
A BILL FOR AN ACT

RELATING TO LEASEHOLD CONVERSION.

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

1 SECTION 1. The legislature finds that ownership of
2 commercial and industrial land in Hawaii is concentrated in the
3 hands of a few landowners under the same oligopoly identified in
4 earlier legislative actions and court review. According to the
5 legislative reference bureau's report no. 5 in 2003, since a
6 majority of urban industrial properties in this State are
7 leasehold tenancy, the market valuations of these properties
8 have been affected by the speculative and investment markets.
9 The legislature finds landowners of commercial and industrial
10 ground leases have raised rents on the basis of these artificial
11 market values. The legislature further finds that as a result,
12 leasehold tenancy has created disincentives for lessees to
13 maintain, repair, renovate, or replace the improvements they
14 have built on their ground leases such that the economy of
15 Hawaii has been, and continues to be, harmed.

16 The legislature finds that Hawaii has an exceptionally high
17 rate of leasehold ownership, with approximately sixty per cent
18 of commercial and industrial land under leasehold as of 2003.



1 The legislature further finds that the continuing system of
2 leasehold ownership frustrates necessary and rational economic
3 development in Hawaii because the leasehold system defies the
4 national trend in industrial and commercial real estate,
5 adversely affects amortization of loans, and deprives ordinary
6 citizens of the privilege of building equity and bequeathing
7 wealth to subsequent generations.

8 The legislature further finds that action taken to support
9 economic development is within its proper legislative powers and
10 is an obligation to the public that it must meet.

11 The purpose of this Act is to establish a program for the
12 mandatory lease-to-fee conversion of business properties in the
13 same manner that the legislature addressed the problem of the
14 residential leasehold system.

15 SECTION 2. The Hawaii Revised Statutes is amended by
16 adding a new chapter to be appropriately designated and to read
17 as follows:

18 **"CHAPTER**

19 **BUSINESS LEASEHOLDS**

20 § -1 **Definitions.** As used in this chapter, unless the
21 context otherwise requires:

22 "Business lot":



1 (1) Means a lot zoned for business, commercial, or
2 industrial use and leased for and actually placed in a
3 business, commercial, or industrial use;

4 (2) Shall not include any lot zoned resort, agriculture,
5 conservation, preservation, apartment, or residential,
6 even if the lot is used for an income generating
7 enterprise; and

8 (3) Includes a lot zoned for mixed use if leased
9 exclusively for and actually placed in business,
10 commercial, or industrial resort use.

11 "Corporation" means the Hawaii housing finance and
12 development corporation created by chapter 201H.

13 "Designated business lot" means a business lot, the leased
14 fee interest in which has been designated for acquisition by the
15 corporation.

16 "Development tract" means a single contiguous area of real
17 property not less than five acres in size that has been
18 developed and subdivided into business lots, streets, and other
19 common or public areas. Two or more pieces of real property
20 shall be considered a single contiguous area if the real
21 property would be contiguous except for the interposition or
22 existence of a street, stream, or other like interference.



1 "Fair market value" means the amount of money that a
2 purchaser willing, but not obliged, to buy an interest in land
3 would pay an owner willing, but not obliged, to sell it, taking
4 into consideration all uses to which the land is adapted or
5 might in reason be applied.

6 "Fee simple land" means absolute ownership of land for an
7 indefinite duration, freely transferable and inheritable. For
8 the purposes of this chapter, fee simple land shall be deemed
9 owned by a lessee if the fee simple real property is held under
10 any trust agreement or fiduciary arrangement in which another
11 person holds legal title to the land and where the lessee,
12 whether as trustee, co-trustee, or beneficiary, holds or retains
13 the controlling interest and right to direct the trust with
14 regard to management or control of the trust or its assets.

15 "Fee simple owner" and "fee owner" mean the person who owns
16 the fee simple title to the land that is leased, including a
17 life tenant with a remainder over, vested or contingent, and a
18 holder of a defeasible estate, and the holder's heirs,
19 successors, legal representatives, and assigns.

20 "Lease" means a conveyance of land or an interest in land,
21 by a fee simple owner as lessor, or by a lessee or sublessee as
22 sublessor, to any person, in consideration of a return of rent



1 or other remuneration, for a term of twenty years or more,
2 measured from the initial date of the conveyance and including
3 any period for which the lease may be extended or renewed at the
4 option of the lessee.

