot;

(5) Include in the instrument of lease, in addition to other terms and conditions, the following:

(a) That the lessee shall be required to use the leased lands for the first five (5) years of the term of the lease for the same business use or undertaking in which the lessee was engaged at the time of the natural disaster or a use designated by the board;

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(b) That the lessee will complete the construction of improvements required under his lease within one (1) year from the commencement of the lease unless the board extends the time of completion and that if the lessee defaults with respect to the construction of such improvements, and after proper notice fails to remedy or cure such default, the board may at its option declare a forfeiture of all the right, title and interest of the lessee in and to the leased land;

(c) That the lessee shall not assign, mortgage or sublet the whole of the leasehold premises without the prior approval of the board, provided that the lessee may sublet a part of the leasehold premises without approval of the board; and

(d) That the board may re-determine and renegotiate the lease rental of the leasehold at subsequent intervals during the lease term in the manner and at periods determined to be proper by the board.

(6) Conform each lease pursuant to the provisions of Chapter 99 of the Revised Laws of Hawaii 1955, as amended, except as otherwise provided by this Act.

SECTION 4. Option to purchase. If private land in a disaster area owned by a person leasing public land under this Act is condemned or purchased by negotiation for a public purpose by a governmental agency within the first two years of the term of the lease of such lessee, such person shall have the option to purchase in fee simple the public land leased under this Act.

If private land in a disaster area owned at the time of the natural disaster by a lessee under this Act is not condemned or purchased by negotiation for a public purpose by a governmental agency within the first two years of the term of the lease of such lessee, such person shall have the option to purchase in fee simple the public land leased under this Act, provided that such lessee first offers the board a period of six (6) months in which to exercise an option to purchase in fee simple his private land in the disaster area which he held at the time of the natural disaster. Such offer shall be made to the board by the lessee within thirty (30) calendar days next following the first two years of the term of the lease of the lessee. The lessee shall then have a period of six (6) months next following the board's rejection or exercise of its option in which to reject or exercise his option to purchase such public lands. The acquisition or purchase of such private land in a disaster area by the board under this Act is declared to be for a public purpose.

During the period that the board and the lessee are considering their respective options to purchase, the board shall waive the lease rental of the lessee.

Public land under lease shall be sold and such private land of the lessee shall be purchased at fair market value as determined by two appraisers, one of whom shall be selected by the board and one by the lessee. If the two appraisers cannot agree to the fair market value, they shall mutually agree upon the selection of a third appraiser whose appraisal shall be final. The costs of appraisal shall be borne equally between the board and the lessee. The fair market value shall not include the value of improvements erected by the lessee and shall be determined as if the premises were not subject to the lease or to any mortgage made by the lessee.

SECTION 5. Applications. All applications for a lease shall be filed with the board within three (3) months after the date of the natural disaster, provided that the board may extend the time for filing applications for an additional period not to exceed three (3) months.

SECTION 6. Eligibility. A person shall be eligible to apply for a lease under this Act if he was an owner, lessee or tenant in actual possession of real property in a disaster area and whose business activity or undertaking, not primarily agricultural in character, was substantially destroyed or made unsuitable on or after May 22, 1960, by a natural disaster and whose property or the property on which he is a lessee or tenant was substantially damaged on or after May 22, 1960, by a natural disaster so as to be unfit or economically unfit for the purpose or use made prior to the disaster, provided that an owner or lessor not in actual possession of his property shall not be eligible unless he first fully releases all lessees or tenants from all obligations under his lease or agreement of tenancy.

Property shall be deemed unfit or economically unfit for the purpose or use made prior to the disaster when so determined by the board, which determination shall be final, or if any law, ordinance or regulation of any governmental agency prohibits the construction of improvements on land in a disaster area.

The determination by the board as to who is an eligible applicant shall be final.

SECTION 7. Notice of availability of leases; selection of lessees. Notice of availability of land to be offered to qualified applicants for lease shall be by publication for a period of not less than fifteen (15) days in one or more newspapers of general circulation, published in the county in which the land is located. Such notice shall contain, in addition to such other information as the board deems proper, a reference to the qualification of applicants, a brief description of the land to be leased as to locality, area, and quality, with reference to the survey, and the date by which applications must be filed for the land so made available. The board shall, as soon as practicable following the closing date for applications, review the qualifications of the several applicants, determine their respective needs, fix the terms, covenants and conditions of leases to be issued as more particularly provided in Section 3 herein, and, within the limits of availability of the land for which notice shall have been published as aforesaid, issue leases to selected applicants.

SECTION 8. Amendment of Act 19, Budget Session Laws of 1960. Section 2, 3. (a) of Act 19, Budget Session Laws of 1960 is amended to read as follows:

“(a) Such land shall be used only for residential purposes for a period of ten (10) years following the date of such conveyance or lease, which restriction shall be in the form of a covenant running with the land and enforceable by the board of land and natural resources or by any surrounding owner or lessee of state land that is subject to the same restriction; and”

SECTION 9. Existing public leases. Where a person has an unexpired lease, including residential leases, of public land damaged by a natural disaster and rebuilding on such land is not prohibited, the

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board, by a two-thirds vote, is authorized to negotiate an extension of such lease to make it economically feasible to rebuild or may, by mutual agreement with the lessee, cancel the unexpired term of such lease and/or renegotiate a new lease with such person.

SECTION 10. Severability. Any portion of this Act judicially declared to be invalid shall not affect the remaining portions.

SECTION 11. Effective date. This Act shall take effect upon its approval.

(Approved July 6, 1960.) **H.B. 1.**
