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 by amending subsection (a) to read as follows:

"(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 Department of Veterans Affairs 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 county;

(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 in accordance with current industry standards, as determined by the board; provided further that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration to be paid by the assignee and may condition its consent to the assignment of the lease on payment by the lessee of a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee; provided further that with respect to
state agricultural leases, in the event of foreclosure
or sale, the premium, if any, shall be assessed only
after the encumbrances of record and any other
advances made by the holder of a security interest are
paid;

(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; provided further that in
the case where the lessee is required to pay rent
based on a percentage of its gross receipts, the
receipts of the sublessee shall be included as part of
the lessee's gross receipts; 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
including the percentage rent, if applicable, 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; [and]

(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 provisions 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 the pier. The board, at the earliest practicable date, and where legally possible, shall cause all existing leases to be amended to conform to this paragraph. The term "lease", for the purposes of this paragraph, includes month-to-month rental agreements and similar tenancies; and
(10) The board shall conduct a rent review of every lease and sublease of public land every ten years."

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 Statutory material to be repealed is bracketed and stricken.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

SECTION 3. This Act shall take effect on July 1, 2019.

INTRODUCED BY:
Report Title:
Public Lands; Rent Review; Leases and Subleases; Board of Land and Natural Resources

Description:
Requires that the board of land and natural resources conduct a rent review of all leases and subleases of public land once every ten years.

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