5 "Leased fee" and "leased fee interest" means all of the
6 interests of the fee simple owner, lessor, and all legal and
7 equitable owners of the land that is leased other than the
8 lessee's leasehold interest.

9 "Legal and equitable owner" means the fee simple owner and
10 all persons having legal or equitable interests in the fee or in
11 the lessor's leasehold estate, including mortgagees, developers,
12 lienors, and sublessors, and their respective heirs, successors,
13 legal representatives, and assigns.

14 "Lessee" means any person to whom land is leased or
15 subleased and the lessee's heirs, successors, legal
16 representatives, and assigns.

17 "Lessor" means any person who leases or subleases land to
18 another and the lessor's heirs, successors, legal
19 representatives, and assigns.

20 "Lot" means a parcel of land of two acres or less in size.

21 "Offsite improvements" means all physical improvements,
22 including but not limited to roads, sewer lines, sewage



1 treatment plants, gutters, curbs, sidewalks, fire hydrants,
2 street lights, land dedicated for public purposes and
3 underground electric cables, constructed or placed in a
4 subdivision off the lots intended for occupancy, which
5 improvements are to be used in common by occupants of all lots
6 adjoining the improvements or by the occupants of all lots for
7 whose benefit the improvements have been constructed or placed.

8 "Onsite improvements" means all physical improvements
9 placed on a business lot intended for occupancy that are for the
10 benefit of occupants of that lot.

11 "Owner's basis" means the value of the lessor's leased fee
12 interest in a lot that would apply if the interest was normally
13 traded on an open market. The fair market value of the owner's
14 basis shall be established to provide the lessor with just
15 compensation for the lessor's interests in the lot and shall
16 take into consideration every interest and equity of the lessee
17 in establishing that market value. The value may be determined
18 by either of the following methods, or any other method that is
19 normally used by qualified appraisers in establishing the fair
20 market value of a lessor's leased fee interest in land:

21 (1) The sum of:



- 1 (A) The future rental income stream for the lot for
- 2 the term of the lease discounted to present worth
- 3 from the expiration date of the lease; and
- 4 (B) The value of the lessor's reversionary interest
- 5 in the lot discounted to present worth from the
- 6 expiration date of the lease. The discount rate
- 7 shall be established by the corporation as
- 8 reasonable and fair to the lessor and lessees;
- 9 provided that the discount rate may be modified
- 10 by mutual agreement of the lessor, lessee, and
- 11 the corporation; or
- 12 (2) The current fair market value of the lot, valued as if
- 13 it were a fee simple lot and as if the fee title were
- 14 unencumbered, and excluding onsite improvements,
- 15 established by a market data approach using comparable
- 16 sales, less the following:
- 17 (A) The value of the lease, including any rights
- 18 therein, if any, that accrues to the lessee;
- 19 (B) The percentage of the general enhancement of the
- 20 development tract that has been paid for or
- 21 contributed directly or indirectly by the lessee;



- 1 (C) The current replacement cost of that portion of
2 existing offsite improvements, including overhead
3 and profit at prevailing rates, that were paid
4 for or otherwise contributed, directly or
5 indirectly, by the lessee;
- 6 (D) The percentage of the general enhancement of the
7 development tract and the lot caused by the
8 onsite improvements on the lot paid for, or
9 contributed, directly or indirectly, by the
10 lessee;
- 11 (E) The amount, not otherwise deducted herein,
12 allocated to the lot, that was paid for or
13 otherwise contributed, directly or indirectly by
14 the original lessee, computed at prevailing rates
15 for overhead and profit in developing the
16 development tract established by existing
17 practice in the community; and
- 18 (F) The amount for fees and costs that would
19 ordinarily be borne by the lessor in transferring
20 the leased fee interest to a lessee, including
21 but not limited to commissions, other costs of
22 sale, and similar fee;



1 provided that the values established by any one of the
2 foregoing shall not be duplicated in any one of the
3 other provisions.

4 § -2 **Applicability.** This chapter applies to all lands
5 leased as business lots that are owned or held privately. This
6 chapter is not intended to supersede or preclude any other
7 remedy at law available to business lot lessees or the State,
8 including those available under chapter 480.

