RELATING TO INVESTMENT AUTHORITY OF THE EMPLOYEES' RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

"§88-119 Investments. Investments may be made in:

(1) Real estate loans and mortgages. Obligations (as defined in section 431:6-101) of any of the following classes:

(A) Obligations secured by mortgages of nonprofit corporations desiring to build multirental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action;

(B) Obligations secured by mortgages insured by the Federal Housing Administration;

(C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act;
(D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple; provided that the amount of the obligation at the time investment is made therein shall not exceed eighty per cent of the value of the real estate and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed eighty per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer shall be sufficient to reduce the system's exposure to not more than eighty per cent of the value of the real estate and improvements mortgaged to secure it. The insurance coverage shall remain in force until the principal amount of the obligation is reduced to eighty per cent of the market value of the real estate and
improvements mortgaged to secure it, at which
time the coverage shall be subject to
cancellation solely at the option of the board.
Real estate shall not be deemed to be encumbered
within the meaning of this subparagraph by reason
of the existence of any of the restrictions,
charges, or claims described in section 431:6-308;
(E) Other obligations secured by first mortgages of
leasehold interests in improved real estate;
provided that:
(i) Each leasehold interest at the time shall
have a current term extending at least two
years beyond the stated maturity of the
obligation it secures; and
(ii) The amount of the obligation at the time
investment is made therein shall not exceed
eighty per cent of the value of the
respective leasehold interest and
improvements, and except that the amount of
the obligation at the time investment is
made therein may exceed eighty per cent but
no more than ninety per cent of the value of

BUF-07(14)
the leasehold interest and improvements
mortgaged to secure it;
provided further that the obligation is insured
or guaranteed against default or loss under a
mortgage insurance policy issued by a casualty
insurance company licensed to do business in the
State. The coverage provided by the insurer
shall be sufficient to reduce the system's
exposure to not more than eighty per cent of the
value of the leasehold interest and improvements
mortgaged to secure it. The insurance coverage
shall remain in force until the principal amount
of the obligation is reduced to eighty per cent
of the market value of the leasehold interest and
improvements mortgaged to secure it, at which
time the coverage shall be subject to
cancellation solely at the option of the board;

(F) Obligations for the repayment of home loans
guaranteed by the department of Hawaiian home
lands pursuant to section 214(b) of the Hawaiian
Homes Commission Act, 1920; and

(G) Obligations secured by second mortgages on
improved real estate for which the mortgagor
procures a second mortgage on the improved real
estate for the purpose of acquiring the
leaseholder's fee simple interest in the improved
real estate; provided that any prior mortgage
shall not contain provisions that might
jeopardize the security position of the
retirement system or the borrower's ability to
repay the mortgage loan.

The board may retain or dispose of the real estate,
including leasehold interests therein, as it may
acquire by foreclosure of mortgages or in enforcement
of security, or as may be conveyed to it in
satisfaction of debts previously contracted[,] provided
that all the real estate, other than leasehold
interests, shall be sold within five years after
acquiring the same, subject to extension by the
governor for additional periods not exceeding five
years each, and that all the leasehold interests shall
be sold within one year after acquiring the same,
subject to extension by the governor for additional
periods not exceeding one year each[,] in the same
manner as other investments in interest in real
property authorized by this section;
(2) Government obligations, etc. Obligations of any of
the following classes:

(A) Obligations issued or guaranteed as to principal
and interest by the United States or by any state
thereof or by any municipal or political
subdivision or school district of any of the
foregoing; provided that principal of and
interest on the obligations are payable in
currency of the United States; or sovereign debt
instruments issued by agencies of, or guaranteed
by foreign governments;

(B) Revenue bonds, whether or not permitted by any
other provision hereof, of the State or any
municipal or political subdivision thereof,
including the board of water supply of the city
and county of Honolulu, and street or improvement
district bonds of any district or project in the
State; and

(C) Obligations issued or guaranteed by any federal
home loan bank, including consolidated federal
home loan bank obligations, the Home Owner's Loan
Corporation, the Federal National Mortgage
Association, or the Small Business Administration;

(3) Corporate obligations. Below investment grade or nonrated debt instruments, foreign or domestic, in accordance with investment guidelines adopted by the board;

