

ACT 234

H. B. 315.

A Bill for an Act Relating to the Public Lands of the State of Hawaii.

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

SECTION 1. The second paragraph of section 103A-11 of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Lands while so set aside for such use or purpose or when acquired for roads and streets shall be managed by the department, agency, city and county, county or other political subdivisions of the State having jurisdiction thereof, unless otherwise provided by law. Such department, agency of the State, the city and county, county or other political subdivisions of the State in managing such lands shall be authorized to exercise all of the powers vested in the board in regard to the issuance of leases, licenses, revocable permits, concessions or rights of entry covering such lands for such use as may be consistent with the purposes for which the lands were set aside on the same terms, conditions and restrictions applicable to the disposition of public lands, all such dispositions being subject to the prior approval of the board. If at the time of the disposition of any such leases the board shall have approved the same, any order withdrawing or setting aside any or all of such lands for any other public purpose shall be made subject to such leases. Sub-

ject to the provisions of section 5(f) of the Act of March 18, 1959 (73 Stat. 6), all proceeds from such lands shall be deposited into the appropriate funds provided by law.”

SECTION 2. Section 103A-16 of the Revised Laws of Hawaii 1955, as amended, is further amended by adding a new paragraph at the end thereof, to be designated and read as follows:

“(d) Exchanges; quitclaim; submerged and reclaimed land; reservations and easements. Whenever it is proposed to exchange public lands for private land pursuant to section 103A-47, quitclaim public land or any interests of the State in private land pursuant to section 103A-48, dispose of submerged or reclaimed public land pursuant to subsections (b) and (d) of section 103A-50, dispose of a land license by negotiation pursuant to section 103A-51, or dispose of reserved rights and easements pursuant to section 103A-54, public notice of such disposition shall be published at least once in each of three successive weeks in a newspaper of general circulation in the State and in addition in a newspaper of general circulation in the appropriate county if the public land is situated in the first, second and fourth districts. Such notice shall state in general terms the size and location of the public lands proposed to be disposed.”

SECTION 3. Chapter 103A of the Revised Laws of Hawaii 1955, as amended, is further amended by deleting the figure “103A-16(c)” which appears in sections 103A-47, 103A-48, 103A-50 and 103A-54 and substituting the figure “103A-16(d).”

SECTION 4. The first sentence of section 103A-16(c) of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Notice of a proposed disposition by negotiation shall be published at least once in each of three successive weeks in a newspaper of general circulation in the State and in addition in a newspaper of general circulation in the appropriate county if the land is situated in the first, second and fourth districts; provided, that such notices are not required for permits, and dispositions of remnants.”

SECTION 5. Section 103A-19(a) is repealed in the entirety, and sections 103A-19(b) to 103A-19(h) are appropriately redesignated to read sections 103A-19(a) to 103A-19(g), respectively.

SECTION 6. The first and second sentences of section 103A-21 of the Revised Laws of Hawaii 1955, as amended, are further amended to read as follows:

“Whenever any notice of breach or default is given to any party under the provisions of section 103A-20, or under the terms of any lease, patent, license, agreement or other instrument heretofore issued or hereafter to be issued under the provisions of this chapter, a copy of such notice shall be delivered by the board to all holders of record of any security interest in the land or interest covered by the lease, patent, license, agreement or other instrument whose

security interest has been recorded with the board. Should the board seek to forfeit the interest or estate created by the lease, license, agreement, patent or other instrument, each holder may, at its option, cure or remedy the breach or default, if the same can be cured or remedied, by the payment of money or, if such is not the case, by performing or undertake in writing to perform all the terms, covenants, restrictions or conditions of any lease, patent, license, agreement or other instrument capable of performance by the holder, as determined by the board, within sixty days from the date of receipt of the notice, or within such additional period as the board may allow for good cause and add the cost thereof to the mortgage debt and the lien of the mortgage.”

SECTION 7. Section 103A-27 of the Revised Laws of Hawaii 1955 is amended by deleting the word “ninety” appearing in line 13 of said section and substituting the word “sixty” in its place.

SECTION 8. Section 103A-29 of the Revised Laws of Hawaii 1955 is amended to read as follows:

“Section 103A-29. Report to legislature on all dispositions. (a) The board shall submit a written report annually to the legislature within ten days of the convening of each regular session, of all land dispositions made in the preceding year, including sales, leases, leases with options to purchase, licenses, concessions, permits, exchanges and setting aside of lands by executive orders, the persons to whom made, the size of each disposition, the purpose for which made, the land classification of each, the tax map key number, the per unit price paid or set, and whether the disposition was by auction, by drawing or by negotiation.