9 § -3 **No estoppel or waiver.** The rights granted to
10 lessees by this chapter shall be effective, notwithstanding any
11 provision in any lease or contract to the contrary. No lessee
12 shall be estopped by any covenant, term, condition, or contract,
13 however worded, from claiming the rights granted to the lessee
14 by this chapter or otherwise be deemed to have waived any
15 rights. Any provision in any lease or contract contrary to the
16 intent or purpose of this chapter is void.

17 § -4 **Trusts and estates.** The rights granted to lessees
18 by this chapter shall be effective, notwithstanding any
19 condition or provision to the contrary in any instrument
20 creating any life tenancy, defeasible fee, estate, or trust,
21 regardless of whether the tenancy, fee, estate, or trust was in
22 effect prior to July 1, 2013, or is created thereafter. The



1 life tenant, holder, officer, or trustee of any tenancy,
 2 defeasible fee, estate, or trust in effect prior to July 1,
 3 2013, shall perform all acts required of the life tenant,
 4 holder, officer, or trustee by this chapter. Every instrument
 5 creating the life tenancy, defeasible fee, estate, or trust in
 6 existence on July 1, 2013, or thereafter executed shall be
 7 construed in conformity with the intent and purpose of this
 8 chapter. No trustee, officer, or agent of a lessor or other
 9 legal or equitable owner shall, while acting pursuant to this
 10 chapter, be deemed to be acting in bad faith or to have
 11 committed a breach of trust.

12 § -5 **Administration of chapter.** The corporation shall
 13 administer this chapter.

14 § -6 **Corporation's duties, generally.** In addition to
 15 any other duty prescribed by law and this chapter, the
 16 corporation shall:

- 17 (1) By December 31, 2013, adopt, in accordance with
- 18 chapter 91, all rules necessary to effectuate the
- 19 purposes of this chapter;
- 20 (2) Enforce this chapter and the rules adopted pursuant
- 21 thereto;



- 1 (3) Subject to chapter 76, appoint and remove any
2 administrative, technical, and clerical staff as it
3 may require and prescribe their powers and duties;
4 except that the corporation may appoint, without
5 regard to chapter 76, one or more appraisers on a
6 part-time, contractual basis for the purposes set
7 forth in this chapter;
- 8 (4) Establish reasonable fees to be assessed and collected
9 from lessees for the services of any appraiser;
- 10 (5) Disseminate information and render assistance to
11 lessees of business lots for the effective
12 implementation of this chapter;
- 13 (6) Conduct an investigation of any written complaint or
14 whenever it appears to the corporation that this
15 chapter has been or is being violated. In any
16 investigation, the corporation may examine the books,
17 accounts, records, and files of any person connected
18 with the matter under investigation and conduct
19 hearings. If the corporation finds from satisfactory
20 evidence that any person has violated or is violating
21 this chapter, it may order the person to cease and
22 desist from continuing the violation or engaging



1 therein or doing any act or acts in furtherance
2 thereof and, where necessary, it may bring an action
3 in the name of the State in any court of competent
4 jurisdiction for enforcement of its orders;

5 (7) Acquire and sell all necessary leased fee interests as
6 provided in this chapter;

7 (8) Make and execute contracts and other instruments
8 necessary or convenient to the exercise of the powers
9 of the corporation;

10 (9) From time to time, require the lessors of leased
11 business lots and all fee owners and legal and
12 equitable owners of lots to provide information that
13 the corporation may reasonably require in connection
14 with the administration of this chapter; and

15 (10) Do all things necessary and convenient to carry out
16 the powers expressly conferred upon it by this
17 chapter.

18 § -7 **Corporation members, officers, or employees;**

19 **prohibited interests.** No member of the corporation or any
20 officer or employee administering this chapter shall acquire any
21 interest, direct or indirect, in the ownership or development of
22 any development tract other than by gift, devise, or



1 inheritance. No member, officer, or employee shall have or
2 acquire any interest, direct or indirect, in the financing or in
3 any contract or proposed contract for services to be furnished
4 or used in connection with or relating to the development of any
5 development tract. If any member, officer, or employee has or
6 acquires an interest by gift, devise, or inheritance, direct or
7 indirect, in any development tract or is a lessee of any
8 business lot affected by any eminent domain proceeding
9 instituted under this chapter, the member, officer, or employee
10 shall immediately disclose the same in writing to the
11 corporation and the disclosure shall be entered upon the minutes
12 of the corporation. The member, officer, or employee shall not
13 participate in any action by the corporation relating to the
14 property, tract, or contract in which the member, officer, or
15 employee has or acquires any interest. Violation of this
16 section constitutes misconduct in office and is cause for
17 dismissal.

