

Hawaiian Homes Commission Act, 1920, As Amended, Section 228

§228. Commercial and multipurpose project leases; extension of term.

(a) Notwithstanding any law to the contrary, the procedures under this section shall apply to commercial and multipurpose projects under section 204 or 220.5, and shall be in addition to any other procedures required by law.

(b) Prior to the disposition of available land through a request for proposals for an initial lease for a commercial or multipurpose project, the department shall consult with beneficiaries of the trust in the master planning of the available lands. The process of beneficiary consultation shall be as established by the department and shall:

- (1) Engage beneficiaries and beneficiary-serving organizations;
- (2) Provide for the timely dissemination of information about the proposed project and the gathering of input; and
- (3) Allow for a reasonable time and reasonable access to relevant information for evaluation and consideration.

(c) Notwithstanding section 220.5(d)(1), the department may extend the term of a lease of Hawaiian home lands for commercial or multipurpose projects and with the approval by the department of a written agreement proposed by the lessee, or the lessee and developer, to:

- (1) Make improvements to the leased property; or
- (2) Obtain financing for the improvement of the leased lands.

The extension of the lease pursuant to this section shall be based upon the improvements made or to be made, shall be no longer than twenty years, and shall be granted only once.

(d) Before the written agreement is approved, the lessee, or the lessee and developer, shall submit to the department the plans and specifications for the proposed development. The department shall review the plans, specifications, and the written agreement and determine:

- (1) Whether the development is of sufficient value and meets the priorities of the commission to justify an extension of the lease;
- (2) The estimated time needed to complete the improvements and expected date of completion of the improvements; and
- (3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the department, and percentage rent where gross receipts exceed a specified amount.

The commission shall adopt and publish a policy pursuant to chapter 91, Hawaii Revised Statutes, which shall be used to evaluate any request for a lease extension, including the terms of the lease, prospective payments, and renegotiation, and shall be used by the commission for any final determination on a lease extension request.

(e) The department shall submit an annual report to the legislature and the United States Department of the Interior, no later than twenty days prior to the convening of each regular session, beginning with the regular session of 2011, of all leases of available lands for commercial and multipurpose projects, including the following:

- (1) The total number of leases;
- (2) Acreage of each lease;
- (3) Terms of each lease;

(4) Whether the lessee is a beneficiary or beneficiary controlled organization; and

(5) Whether the lease was for retained available lands not required for leasing under section 207(a), and was negotiated with a native Hawaiian, or organization or association owned or controlled by native Hawaiians, under section 204(a)(2).

(f) All lease revenues from commercial and multipurpose project leases collected by the department to which this section applies shall be deposited into the Hawaiian home administration account established under section 213(f).

(g) As used in this section, "improvements" means any renovation, rehabilitation, reconstruction, or construction of the property, including minimum requirements for off-site and on-site improvements. [L 2010, c 187, §6; am L 2012, c 175, §4]