

---

---

# A BILL FOR AN ACT

RELATING TO APPRAISALS.

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

1           SECTION 1. The legislature finds that the appraisal  
2 processes utilized by the department of land and natural  
3 resources to determine fair lease rent for state lands to be  
4 used for agricultural and aquacultural production and support  
5 are overly burdensome to the State's commercial agriculture and  
6 aquaculture industries, add substantially to the time and costs  
7 associated with establishing or expanding farming and ranching  
8 enterprises in the State, and negatively impact long-term  
9 agricultural and aquacultural tenure and investment. These  
10 effects are contrary to the State's goals of expanding local  
11 food production, increasing the State's self-sufficiency, and  
12 improving the economic well-being of the State's rural farming  
13 communities.

14           The legislature also finds that in order for agriculture  
15 and aquaculture to flourish and reach their full potential in  
16 the State, land availability and long-term tenure at affordable  
17 and predictable lease rental rates are critical. When lease  
18 rents are based solely on monetary considerations of fair market



1 value and highest and best use, local agriculture and  
2 aquaculture industries suffer.

3 The appraisal valuation process instead should consider  
4 factors such as physical site characteristics, past market  
5 prices, global economic factors, percentage of usable land for  
6 agricultural or aquacultural purposes, and the influence of risk  
7 factors outside of farmers' and ranchers' control, such as  
8 natural disasters. The process should also recognize the  
9 numerous societal benefits of agriculture and aquaculture,  
10 including sustainable food production, land conservation, and  
11 preservation of open and green space.

12 Farmers and ranchers frequently make substantial  
13 investments during the life of their leases, often financing  
14 investments based on the income and expense projections existing  
15 at the time. However, significant changes to projected land  
16 rent can alter the viability of these investments.

17 Placing limits on potential appraisal costs may help  
18 farmers and ranchers to manage their costs.

19 The purpose of this Act is to:

20 (1) Provide that the valuation of public agricultural or  
21 aquacultural land be based on the land's agricultural



1 or aquacultural use, economic considerations, relevant  
2 risk factors, and societal benefits; and

3 (2) Provide that for disinterested appraisals, costs  
4 greater than one year's existing rent shall be borne  
5 by the department of land and natural resources.

6 SECTION 2. Section 171-17, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§171-17 Appraisals.** (a) The appraisal of public lands  
9 for sale or lease at public auction for the determination of the  
10 upset price may be performed by an employee of the board of land  
11 and natural resources qualified to appraise lands, or by one but  
12 not more than three disinterested appraisers whose services  
13 shall be contracted for by the board; provided that the upset  
14 price or upset rental shall be determined by disinterested  
15 appraisal whenever prudent management so dictates. No such  
16 lands shall be sold or leased for a sum less than the value  
17 fixed by appraisal; provided that [~~for~~]:

18 (1) For any sale or lease at public auction, the board may  
19 establish the upset sale or rental price at less than  
20 the appraisal value set by an employee of the board  
21 and the land may be sold or leased at that price[~~-~~]  
22 and;



1       (2) The value of land classified or used for agriculture  
 2       or aquaculture, including the value of land classified  
 3       for conservation, shall be the value of the land for  
 4       agricultural or aquacultural use without regard to any  
 5       value that the land might have for other purposes or  
 6       uses, or to neighboring land uses.

7 The board shall be reimbursed by the purchaser or lessee for the  
 8 cost of any appraisal required to be made by a disinterested  
 9 appraiser or appraisers contracted for by the board[-]; provided  
 10 that for a lease renewal or conversion from a revocable permit  
 11 to a long-term lease, any appraisal cost greater than one year's  
 12 existing rent shall be borne by the department.

13       (b) The sale price or lease rental of lands to be disposed  
 14 of by drawing or by negotiation shall be no less than the value  
 15 determined by:

- 16       (1) An employee of the board qualified to appraise lands;
- 17       or
- 18       (2) A disinterested appraiser or appraisers whose services
- 19       shall be contracted for by the board, and such
- 20       appraisal, and any further appraisal with the approval
- 21       of the board, shall be at the cost of the purchaser;



1 provided that the sale price or lease rental shall be determined  
2 by disinterested appraisal whenever prudent management so  
3 dictates[+]. The value of land classified or used for  
4 agriculture or aquaculture, including the value of land  
5 classified for conservation, shall be the value of the land for  
6 agricultural or aquacultural use without regard to any value  
7 that the land might have for other purposes or uses, or to  
8 neighboring land uses. [~~provided further that should~~] If the  
9 purchaser [~~fail~~] fails to agree upon the sale price or lease  
10 rental, the purchaser may appoint an appraiser who together with  
11 the board's appraiser shall appoint a third appraiser, and the  
12 sale price or lease rental shall be determined by arbitration as  
13 provided for in chapter 658A, which shall be final and binding.  
14 The purchaser shall pay for all appraisal costs, except that the  
15 cost of the third appraiser shall be borne equally by the  
16 purchaser and the board[-]; provided that for a lease renewal or  
17 conversion from a revocable permit to a long-term lease, any  
18 appraisal cost greater than one year's existing rent shall be  
19 borne by the department.

