
A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 **AGRICULTURAL LAND SALE DISCLOSURES**

6 § -1 **Definitions.** As used in this chapter, unless the
7 context clearly requires otherwise:

8 "Agricultural land" means any land that is classified in
9 the agricultural district pursuant to chapter 205.

10 "Disclosure statement" means a written statement prepared
11 and in a form prescribed by the land use commission that fully
12 and accurately sets forth the permitted uses and restrictions on
13 the uses of land in the agricultural district pursuant to
14 sections 205-4.5 and 205-4.6.

15 § -2 **Applicability.** This chapter shall apply to any
16 sale of agricultural lands. The failure of the seller or the
17 seller's agent to comply with this chapter shall not affect the
18 validity of the title to any agricultural land sold.



1 § -3 **Prohibitions on sales of agricultural lands.**

2 Except as provided in section -4, no seller may sell
3 agricultural land unless:

4 (1) Prior to the sale of the agricultural land, a
5 disclosure statement is:

6 (A) Signed and dated by the seller within six months
7 before or ten calendar days after the acceptance
8 of a real estate purchase contract by the buyer;
9 and

10 (B) Delivered to the buyer as provided in section
11 -5;

12 (2) The buyer acknowledges receipt of the disclosure
13 statement on the real estate purchase contract, or in
14 any addendum attached to the contract, or in a
15 separate document; and

16 (3) The buyer is afforded the opportunity to examine the
17 disclosure statement as provided in section -5.

18 § -4 **Exemptions.** This chapter shall not apply to the
19 following sales of agricultural land:

- 20 (1) Sale to a co-owner;
21 (2) Sale to a spouse, parent, or child of the seller;
22 (3) Sale by devise, descent, or court order;

1 (4) Sale by operation of law, including, but not limited
2 to, any transfer by foreclosure, bankruptcy, or
3 partition, or any transfer to a seller's creditor
4 incident to a deed (or assignment) in lieu of
5 foreclosure, workout, or the settlement or partial
6 settlement of any preexisting obligation of a seller
7 owed a creditor and any later sale of residential real
8 property by such creditor; and

9 (5) Sale by a lessor to a lessee resulting from conversion
10 of leased land to fee simple.

11 § -5 **Delivery of disclosure statement to buyer;**

12 **procedures.** (a) No later than ten calendar days from
13 acceptance of a real estate purchase contract, the seller,
14 either directly or through the seller's agent, shall provide the
15 disclosure statement to the buyer.

16 (b) Upon receipt of the disclosure statement, the buyer
17 shall have fifteen calendar days to:

- 18 (1) Examine the disclosure statement; and
19 (2) Decide whether to rescind the real estate purchase
20 contract.

21 If the buyer decides to rescind the real estate purchase
22 contract, the buyer shall deliver, to the seller directly or

1 through the seller's agent within the fifteen-day period,
2 written notification of the buyer's decision to rescind the real
3 estate purchase contract. Failure to deliver the written
4 notification to the seller within the fifteen-day period shall
5 be deemed an acceptance of the disclosure statement.

6 (c) The seller and buyer may agree in writing to reduce or
7 extend the time period provided for the delivery or examination
8 and rescission period. The form of the receipt for the
9 disclosure statement required by section -3(2) shall provide
10 that the buyer has the right to examine the disclosure statement
11 and to rescind the real estate purchase contract in accordance
12 with this section.

13 § -6 Remedies; voidable contracts. (a) A buyer may
14 elect to complete the purchase of the agricultural land even if
15 the seller fails to comply with the requirements of this
16 chapter. After recordation of the sale of agricultural land, a
17 buyer shall have no right under this chapter to rescind the real
18 estate purchase contract despite the seller's failure to comply
19 with the requirements of this chapter.

20 (b) If the buyer is provided a disclosure statement
21 prepared and delivered in accordance with this chapter and the
22 buyer decides to rescind the real estate purchase contract, the



1 buyer shall not be entitled to any damages but shall be entitled
2 to the immediate return of all deposits.

3 (c) In addition to the rights of rescission granted to the
4 buyer under this chapter, if the seller negligently fails to
5 provide the disclosure statement required by this chapter, the
6 seller shall be liable to the buyer for the amount of the actual
7 damages, if any, suffered as a result of the seller's
8 negligence.

9 (d) In addition to the remedies allowed under subsection
10 (b) or (c), a court may also award the prevailing party
11 attorney's fees, court costs, and administrative fees.

12 § -7 **Rescission.** Notwithstanding anything to the
13 contrary in this chapter, any action for rescission brought
14 under this chapter shall commence prior to the recorded sale of
15 the real property.

16 § -8 **Limitation of actions.** (a) Any action brought
17 under this chapter shall commence within two years from the date
18 the buyer received the disclosure statement; provided that if no
19 disclosure statement was delivered to the buyer, then the action
20 shall commence within two years of the recorded sale of the
21 agricultural land.



1 (b) This chapter supersedes all other laws relating to the
2 time for commencement of actions for failure to make the
3 disclosures required by this chapter.

4 § -9 Other disclosures. The provisions of this chapter
5 shall not relieve or release a seller or a seller's agent of any
6 other requirements of disclosure with regard to a sale of real
7 property, including but not limited to the provisions contained
8 in chapter 508D.

9 § -10 Preparation of disclosure form. The land use
10 commission shall prepare the disclosure statement form described
11 in section 1 and make it available to the real estate commission
12 and owners of agricultural lands described in section 1."

13 SECTION 2. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun, before its effective date, and shall have no effect on
16 any real estate sales contract that was fully executed and
17 delivered prior to the effective date of this Act.

18 SECTION 3. This Act shall take effect upon its approval,
19 provided that section 1 shall take effect on September 1, 2007.

20

INTRODUCED BY:



JAN 19 2007



Report Title:

Agricultural Lands; Sale Disclosures

Description:

Requires seller or seller's agent to provide buyer with disclosure of permitted uses and prohibited uses or activities on agricultural lands prior to sale.