18 § -8 Development tract subject to conversion of business
19 lots. The leasehold interest in business lots in a development
20 tract shall be subject to conversion to fee simple under this
21 chapter if the development tract was:



1 (1) Developed and subdivided into business lots occupied
2 by lessees under leases executed before July 1, 2013;
3 or

4 (2) Developed and subdivided or partially developed into
5 business lots occupied or to be occupied by lessees
6 under leases executed after June 30, 2013.

7 § -9 Designation for acquisition of leased fee interest

8 in business lots in development tract. (a) When, in a
9 development tract owned by a single fee simple owner, at least
10 twenty-five lessees of the business lots or more than fifty per
11 cent of the lessees of all business lots, whichever is less,
12 apply to the corporation for the purchase of the leased fee
13 interests in the business lots, the corporation shall examine
14 the applications to determine if all applicants qualify for the
15 purchase under this chapter.

16 (b) If the corporation finds that the necessary minimum
17 number or percentage of applicants is eligible to purchase, the
18 corporation shall hold a public hearing in the county in which
19 the subject development tract is located. The corporation shall
20 give public notice of the time and place of the public hearing
21 on at least three different days, the last notice being not less
22 than five days before the date of hearing.



1 (c) If, after the public hearing, the corporation finds
2 that the acquisition of the leased fee interests in the business
3 lots of lessees eligible to purchase the lots effectuates the
4 purpose of this chapter, the corporation shall designate the
5 leased fee interests in the business lots for acquisition.

6 In no instance shall the corporation designate for
7 acquisition the leased fee interest in a business lot, the
8 lessee of which is ineligible for purchase under this chapter.

9 Additionally, the corporation shall not designate the
10 leased fee interest in any business lot in the development tract
11 for acquisition if the corporation finds that:

12 (1) The ineligibility of any applicant causes the minimum
13 number or percentage of eligible applicants to fall
14 below that required under subsection (a); or

15 (2) The acquisition of the leased fee interests in the
16 subject business lots will not effectuate the purpose
17 of this chapter.

18 (d) The designation under subsection (c) shall authorize
19 the corporation to commence the acquisition of the leased fee
20 interests in the designated business lots in the development
21 tract through the exercise of the power of eminent domain.



1 § -10 **Eligibility for purchase.** (a) No application to
2 purchase the leased fee interest in a business lot in a
3 development tract shall be accepted and no sale of a leased fee
4 interest shall be made to any lessee unless the lessee meets the
5 following requirements:

- 6 (1) Holds a lease on the lot; provided that for the
7 purposes of this paragraph, "lease" shall not include
8 a sublease;
- 9 (2) Has legal title to a structure situated on the
10 business lot;
- 11 (3) Has a letter of credit, certificate of deposit, proof
12 of funds, or approved application from a lending
13 institution demonstrating that the lessee will be able
14 to promptly pay the corporation for the leased fee
15 interest in the business lot;
- 16 (4) Submits an application in good faith in a form
17 acceptable to the corporation;
- 18 (5) Executes a contract for the purchase of the leased fee
19 interest from the corporation if the corporation
20 acquires the interest;
- 21 (6) Does not own in fee simple any other land zoned to
22 permit any business, commercial, or industrial use



1 within the county in which the business lot is
2 located. A person shall be deemed to "own" land if
3 the person, the person's spouse, or both, own land,
4 unless they are separated and living apart under a
5 decree of a court of competent jurisdiction; and

6 (7) If the person is an individual, the person is at least
7 eighteen year old.

8 (b) The amount set by the corporation for the leased fee
9 interest in the designated business lot for which the lessee
10 must obtain a letter of credit, certificate of deposit, proof of
11 funds, or approved application for loan shall not be admissible
12 for any reason in any action, suit, or proceeding brought under
13 this chapter. Any financial information the corporation may
14 request and obtain from the lessee shall not be discoverable or
15 admissible in any action, suit, or proceeding brought under this
16 chapter.

17 (c) The corporation may require additional testimony or
18 evidence under oath in connection with any application. The
19 corporation shall adopt rules pursuant to chapter 91 to
20 effectuate the purposes of this section.

