

Amendment to Chapter 10-4, Hawaii Administrative Rules

[NOV 29 2014]

SUMMARY

1. §10-4-3 is added.

§10-4-3 General lease; extension of term. (a) The department may extend the term of a general lease of Hawaiian home lands for commercial or multipurpose projects to make improvements to the leased property, or obtain financing for the improvement of the leased lands. Such extension requires approval by the department of a written agreement proposed by the general lessee, or the general lessee and developer, as provided by section 228 of the act.

(b) The general lessee, or the general lessee and general developer, shall meet and satisfy all requirements as referenced in Section 228 of the act.

(c) The lease extension shall be based upon the improvement made or to be made, shall be no more 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.

(e) The approval of any extension shall be subject to the following:

- (1) The demised premises are used in a manner substantially consistent with the use and purpose for which they were originally leased;
- (2) The rental shall not be less than the rental for the preceding term; and


- (3) Any additional terms and conditions set forth by the commission and deemed prudent and responsible. [Eff NOV 29 2014] (Auth: HHC Act §222) (Imp: HHC Act §228)

The amendment of chapter 10-4, Hawaii Administrative Rules, on the summary page dated [NOV 29 2014] were adopted on [NOV 29 2014] following public hearings held on October 9, 2014, in Hilo, Hawaii, in Waimea, Hawaii, in Wailuku, Maui, in Kaunakakai, Molokai, and in Kapolei, Oahu, and on October 10, 2014, in Lihue, Kauai, after public notice was given in the Hawaii Tribune-Herald, West Hawaii Today, The Maui News, Honolulu Star-Advertiser, and The Garden Isle on September 10, 2014.

The amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION



NEIL ABERCROMBIE
GOVERNOR
STATE OF HAWAII

Dated: 11.19.14

Filed

APPROVED AS TO FORM:



Deputy Attorney General

14 NOV 19 P2:18
LIEUTENANT GOVERNOR'S
OFFICE