

JAN 25 2006

S.B. NO. 3086

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LEASES.

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

1 SECTION 1. The legislature finds that the booming Hawaii
2 real estate market has fueled large increases in the lease rents
3 for state agricultural leases under the management of the
4 department of agriculture. Lessees with scheduled rental
5 reopenings are faced with significant increases in their lease
6 rents because such reopening appraisals are currently based on
7 fair market value. This will adversely impact the ability of
8 the lessees to continue their farming operations. To address
9 this problem, the appraisal of lease rents should be based on a
10 formula that is consistent with agricultural use.

11 The purpose of this Act is to stabilize agricultural park
12 lease rents by establishing that, for reopenings of any
13 agricultural park lease, the annual lease rent shall be
14 determined by appraisal based on highest and best use determined
15 through an income capitalization approach considering the
16 potential agricultural yield from the property.

17 SECTION 2. Section 166-11, Hawaii Revised Statutes, is
18 amended to read as follows:



1 "[+]§166-11[+] **Lease negotiation.** (a) The department of
2 agriculture may negotiate and enter into leases with any person
3 who:

4 (1) As of July 1, 1996, holds a revocable permit for
5 agricultural purposes; or

6 (2) Has formerly held an agricultural lease which expired
7 within the last ten years preceding July 1, 1996, and
8 has continued to occupy the state land; and

9 (3) Does not own agriculturally-zoned land of twenty-five
10 acres or more in the State, individually or jointly
11 with a spouse, or whose spouse does not own twenty-
12 five acres or more of agriculturally-zoned land in the
13 State.

14 (b) The land eligible for lease negotiations under this
15 section are limited to those lands:

16 (1) Zoned and used for agricultural purposes;

17 (2) Set aside by governor's executive order to the
18 department of agriculture for agricultural uses only;
19 and

20 (3) Not needed by any state or county agency for any other
21 public purpose.



1 (c) In negotiating and executing a lease as authorized,
2 the board of agriculture shall:

3 (1) Require the appraisal of the parcel to determine the
4 fair market value;

5 (2) Require the payment of annual lease rent based on the
6 fair market value established by appraisal;

7 (3) Require the payment of a premium, computed at twenty-
8 five per cent of the annual lease rent, with the
9 premium to be added to the annual lease rent for each
10 year of the lease equal to the number of years the
11 lessee has occupied the land, except that the premium
12 period shall not exceed four years; and

13 (4) Recover from the lessee the costs of expenditures
14 required by the department to convert the parcel into
15 leasehold.

16 Within six months from July 1, 1996, the department shall
17 notify in writing the permittees of lands eligible for lease
18 negotiations under this section and shall inform the permittees
19 of the terms, conditions, and restrictions provided by this
20 section. Any permittee may apply for a lease; provided that the
21 application shall be submitted to the department in writing
22 within thirty days from the date of receipt of notification;

1 provided further that the department may require documentary
2 proof from any applicant to determine that the applicant meets
3 eligibility and qualification requirements for a lease as
4 specified by this section.

5 (d) In the event of any reopening of the lease rent for
6 any agricultural park lease, the annual lease rent shall be
7 determined by appraisal based on highest and best use determined
8 through an agricultural income capitalization approach
9 considering the potential agricultural yield from the property."

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Russell Kohl
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SB. NO. 3086

Report Title:

Agricultural Park Leases; Reopening

Description:

Specifies that for reopenings of agricultural park leases, appraisals shall be based on highest and best use determined through an agricultural income capitalization approach considering the potential yield from the property.