21 § -11 **Deposits by lessees.** (a) The corporation shall
22 require the submission of a deposit by a lessee determined



1 eligible by the corporation to purchase the leased fee interest
2 in a business lot under this chapter. The amount of the deposit
3 shall be established by rule. All interest earned on the
4 deposit submitted by a lessee shall accrue to the lessee.

5 (b) The deposit shall be applied by the corporation to
6 payment of appraisal, survey, attorney fees, and any other cost
7 the corporation has incurred as a result of the designation,
8 with the remainder of the deposit to be applied toward the
9 purchase of the applicable leased fee interests. The
10 corporation shall incur no liability for the deposits made under
11 this section.

12 § -12 **Preliminary negotiation required.** (a) Within
13 twenty days of designating the leased fee interests in business
14 lots for acquisition, the corporation shall request the lessor
15 and the eligible lessees to negotiate the just compensation that
16 the lessees shall pay to the lessor to acquire the lessor's
17 interests in the designated business lots.

18 If no agreement is reached within sixty days after the
19 request to negotiate, the parties shall simultaneously exchange
20 written final offers together with any appraisals, other
21 documents, and any other expert opinions on which their
22 negotiating positions were based. Copies of the final offers



1 and related documents shall be submitted to the corporation and
2 the corporation may use the information in determining, prior to
3 commencing condemnation proceedings, the probability that the
4 lessees will be able to meet the financial requirements of
5 section -10(a)(3).

6 (b) Preliminary negotiation as required by subsection (a)
7 shall be in advance of and shall not constitute any part of any
8 action in condemnation or eminent domain.

9 (c) Any offers, appraisals, documents, or expert opinions
10 giving a value of the lessor's interest in the designated
11 business lots that were prepared by a party for use in
12 preliminary negotiations as provided for in this section, for
13 setting qualification amounts pursuant to section -10(a)(3),
14 or for negotiations to determine the just compensation to
15 acquire the lessor's interest in the designated business lots
16 shall not be discoverable, usable, or admissible by an opposing
17 or adverse party in any eminent domain proceeding brought under
18 this chapter.

19 § -13 **Exercise of power of eminent domain.** Within
20 twelve months after the designation of the leased fee interests
21 in the business lots for acquisition, the corporation shall
22 acquire through voluntary action of the parties or institute



1 eminent domain proceedings to acquire the designated leased fee
2 interests. The corporation shall exercise its power of eminent
3 domain in the same manner as provided in chapter 101. If the
4 leased fee interests to all of the designated business lots are
5 not acquired or eminent domain proceedings are not instituted
6 within the twelve-month period, the corporation shall reimburse
7 the fee owner, lessor, and legal and equitable owners of the
8 designated business lots their actual out-of-pocket expenses of
9 appraisal, survey, and attorney fees; provided that:

- 10 (1) If the leased fee interests in all of the designated
11 business lots are not acquired or eminent domain
12 proceedings are not instituted within the twelve-month
13 period as a result of a lessee's dismissal,
14 discontinuance, or withdrawal from the eminent domain
15 proceedings or failure to purchase the leased fee
16 interest condemned because of the lessee's inability,
17 failure, or refusal to comply with any provision under
18 this chapter, then the lessee, not the corporation,
19 shall be solely responsible to reimburse the fee
20 owner, lessor, and legal and equitable owners for
21 their respective prorated costs that they may have



1 incurred as a result of the designation and
2 condemnation; and
3 (2) If, during the twelve-month period, the leased fee
4 interests in some of the designated business lots were
5 acquired by the corporation through voluntary sale by
6 the lessor, the acquired leased fee interests shall
7 remain in the ownership of the corporation or, if the
8 interests were subsequently purchased by the lessee,
9 in the ownership of the lessee.

10 § -14 **Eminent domain trial.** The parties to the eminent
11 domain action brought under this chapter shall be the
12 corporation as plaintiff and the lessors and all other necessary
13 parties as defendants. The corporation shall not have the
14 burden of proof in establishing the fair market value of the
15 leased fee interest being acquired. All parties, including the
16 corporation, shall be given an opportunity to present evidence
17 of the fair market value of the leased fee interest being
18 acquired.

