

ACT 129

H.B. NO. 1659

A Bill for an Act Relating to Noncommercial Piers.

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

SECTION 1. The legislature finds that in May of 1998, the board of land and natural resources approved a plan to address unauthorized piers in Kaneohe bay after several decades of non-enforcement. Nearly two hundred shorefront property owners in Kaneohe bay had piers, many of which were built before statehood. Many of the pier owners, as well as countless others statewide, were unaware that their piers lacked proper authorization from the State and were considered illegal. As a result, the Governor signed Act 261, Session Laws of Hawaii (SLH) 2000, on June 20, 2000, which established a new section under chapter 171, Hawaii Revised Statutes, to read:

“Private residential noncommercial piers.

Notwithstanding any limitations to the contrary, the board of land and natural resources may lease, by direct negotiation and without recourse to public auction, state submerged lands or lands beneath tidal waters for private residential non-commercial piers on such terms and conditions as may be prescribed by the board.”

The legislature further finds that an amnesty program was therefore established in 2000 and 2001 to provide noncommercial pier owners with the appropriate permits for legal authorization and to resolve the illegal pier problem in Kaneohe bay. The legislature also finds that as of January 1, 2005, only twelve out of one hundred sixty Kaneohe bay pier owners had obtained a new lease, with an additional fifty cases in the process of approval with no guarantee of completion before the deadline of June 30, 2005, due to the difficulties and time constraints involved in obtaining all of the required surveys, appraisals, and additional documentation. The legislature further finds that additional time is needed to negotiate long-term leases with private noncommercial pier owners across the state, in areas such as Waiupe, Niuiki Circle, and Port Lock, given the disproportionate attention paid primarily to Kaneohe bay pier owners in the implementation of Act 261, SLH 2000.

The purpose of this Act is to:

- (1) Allow noncommercial pier owners more time to negotiate leases of state submerged lands or lands beneath tidal waters by extending the repeal date of Act 261, SLH 2000, from June 30, 2005, to June 30, 2007; and
- (2) Urge DLNR to commence using the prevailing real property tax assessment value of the fast land in determining the lease rent for the submerged land lease entered into after July 1, 2006, to prompt procrastinating pier owners who desire to enter into leases with the State.

SECTION 2. Act 261, Session Laws of Hawaii 2000, as amended by Act 68, Session Laws of Hawaii 2002, section 2, as amended by Act 103, Session Laws of Hawaii 2002, section 1, is amended by amending section 5 to read as follows:

- “SECTION 5. This Act shall take effect upon its approval; provided that:
- (1) The authority granted to the department of land and natural resources to enter into lease agreements with owners of private noncommercial piers shall be repealed on June 30, [~~2005;~~] 2007;
 - (2) The amendments made by sections 1 and 3 of this Act to the Hawaii Revised Statutes, shall be repealed as of June 30, [~~2005,~~] 2007, and section 171-53(c), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act;
 - (3) The amendment made by section 2 of this Act to section 171-36(a), which deleted paragraph (9), shall be repealed as of June 30, [~~2005,~~] 2007, and paragraph (9) shall be reenacted in the form in which it read on June 19, 2000; and
 - (4) Any lease agreement executed pursuant to this Act prior to June 30, [~~2005,~~] 2007, or any lease extension executed thereon after the repeal of this Act, shall remain exempt from section 171-36(a)(9), Hawaii Revised Statutes, after the repeal of this Act.”

SECTION 3. To prompt procrastinating pier owners who desire to enter into leases with the State for their noncommercial piers, the department of land and natural resources is urged to commence using the prevailing real property tax assessment value of the fast land in determining lease rent for a lease of the state submerged land or land beneath tidal water entered into after July 1, 2006.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on June 29, 2005.

(Approved June 16, 2005.)