(b) Whenever in this chapter any sale, lease, easement, license, executive order, quitclaim, exchange or other disposition is made subject to disapproval of the legislature, a written report thereof containing the information required in subsection (a) of this section shall be submitted to said legislature in the session next following the date of such disposition within ten days of the convening of said session.”

SECTION 9. Section 103A-51 of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Land license. The board may issue land licenses affecting public lands for a period not exceeding twenty years. No land license shall be disposed of except at public auction as provided in this chapter; provided, that the board may, after publication of notice in accordance with section 103A-16(d), dispose of a land license by negotiation, without recourse to public auction, if it shall determine that the public interest will best be served thereby. The disposition of a land license by negotiation shall be upon such terms and conditions as the board determines shall best serve the public interest.”

SECTION 10. Section 103A-51.1 of the Revised Laws of Hawaii 1955, as amended, is repealed in the entirety.

SECTION 11. Section 103A-52 of the Revised Laws of Hawaii 1955, as

amended, is further amended by deleting the second sentence thereof and by substituting the following in its place:

“Such permit on a month to month basis may continue for a period not to exceed one year from the date of its issuance; provided, that the board may allow such permit to continue on a month to month basis for additional one year periods.”

SECTION 12. The second paragraph of section 103A-57 of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Whenever land or a portion thereof under lease can be re-leased or sold for a higher and better use, or for the existing use to a greater economic benefit to the State, and there is a bona fide applicant interested in such re-lease or sale, the board, subject to the consent of the lessee, his successors or assigns, and each holder of record having a security interest, may cancel the lease without compensation to the lessee or withdraw a portion of the land from the lease and re-lease or sell the same; provided, however that in the event of withdrawal of a portion, the board may in its discretion allow a proportionate reduction in rent; and provided, further, that in the event buildings and improvements have been erected by the lessee, as permitted under the lease, on the land or portion thereof under lease affected by the cancellation or withdrawal, the board shall pay to the lessee a sum not to exceed the replacement value, less depreciation at the rates used for real property tax purposes.”

SECTION 13. Section 103A-59(a) of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Upon application by the owner and consent therefor having been given by each holder of record having a security interest, and after a finding that the public interest will be served thereby, the board may amend or waive the conditions restricting the use of land contained in any agreement of sale, deed or patent upon the condition that the grantee or patentee pay to the board the difference between the fair market value of the land based upon its restricted use and the fair market value with the restrictive condition amended or waived. Except for residential lots, the foregoing authority granted to the board shall not be construed to authorize the board to waive the condition contained in any agreement of sale, deed or patent which provides that upon change in use or breach of a condition, the title automatically reverts to the State, or the State shall have the power of termination.”

SECTION 14. Section 103A-36(b), Revised Laws of Hawaii 1955, is amended to read as follows:

“(b) No lease shall be for a longer term than sixty-five years, except in the case of a residential leasehold which may provide for an initial term of fifty-five years with the privilege of extension to meet Federal Housing Administration, Federal National Mortgage Association or Veterans Administration requirements, provided, that the aggregate of the initial term and extension shall in no event exceed seventy-five years; and except in the case of a

macadamia nut orchard lease the term of which shall not be in excess of forty-five years.”

SECTION 15. Subsections (a) and (b) of section 103A-37, Revised Laws of Hawaii 1955, are amended to read as follows:

“(a) The lease term shall not exceed twenty-five years, except that if the type of disposition requires the lessee to occupy the premises as his own personal residence, it may be longer than twenty-five years, but not in excess of seventy-five years, and except in the case of a macadamia nut orchard lease the term of which shall not be in excess of forty-five years.

(b) If the land being leased is not immediately productive and requires extensive expenditures for clearing, conditioning of the soil, the securing of water, the planting of grasses, or the construction of improvements, as the result of which a longer term is necessary to amortize the lessee’s investment, then the lease term may be longer than twenty-five years, but not in excess of thirty-five years, except that in the case of a macadamia nut orchard lease the lease term shall not be in excess of forty-five years.”

SECTION 16. Severability. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 17. This Act shall take effect upon its approval.
(Approved June 6, 1967.)