19 § -15 **Compensation.** The compensation to be paid for the
20 leased fee interest in a designated business lot shall be the
21 owner's basis as defined in section -1. The compensation



1 shall be determined as of the date of the summons of the
2 complaint to institute the eminent domain action.

3 § -16 **Interest acquired.** (a) The interest to be
4 acquired by the corporation in a business lot under this chapter
5 shall be all of the right, title, and interest of the fee owner
6 and, if any, the lessor and all legal and equitable owners in
7 the designated business lot, subject to all covenants,
8 conditions, easements, reservations, and restrictions of record
9 running with the land or contained in the agreement of sale,
10 deed, or other conveyance held by the fee owner, lessor, and
11 legal and equitable owners, or permitted or suffered by lessees
12 of existing business lot leases that are not inconsistent with
13 the intent of this chapter. The acquisition shall terminate all
14 the right, title, and interest of the fee owner, lessor, and all
15 legal and equitable owners, whether the interest be a remainder,
16 vested or contingent, a reversion, or other beneficial interest
17 in the property, present or prospective.

18 (b) If the leasehold interest in the designated business
19 lot is subject to any mortgage, lien, or encumbrance suffered or
20 permitted by the lessee, including rights arising through
21 divorce, marriage, or assignment, the purchase of the leased fee
22 interest by the lessee shall in no manner affect or impair the



1 mortgage, lien, or encumbrance or the security afforded thereby
2 to the holder thereof, and the leasehold shall continue,
3 notwithstanding the purchase of the leased fee by the lessee,
4 for the purpose and to extent necessary to avoid any impairment
5 of the leasehold security, unless the holder of the leasehold
6 mortgage, lien, or encumbrance shall in writing consent to the
7 transfer thereof to the fee as herein provided. Upon the
8 written consent by the holder thereof, each mortgage, lien, or
9 encumbrance to which the leasehold is subject and to which the
10 consent refers shall be transferred to and shall bind the fee
11 acquired by the lessee, and shall thereafter continue in full
12 force and effect as a mortgage, lien, or encumbrance of the fee
13 acquired by the lessee, in the same order and priority among the
14 mortgages, liens, and encumbrances so transferred to the fee as
15 the same applied to and bound the lessee's immediate, previous
16 leasehold interest.

17 § -17 **Interest in compensation paid by the corporation.**

18 The fee owner, lessor, and all legal and equitable owners of a
19 designated business lot that has been acquired by the
20 corporation shall share in the compensation paid by the
21 corporation as their respective interests appear.

22 Notwithstanding any contrary provision in any contract or lease,



1 a developer or other person entitled to share in the lease
2 rental proceeds shall share in the compensation paid by the
3 corporation to the extent of the developer's or other person's
4 interest as may be determined by agreement of those entitled to
5 share in the compensation paid by the corporation or, in the
6 absence of such agreement, pursuant to chapter 658A.

7 § -18 **Compulsory or involuntary conversion.** It is the
8 intent of the legislature, within the meaning of section 1033 or
9 section 1231 of the Internal Revenue Code or the applicable
10 provisions of chapter 235, as well as all other statutes, rules,
11 regulations, administrative orders, and legal interpretations
12 within the federal and state governments relating to taxation,
13 that any conveyance of title to property by a fee owner to the
14 corporation under this chapter shall constitute a compulsory or
15 involuntary conversion as a result of the exercise of the power
16 of condemnation or the threat of imminence thereof, and that the
17 fee owner shall not be deemed, by reason of any provision of
18 this chapter or the execution by the fee owner of leases to the
19 property and other properties subsequent to June 30, 2013, to
20 hold the property primarily for sale to customers in the
21 ordinary course of trade or business.



1 § -19 **Purchase of leased fee interest.** (a) The lessee
2 of a designated business lot within a development tract who has
3 applied to and been determined by the corporation as eligible to
4 purchase the leased fee interest in the lot shall purchase the
5 leased fee interest from the corporation within sixty days of
6 acquisition of the interest by the corporation. The lessee
7 shall pay to the corporation the entire cost paid by the
8 corporation to acquire the leased fee interest in the business
9 lot. The purchase contract required by section -10(a)(5)
10 shall include this requirement.

