

ACT 252

H.B. NO. 989

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Section 171-22, Hawaii Revised Statutes, is amended to read as follows:

“**§171-22 Consent to mortgage.** Whenever under this chapter or under any lease, license, permit, or other instrument issued by the board of land and natural resources, consent of the State is required as a condition precedent to the mortgage of, or the creation of a security interest in public land, the chairperson of the board may, upon due application, grant the consent, and if the mortgage or security interest is to a recognized lending institution authorized to do business as a lending institution in either the State or elsewhere in the United States, the consent may extend to foreclosure and sale at the foreclosure to any purchaser, including the mortgagee, without regard to whether or not the purchaser is qualified under this chapter to lease, own, or otherwise acquire and hold the land or any interest therein. The interest of the mortgagee or holder shall be freely assignable. The term “holder” includes an insurer or guarantor of the obligation or condition of the mortgage, including the Federal Housing Administration, the Federal National Mortgage Association, the Veterans Administration, the Small Business Administration, Farmers Home Administration, or any other federal agency and their respective successors and assigns or any lending institution authorized to do business in the State or elsewhere in the United States; provided[,] that the consent to mortgage to a nongovernmental holder shall not confer any greater rights or powers in the holder than those which would be required by any of the aforementioned federal agencies.

Notwithstanding any provision in this chapter to the contrary, in leases or sales for residential purposes, the board may waive or modify any restrictions of the lease or sale or any restrictions contained in any such lease or sale if the waiver or modification is necessary to enable any of the aforementioned federal agencies or any lending institution authorized to do business in the State or elsewhere in the United States to participate in any loan secured by a mortgage on the land or the leasehold interest; provided[,] any such waiver or modification shall not confer any greater rights or powers in the holder than those which would be required by the Federal Housing Administration or the Farmers Home Administration.”

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§171- Amendment of lease for commercial or industrial use.** The board of land and natural resources may amend the specific use or uses contained in a lease for commercial or industrial use of public land to another or an additional specific commercial or industrial use or uses upon:

- (1) The application of the lessee;
- (2) Consent of each holder of record having a security interest in any improvements made by the lessee to the leased public land;
- (3) A finding by the board that the amended use or uses is in the public interest; and
- (4) Agreement by the lessee that the lessee, commencing from the effective date of the amended use or uses, shall pay a revised annual rent equal to the annual fair market rental value of the land based on the amended use or uses. The annual fair market value of the land shall be determined and set by the board.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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SECTION 4. This Act shall tke effect upon its approval.

(Approved May 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.