

ACT 132

H.B. NO. 888

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Section 171-17, Hawaii Revised Statutes, is amended to read as follows:

“§171-17 Appraisals. (a) [Public auction.] The appraisal of public lands for sale or lease at public auction for the determination of the upset price may be performed by an employee of the board of land and natural resources qualified to appraise lands, or by one but not more than three disinterested appraisers whose services shall be contracted for by the board; provided that the upset price or upset rental shall be determined by disinterested appraisal whenever prudent management so dictates. No such lands shall be sold or leased for a sum less than the value fixed by appraisal; provided that for any sale or lease at public auction, the board may establish the upset sale or rental price at less than the appraisal value set by an employee of the board and the land may be sold or leased at that price. The board shall be reimbursed by the purchaser or lessee for the cost of any appraisal required to be made by a disinterested appraiser or appraisers contracted for by the board.

(b) [Drawing or negotiation.] The sale price or lease rental of lands to be disposed of by drawing or by negotiation shall be no less than the value determined by a disinterested appraiser or appraisers whose services shall be contracted for by the board, and such appraisal, and any further appraisal made at the request of the purchaser and with the approval of the board, shall be at the cost of the purchaser.

(c) [Repurchase.] In the repurchase of any land by the board, the board shall have the option to repurchase the land for the original sale price or the fair market value at the time of repurchase, whichever is the lower. Any improvements affixed to the realty shall be purchased at their fair market value. At the time of the repurchase, the fair market value of the land, and the improvements, if any, shall be

determined by a qualified appraiser whose services shall be contracted for by the board; provided should the owner fail to agree upon the value, the owner may appoint the owner's own appraiser who together with the board's appraiser shall appoint a third appraiser, and the value shall be determined by arbitration as provided in chapter 658. The owner shall pay for all appraisal costs, except that the cost of the third appraiser shall be borne equally by the purchaser and the board.

(d) [Reopening.] In the event of reopening of the rental to be paid on a lease, the rental for any ensuing period shall be the fair market rental at the time of reopening. At least six months prior to the time of reopening, the fair market rental shall be determined by an appraiser whose services shall be contracted for by the board and the lessee shall be promptly notified of the determination; provided that should the lessee fail to agree upon the fair market rental, the lessee may appoint the lessee's own appraiser who together with the board's appraiser shall appoint a third appraiser and the fair market rental shall be determined by arbitration as provided in chapter 658. The lessee shall pay for the lessee's own appraiser, the board shall pay for its appraiser, and the cost of the third appraiser shall be borne equally by the lessee and the board. Any language in present leases to the contrary notwithstanding, the provisions of this subsection, when possible and notwithstanding the six month notice required, shall apply to leases with original lease rental reopening dates effective before and after May 28, 1985.

[(e) Purchase. The appraisal of private property to be acquired by the board may be performed by one but not more than three disinterested appraisers whose services shall be contracted for by the board and no land shall be purchased for a sum greater than the highest value fixed by the appraiser or appraisers; provided that the board may, after a review of the appraisals by the appraiser or appraisers or the attorney general, purchase the property at a value greater than the highest value if the higher value is determined by the appraiser or appraisers or the attorney general to be justified and within the range of market value; provided further that this limitation shall not apply where acquisition is by condemnation.

(f) (e) Whenever more than one appraiser is appointed each shall prepare and submit an independent appraisal. All appraisal reports shall be available for study by the public.'

SECTION 2. Section 171-30, Hawaii Revised Statutes, is amended to read as follows:

“§171-30 Acquisition of real property; general. (a) The board of land and natural resources shall have the exclusive responsibility, except as provided herein, of acquiring, including by way of dedications:

- (1) All real property or any interest therein and the improvements thereon, if any, required by the State for public purposes, including real property together with improvements, if any, in excess of that needed for such public use in cases where small remnants would otherwise be left or where other justifiable cause necessitates the acquisition to protect and preserve the contemplated improvements, or public policy demands the acquisition in connection with such improvements.
- (2) Encumbrances, in the form of leases, licenses, or otherwise on public lands, needed by any state department or agency for public purposes or for the disposition for houselots or for economic development.

The board shall upon the request of and with the funds from the state department or agency[,] effectuate all acquisitions as provided under this section.

(b) Except as provided in subsection (c), the department of accounting and general services shall be responsible for the acquisition of any office space in a nonstate owned building for use by a state department or agency.

(c) A state department or agency may directly acquire such real property for its purposes whenever the acquisition by the department or agency is required to conform to mandatory requirements of the United States in the case where federal funds are furnished to the department or agency.

(d) Property which may be acquired under this section includes all real property together with all structures and improvements thereon, franchises or appurtenances thereunto belonging, water, water rights, easements, and interests in land of every nature.

(e) The appraisal of private property to be acquired by the State may be performed by not more than three disinterested appraisers whose services shall be contracted for by the State, and no land shall be purchased for a sum greater than the highest value fixed by the appraiser or appraisals¹; provided that the State, after review of the appraisals by the appraiser or appraisers or the attorney general, may purchase the property at a value greater than the highest value if the higher value is determined by the appraiser or appraisers or the attorney general to be justified and within the range of market value; provided further that this limitation shall not apply where acquisition is by condemnation. After the private property has been acquired or the State abandons the acquisition, these appraisal reports shall be available for inspection and copying by the public."

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

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

(Approved May 21, 1993.)

Note

1. So in original.