11 (b) If a lessee fails or refuses to purchase the leased
12 fee interest in the designated business lot within the sixty-day
13 period, then:

14 (1) The lessee shall pay to the corporation the lessee's
15 pro rata share of all direct costs incurred by the
16 corporation in the acquisition of the leased fee
17 interests in the designated business lots within the
18 development tract, including costs of appraisal,
19 publication, and survey, and the corporation may take
20 whatever action it deems necessary to collect the
21 costs. In addition, if the lessee intentionally
22 breached the purchase contract with the corporation,



1 the corporation shall be entitled to any available
2 remedy; and

3 (2) The leased fee interest in the business lot shall
4 revert to the fee simple owner, and the lessee shall
5 be liable to the fee simple owner for the pro rata
6 share of the cost of the owner in the proceedings by
7 the corporation to acquire the leased fee interest.

8 § -20 **Quitclaim deeds.** Unless otherwise provided by
9 law, the corporation shall issue quitclaim deeds whenever it
10 conveys the leased fee interest in a designated business lot to
11 a lessee under this chapter. In no instance shall the
12 corporation be considered a guarantor or warrantor of the
13 condition and quality of the property upon the issuance of any
14 quitclaim deed or lease.

15 § -21 **Termination of proceedings when eligible**
16 **applicants fall below minimum number or percentage.** If, after
17 the corporation designates the leased fee interests in business
18 lots for acquisition, the number of eligible applicants for the
19 acquisition falls below the minimum number or percentage
20 established under section -9, the corporation shall terminate
21 all proceedings to acquire the designated leased fee interests.
22 Upon the termination, the designation shall be void, and the fee



1 simple owner, lessor, and legal and equitable owners shall be
2 reimbursed by the corporation for their costs incurred for
3 proceedings under this chapter.

4 The corporation shall require all lessees who were parties
5 to the proceedings to pay the corporation the entire amount
6 reimbursed to the fee simple owner, lessor, and legal and
7 equitable owners.

8 § -22 **Not for profit; no public funds.** (a) It is
9 declared to be the policy of the State that the corporation
10 shall carry out its responsibilities under this chapter in an
11 efficient manner so as to enable it to fix the sale price of the
12 leased fee interest in a designated business lot at the lowest
13 possible amount consistent with the purpose of this chapter and
14 that the corporation shall not administer this chapter for
15 profit or as a source of revenue to the State. To this end, the
16 corporation shall fix the sale price at an amount no higher than
17 it shall find to be necessary to produce revenues that shall be
18 sufficient:

19 (1) To pay the acquisition price of the leased fee
20 interest in designated business lots or reimburse the
21 corporation for any funds advanced to pay the
22 acquisition price; and



1 (2) To pay the cost of administering this chapter.
2 (b) It is also declared to be the policy of this State
3 that no public funds shall be expended to acquire the leased fee
4 interests in designated business lots or administer this
5 chapter; except that public funds may be advanced by the
6 corporation for these purposes if the corporation is assured
7 that the advance shall be reimbursed by lessees of the
8 designated business lots. For the purpose of this subsection,
9 "public funds" shall not include moneys:

10 (1) Passed through the corporation from lessees to lessors
11 for the purchase of the leased fee interests in
12 designated business lots or, if the leased fee
13 interests are not acquired, payment of costs incurred
14 by lessors; or

15 (2) Deposited or paid by lessees to defray the cost to the
16 corporation of activities and proceedings to acquire
17 the leased fee interests in designated business lots
18 on behalf of the lessees.

19 § -23 **Exemption from taxation and assessments.** The
20 corporation and property acquired by it under this chapter shall
21 be exempt from any and all taxes and assessments.

1 § -24 **Business lot conversion revolving fund.** There
2 shall be created a business lot conversion revolving fund. All
3 moneys received or collected by the corporation under this
4 chapter shall be deposited in the revolving fund. Expenditures
5 by the corporation to administer or enforce this chapter shall
6 be made from the revolving fund.

7 § -25 **Penalty.** Any person who violates this chapter
8 shall be fined not more than \$5,000 nor less than \$1,000,
9 imprisoned not more than one year, or both. All fines collected
10 shall be deposited in the business lot conversion revolving
11 fund."

12 SECTION 3. This Act shall take effect on July 1, 2013.

13

INTRODUCED BY: *Jeff Leach*

JAN 23 2013

By Request



H.B. NO. 1061

Report Title:

Leasehold Conversion; Business Properties

Description:

Provides for the mandatory lease-to-fee conversion of leasehold business property.

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

