

ACT 55

S.B. NO. 505

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Section 171-36, Hawaii Revised Statutes, is amended to read:
“§171-36 Lease restrictions; generally. (a) Except as otherwise provided, the

following restrictions shall apply to all leases:

- (1) Options for renewal of terms are prohibited;
- (2) 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 the requirements of the Federal Housing Administration, Federal National Mortgage Association, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or Veterans Administration requirements[.]; provided[.] that the aggregate of the initial term and extension shall in no event exceed seventy-five years;
- (3) No lease shall be made for any land under a lease which has more than two years to run;
- (4) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any of its political subdivisions;
- (5) No lease shall be transferable or assignable, except by devise, bequest, or intestate succession; provided[.] that with the approval of the board of land and natural resources, the assignment and transfer of a lease or unit thereof may be made if:
 - (A) It contains the personal residence of the lessee;
 - (B) In the case of commercial, industrial, hotel, resort, apartment, and other business uses, the lessee was required to put in substantial building improvements;
 - (C) The lessee becomes mentally or physically disabled;
 - (D) Extreme economic hardship is demonstrated to the satisfaction of the board; or
 - (E) It is to the corporate successor of the lessee; provided further that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration paid by the assignee and, if necessary, revise the rent of the demised premises based upon the consideration paid by the assignee; and provided that the rent shall not be revised downward;
- (6) The lessee shall not sublet the whole or any part of the demised premises except with the approval of the board[.]; provided[.] that prior to the approval, the board shall have the right to review and approve the rent to be charged to the sublessee [and]; provided further that the board shall have the right to review and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the sublessee[.] and provided[.] that the rent may not be revised downward;
- (7) The lease shall be for a specific use or uses and shall not include waste lands, unless it is impractical to provide otherwise;
- (8) Mineral and metallic rights and surface and ground water shall be reserved to the State;
- (9) No lease of public lands, including submerged lands, nor any extension of any such lease, 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 such purposes, unless such lease, or any extension thereof, contains pro-

visions 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, which indicates the public's right to the use of such pier. The board shall, at the earliest practicable date, and where legally possible, cause all existing leases to be amended to conform to this paragraph. The term "lease", for the purposes of this paragraph, [shall include] includes month to month rental agreements and similar tenancies.

(b) The board may, from time to time, upon the issuance or during the term of any intensive agricultural, aquaculture, mariculture, or special livestock lease[.] (1) modify or eliminate any of the foregoing restrictions, [or] (2) extend or modify the fixed rental period of the lease, or (3) extend the term of the lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with the Federal Housing Administration, Federal National Mortgage Association, Veterans Administration, Small Business Administration, Farmers Home Administration, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or any other federal mortgage lending agency qualified to do business in the State [of Hawaii], and their respective successors and assigns or to qualify the lessee for any state loan, private loan guaranteed by the State, or any loan in which the State and any private lender participates; provided that the private lender shall be qualified to do business in the State; provided further that the approval of any extension shall be subject to the following:

- (1) The demised premises have been used substantially for the purpose for which they were originally leased;
- (2) The aggregate of the initial term and any extension granted shall not be for more than fifty-five years;
- (3) The rental shall not be less than the rental for the preceding term;
- (4) The rules [and regulations] of the board, setting forth any additional terms and conditions which [will] shall insure and promote the purposes of the demised lands."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1982.)