(4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof or of any country;

(5) Obligations eligible by law for purchase in the open market by federal reserve banks;

(6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank;

(7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth at the time the investment is made at least fifteen per cent more than the amount of the respective obligations;

(8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life
insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein;

(9) Interests in real property. Interests in improved or productive real property in which, in the informed opinion of the board, it is prudent to invest funds of the system. For purposes of this paragraph, "real property" includes any property treated as real property either by local law or for federal income tax purposes. Investments in improved or productive real property may be made directly or through pooled funds, including common or collective trust funds of banks and trust companies, group or unit trusts, limited partnerships, limited liability companies, investment trusts, title-holding corporations recognized under section 501(c) of the Internal Revenue Code of 1986, as amended, similar entities that would protect the system's interest, and other pooled funds invested on behalf of the system by investment managers retained by the system;
(10) Other securities and futures contracts. Securities and futures contracts in which, in the informed opinion of the board, it is prudent to invest funds of the system, including currency, interest rate, bond, and stock index futures contracts and options on the contracts to hedge against anticipated changes in currencies, interest rates, and bond and stock prices that might otherwise have an adverse effect upon the value of the system's securities portfolios; covered put and call options on securities; and stock; whether or not the securities, stock, futures contracts, or options on futures are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4)); and

(11) Private placements. Investments in institutional blind pool limited partnerships, limited liability companies, or direct investments that make private debt and equity investments in privately held companies, including but not limited to investments in Hawaii high technology businesses or venture capital investments that, in the informed opinion of the board, are appropriate to invest funds of the system.
In evaluating venture capital investments, the board shall consider, among other things, the impact an investment may have on job creation in Hawaii and on the state economy. The board shall report annually to the legislature on any Hawaii venture capital investments it has made; provided that if the board determines it is not prudent to invest in any Hawaii venture capital investments the board shall report the rationale for the decision. The board, by January 1, 2008, shall develop criteria to determine the amount of funds that may be prudently invested in Hawaii private placement investments."

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

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

INTRODUCED BY

BY REQUEST

JAN 21 2014
Report Title:
Employees' Retirement System; Investments

Description:
Repeals the limitation on the holding period for real estate acquired by the Employees' Retirement System by foreclosure, enforcement of security, or in satisfaction of debts.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.
JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE INVESTMENT AUTHORITY OF THE EMPLOYEES' RETIREMENT SYSTEM.

PURPOSE: To repeal the limitation on the holding period for real estate acquired by the Employees' Retirement System of the State of Hawaii by foreclosure, enforcement of security or in satisfaction of debts so that the real estate may be held and disposed of like any other investment in interests in real property.

MEANS: Amend section 88-119, Hawaii Revised Statutes.

JUSTIFICATION: The Employees' Retirement System is authorized by section 88-119, Hawaii Revised Statute, to invest real estate. There are no restrictions imposed by section 88-119 on how long the Employees' Retirement System must hold its real estate investments except for section 88-119(a)(1), which requires that any real estate, other than leasehold interests, acquired by the Employees' Retirement System of the State of Hawaii by foreclosure of mortgages, enforcement of security, or in satisfaction of debts previously contracted, be sold within five years after acquisition and that leasehold interests so acquired be sold in one year after acquisition. The holding period for non-leasehold interests may be extended by the Governor for additional periods not exceeding five years each. The holding period for leasehold interests may be extended by the Governor for additional periods not exceeding one year each. The limitation on the holding period for real estate acquired by the Employees' Retirement System through foreclosure, enforcement of security, or in satisfaction of debts
predates the enactment of legislation authorizing the Employees' Retirement System to invest in real estate. In order to prudently manage the Employees' Retirement System's real estate portfolio, the Board of Trustees of the Employees' Retirement System needs to be able to evaluate and plan for the retention or disposition of the real estate without distinction as to how the real estate was acquired. The limitation on the holding period for real estate acquired through foreclosure, enforcement of security or satisfaction of debts prevents the Board of Trustees of the Employees' Retirement System from making long range plans for the affected property, which are necessary for the prudent management of the real estate investment portfolio.

Impact on the public: None.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BUF 141/Retirement

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.