20 (c) In the repurchase of any land by the board, the board  
21 shall have the option to repurchase the land for the original  
22 sale price or the fair market value at the time of repurchase,



1 whichever is the lower. Any improvements affixed to the realty  
2 shall be purchased at their fair market value. At the time of  
3 the repurchase, the fair market value of the land, and the  
4 improvements, if any, shall be determined by a qualified  
5 appraiser whose services shall be contracted for by the board;  
6 provided that should the owner fail to agree upon the value, the  
7 owner may appoint the owner's own appraiser who together with  
8 the board's appraiser shall appoint a third appraiser, and the  
9 value shall be determined by arbitration as provided in chapter  
10 658A. The owner shall pay for all appraisal costs, except that  
11 the cost of the third appraiser shall be borne equally by the  
12 purchaser and the board.

13 (d) In the event of reopening of the rental to be paid on  
14 a lease, the rental for any ensuing period shall be the fair  
15 market rental at the time of reopening[-]; provided that the  
16 value of land classified or used for agriculture or aquaculture,  
17 including the value of land classified for conservation, shall  
18 be the value of the land for agricultural or aquacultural use  
19 without regard to any value that the land might have for other  
20 purposes or uses, or to neighboring land uses. At least six  
21 months prior to the time of reopening, the fair market rental  
22 shall be determined by:



1           (1) An employee of the department qualified to appraise  
2           lands; or

3           (2) A disinterested appraiser whose services shall be  
4           contracted for by the board;

5 and the lessee shall be promptly notified of the determination;  
6 provided that should the lessee fail to agree upon the fair  
7 market rental, the lessee may appoint the lessee's own appraiser  
8 who together with the board's appraiser shall appoint a third  
9 appraiser and the fair market rental shall be determined by  
10 arbitration as provided in chapter 658A. The lessee shall pay  
11 for the lessee's own appraiser, the board shall pay for its  
12 appraiser, and the cost of the third appraiser shall be borne  
13 equally by the lessee and the board[-]; provided that any  
14 appraisal cost greater than one year's existing rent shall be  
15 borne by the department. Any language in present leases to the  
16 contrary notwithstanding, the provisions of this subsection,  
17 when possible and notwithstanding the six-month notice required,  
18 shall apply to leases with original lease rental reopening dates  
19 effective before and after July 1, 1996.

20           (e) Whenever more than one appraiser is appointed, each  
21 shall prepare and submit an independent appraisal. All  
22 appraisal reports shall be available for study by the public.



1        (f) In determining the fair market value and highest and  
2 best use of lands that are classified or used for agriculture or  
3 aquaculture, consideration shall be given to rent; productivity;  
4 nature of actual agricultural or aquacultural use; location;  
5 accessibility; transportation facilities; size; shape;  
6 percentage of usable land for intended purpose; elevation;  
7 topography; quality of soil; insolation and wind conditions;  
8 water privileges; availability and cost of water and utilities;  
9 easements and appurtenances; the opinions of persons who may be  
10 considered to have special knowledge of agricultural and  
11 aquacultural land values; past, current, and anticipated market  
12 prices; global economic factors; the influence of risk factors  
13 outside of farmers' and ranchers' control, such as natural  
14 disasters; and societal benefits of agriculture and aquaculture,  
15 including sustainable food production, land conservation, and  
16 preservation of open and green space."

17        SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19        SECTION 4. This Act shall take effect on July 1, 2020.





**Report Title:**

DLNR; Appraisals; Agriculture; Aquaculture; Leases; Rates

**Description:**

Requires valuation of public agricultural or aquacultural land to be based on the land's agricultural or aquacultural use, economic considerations, relevant risk factors, and societal benefits. In the case of disinterested appraisals, requires that costs greater than one year's existing rent shall be borne by DLNR. Effective July 1, 2020. (HB488 HD1)

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

