

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1           SECTION 1. Chapter 171, Hawaii Revised Statutes, is  
2 amended by adding a new subpart to part III to be appropriately  
3 designated and to read as follows:

4                         "         Agricultural Enterprises Including  
5                                         Certain Agricultural Uses

6           **§171-         Definitions.** As used in this subpart, unless the  
7 context otherwise requires:

8           "Agricultural enterprise" means a person or entity that  
9 engages in activities pertaining to agricultural production,  
10 aquaculture farming, aquaculture produce processing, aquaculture  
11 development activities, or agricultural services.

12           "Aquaculture" means the farming or ranching of aquatic life  
13 in a controlled salt, brackish, or fresh water environment;  
14 provided that the farm or ranch is on or directly adjacent to  
15 land.

16           **§171-         Leases; leases with option to purchase; sales**  
17 **permitted when.** Land intended for disposition as an  
18 agricultural enterprise lot shall be disposed of by lease, by



1 lease with option to purchase, or in fee simple.  
2 Notwithstanding any other provision in this chapter to the  
3 contrary, such disposition may be by drawing of lot, without  
4 recourse to public auction; provided that the right to any  
5 values in the land not attributable to these agricultural uses  
6 shall be reserved to the State.

7 Dispositions under this section shall be made only to  
8 agricultural enterprises that satisfy the requirements  
9 established by the board.

10 **§171- Planning.** In addition to the requirements set  
11 forth in section 171-33 and 171-34, prior to making these  
12 dispositions, the board shall:

- 13 (1) Determine the economic feasibility and need for  
14 proposed disposition;
- 15 (2) Determine the minimum economic unit required for the  
16 successful undertaking of the specific use intended,  
17 taking into consideration soil fertility, soil  
18 condition, and availability of water; and
- 19 (3) Subdivide the land into economic units and make  
20 improvements as necessary in conformity with  
21 applicable county or city and county zoning and



1 subdivision requirements, including the construction  
2 of necessary roads and irrigation facilities.

3 **§171- Restrictions; conditions.** In addition to  
4 restrictions or conditions that may be established by the board  
5 to carry out the purposes of this chapter and by the Hawaii  
6 State Constitution, all sales of, leases of, or leases with an  
7 option to purchase an agricultural enterprise lot shall be  
8 subject to the following conditions, which shall be covenants  
9 running with the land:

10 (1) In the case of a lease, those provisions set forth in  
11 sections 171-35, 171-36 and 171-37, unless otherwise  
12 specifically provided in this section;

13 (2) In the case of a fee simple sale, the improvement  
14 required and the specific use or uses intended; and

15 (3) For a period of five years after the issuance of a  
16 patent or lease, the purchaser or lessee shall not  
17 sell, sublet, assign, transfer, or in other manner  
18 dispose or encumber the whole or any part of the  
19 agricultural enterprise lot to any person or entity  
20 not qualified to take an agricultural enterprise lot  
21 except by way of mortgage, testamentary bequest or



1           devise, or intestate succession, except to a purchaser  
2           at or after sale upon the foreclosure of a mortgage.

3           The violation of any restrictions or conditions set forth  
4 in this section shall be sufficient for the board, upon failure  
5 of the purchaser or lessee within a reasonable period of time to  
6 remedy the default after notice is provided, pursuant to section  
7 171-20, to take possession of the premises without demand or  
8 previous entry and with or without legal process and thereby  
9 determine the estate, subject to the provisions contained in  
10 section 171-21.

11           **§171- Applicants; qualifications of.** (a) A person or  
12 entity shall be eligible to apply for an agricultural enterprise  
13 lot if the person or entity has the following qualifications:

14           (1) The person has been a resident of the State at any  
15 time for at least three years or the entity is a  
16 corporation, partnership, or company organized under  
17 the laws of the State of Hawaii or authorized to do  
18 business in the State of Hawaii;

19           (2) A sound credit risk with the ability to fulfill the  
20 terms of the agreement; and

21           (3) The person or entity:



- 1 (A) Has not less than two years of experience as an
- 2 agricultural enterprise;
- 3 (B) Can demonstrate by reason of ability, experience,
- 4 or training that the person or entity is likely
- 5 to successfully operate as an agricultural
- 6 enterprise; and
- 7 (C) Meets other qualifications as the board may
- 8 prescribe pursuant to section 171-6.

9 **§171- Preference right.** Any person or entity qualified  
10 to take an agricultural enterprise lot shall have preference in  
11 any drawing for agricultural enterprise lots, if the person or  
12 entity:

- 13 (1) Is a veteran (defined herein as a person who served in
- 14 the military forces of the United States during any
- 15 war between the United States and any other nation and
- 16 who was discharged or released under conditions other
- 17 than dishonorable); or
- 18 (2) Has been, within a period of not longer than five
- 19 years prior to the filing of the application, an owner
- 20 in possession, or a lessee in possession having an
- 21 unexpired lease term of more than one year, of



1 agricultural premises that were taken by any  
2 governmental authority for any public purpose who was:

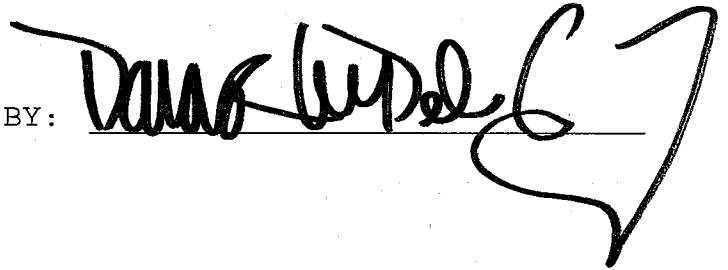
3 (A) Displaced by reason of the taking by any  
4 governmental authority;

5 (B) Displaced due to a declaration of the use of the  
6 agricultural premises as a public nuisance,  
7 making the premises unusable for agricultural  
8 purposes; or

9 (C) Displaced by reason of a natural disaster."

10 SECTION 2. This Act shall take effect upon its approval.

11 INTRODUCED BY:

A large, stylized handwritten signature in black ink, appearing to read "Dan L. Claitor", is written over a horizontal line. The signature is highly cursive and extends to the right of the line.

**Report Title:**

Public Lands; Agriculture; Agricultural Enterprise; Lease or Sale

**Description:**

Creates new regulatory provisions governing the lease or sale of public land to agricultural enterprises.

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

