

**ACT 5**

An Act Amending Act 245, Session Laws of Hawaii 1959, as Amended,  
Relating to Concessions on Public Property.

WHEREAS, Section 11 of Article III of the Constitution of the State of Hawaii provides for the consideration and enactment in a budget session of all urgency measures deemed necessary in the public interest; and

WHEREAS, said section further provides that no urgency measure shall be considered unless a statement of facts constituting such urgency shall be set forth in a section thereof and until such section shall have been first approved by each house; and

WHEREAS, it is the intention of the legislature to enact this as an urgency measure pursuant to said section 11 of Article III; now therefore,

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

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency:

Since the passage of Act 245, Session Laws of Hawaii 1959, many problems have arisen in the awarding of concessions, especially in regards to the awarding of concessions at the new Honolulu International Airport. In many instances compliance with said Act creates the evils which this Act was intended to avoid. The new Honolulu International Airport is scheduled to be completed in the very near future. In order to ensure that all of the concessions will be awarded in a fair and equitable manner providing the most favorable returns to the State, and to ensure that all of the concessions will be in operation when the new airport is completed, this Legislature deems it urgent to amend said Act 245.

SECTION 2. Act 245, Session Laws of Hawaii 1959, as amended, is hereby further amended by amending section 1 thereof to read as follows:

"SECTION 1. (a) No concession or concession space to sell goods, wares, merchandise and services or to operate restaurants, cocktail lounges, soda fountains and parking areas in any building or on any land owned or under the jurisdiction of the State or any county or any independent board, commission, bureau or agency of the State or of the various counties, except such concessions or space enumerated in subsection (b) below, shall be leased, let, licensed, rented out, assigned or disposed of either by contract, lease, license, permit or any other arrangement to any private person, firm, or corporation, except under contract let after public advertisement for sealed tenders in the manner provided by law.

(b) The bidding requirements of subsection (a) above shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services at airports;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For coin-operated vending machines, except coin-operated insurance vending machines;
- (5) For operations of concessions set aside without any charge;
- (6) For operations of concessions for the use of handicapped persons, or blind persons;
- (7) For operations of concessions of any department, bureau, organization or municipal or political subdivision of the federal, state, municipal or county governments;
- (8) For operation of concessions on permits revocable on notice of thirty days or less; provided, however, that no such permits shall be issued unless the premises covered therein shall no longer be used for the existing purposes and that the said permit is issued as a temporary use of the premises until the governmental agency proceeds to apply said premises for the new use thereof; and provided, further, that no such permits shall be issued for more than one year."

SECTION 3. Act 245, Session Laws of Hawaii 1959, as amended, is hereby further amended by adding the following sentence between the third and fourth sentences in section 2 thereof to read as follows:

"The officer charged with letting such contract shall not divulge or permit to be divulged the names and the number of persons who have submitted their notice of their intention to bid until after the opening of bids."

SECTION 4. Act 245, Session Laws of Hawaii 1959, as amended, is hereby further amended by amending section 5 thereof to read as follows:

**"Section 5. Deposits of legal tender, etc., to accompany bid.** All bids shall be accompanied by a deposit of legal tender or by a certificate of deposit or certified check on a bank doing business within the State of Hawaii, for or in a sum equal to five per cent of the amount bid, payable at sight to the officer advertising for tenders; provided, that when the amount bid exceeds \$50,000, the certificate of deposit or certified check shall be for \$2,500 plus two percent of the amount in excess thereof."

SECTION 5. Act 245, Session Laws of Hawaii 1959, as amended is hereby further amended by adding a new section to be appropriately numbered and to read as follows:

**"Section .** Where there is in existence at the time of this Act and thereafter an outstanding contract, lease, license, permit, or any other such arrangement for the operation of concessions or concession spaces on governmental property, the parties may amend such instrument to permit a related use with an increased rental adjustment where the lessee, licensee or permittee, as the case may be, can show financial hardship arising out of changes of circumstances or otherwise, if required to continue operation under the original permitted use or uses."

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

(Approved May 14, 1962.) S.B. 99.

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