
A BILL FOR AN ACT

RELATING TO THE DISPOSITION OF LANDS MANAGED BY THE STATE
DEPARTMENT OF AGRICULTURE.

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

1 SECTION 1. The purpose of this Act is to authorize the
2 department of agriculture to create an alternative list of
3 qualified applicants to lease agricultural lands if an initial
4 awardee fails to complete the lease process.

5 SECTION 2. Section 166-6, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Any provision of this chapter to the contrary
8 notwithstanding, the board [~~may~~], by negotiation, drawing of
9 lot, or public auction, may directly dispose of public lands and
10 related facilities set aside and designated for use as
11 agricultural parks, and any other lands and facilities under the
12 jurisdiction of the department pursuant to section 166-3 and
13 notwithstanding chapter 171. Except as provided by subsection
14 (c), dispositions may be by lease and shall be subject to the
15 requirements set forth in rules adopted by the board in
16 conformity with section 166-9, and subject also to the following
17 limitations:



- 1 (1) The property shall be disposed of for agricultural or
2 aquacultural purposes only;
- 3 (2) The lessee shall derive the major portion of the
4 lessee's total annual income from the lessee's
5 activities on the premises; provided that this
6 restriction shall not apply if failure to meet the
7 restriction results from mental or physical disability
8 or the loss of a spouse, or if the premises are fully
9 utilized in the production of crops or products for
10 which the disposition was granted;
- 11 (3) The lessee shall comply with all federal and state
12 laws regarding environmental quality control;
- 13 (4) The board shall determine the specific uses for which
14 the disposition is intended; parcel the land into
15 minimum size economic units sufficient for the
16 intended uses; make, or require the lessee to make,
17 improvements as are required to achieve the intended
18 uses; set the upset price or lease rent based upon an
19 appraised evaluation of the property value adjustable,
20 as provided in rules adopted in accordance with
21 chapter 91, to the specified use of the lot; set the
22 term of the lease, which shall be not less than



1 fifteen years nor more than fifty-five years,
2 including any extension granted for mortgage lending
3 or guarantee purposes; and establish other terms and
4 conditions as it may deem necessary, including but not
5 limited to restrictions against alienation and
6 provisions for withdrawal by the board;

7 (5) No lease shall be made to any person who is in arrears
8 in the payment of taxes, rents, or other obligations
9 owing the State or any county; [~~and~~]

10 (6) Any transferee, assignee, or sublessee of an
11 agricultural park lease shall first qualify as an
12 applicant under this chapter. For the purpose of this
13 paragraph, any transfer, assignment, sale, or other
14 disposition of any interest, excluding a security
15 interest, of any legal entity [~~which~~] that holds an
16 agricultural park lease shall be treated as a transfer
17 of the agricultural park lease and shall be subject to
18 the approval of the board of agriculture upon
19 reasonable terms and conditions, not inconsistent with
20 this chapter or rules of the board, [~~which~~] that the
21 board may deem necessary. No transfer shall be
22 approved by the board if the disposition of the stock,



1 or assets or other interest of the legal entity would
2 result in the failure of the entity to qualify for an
3 agricultural park lease[-]; and

4 (7) For dispositions by negotiation that require the
5 submission of sealed bids pursuant to rules adopted by
6 the department, in addition to selecting the applicant
7 who submits the highest offer as the lessee, the
8 department may select qualified applicants who submit
9 the next highest offers as back-up lessees, with whom
10 the department may enter into negotiations upon the
11 failure by the highest offering lessee to finalize a
12 lease for any reason."

13 SECTION 3. Section 166-11, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~§~~166-11~~]~~ **Lease negotiation.** (a) The department of
16 agriculture may negotiate and enter into leases with any person
17 who:

18 (1) [~~As of July 1, 1996, holds~~] Holds a revocable permit
19 for agricultural purposes; [~~or~~]

20 (2) Has formerly held an agricultural lease [~~which~~] or
21 holdover lease of public land that expired within the



1 last ten years [~~preceeding July 1, 1996,~~] and has
2 continued to occupy the state land; [and
3 ~~(3) Does not own agriculturally zoned land of twenty five~~
4 ~~acres or more in the State, individually or jointly~~
5 ~~with a spouse, or whose spouse does not own twenty~~
6 ~~five acres or more of agriculturally zoned land in the~~
7 ~~State.] or~~

8 (3) Is determined by the department to have a beneficial
9 impact on agriculture.

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

12 (1) Zoned and used for agricultural purposes;

13 (2) Set aside by governor's executive order to the
14 department of agriculture for agricultural uses only;
15 and

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

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

20 (1) Require the appraisal of the parcel to determine the
21 fair market value;



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

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

9 (4) Recover from the lessee the costs of expenditures
10 required by the department to convert the parcel into
11 leasehold.

12 [~~Within six months from July 1, 1996, the~~] The department
13 shall notify in writing [~~the permittees of lands~~] those persons
14 eligible for lease negotiations under this section and shall
15 inform the [~~permittees~~] applicant of the terms, conditions, and
16 restrictions provided by this section. Any [~~permittee~~] eligible
17 person may apply for a lease; provided that the application
18 shall be submitted to the department in writing within thirty
19 days from the date of receipt of notification; provided further
20 that the department may require documentary proof from any
21 applicant to determine that the applicant meets eligibility and



1 qualification requirements for a lease as specified by this
2 section."

3 SECTION 4. Section 166E-11, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§166E-11[+] **Lease negotiation.** (a) The department
6 may negotiate and enter into leases with any person who:

7 (1) Holds a revocable permit for agricultural purposes;

8 (2) Has formerly held an agricultural lease or a holdover
9 lease of public land that expired within the last ten

10 years and has continued to occupy the land; or

11 (3) Is determined by the department to have a beneficial
12 impact on agriculture.

13 (b) Lands eligible for lease negotiations under this
14 section are limited to lands that are:

15 (1) Zoned and used for agricultural purposes;

16 (2) Set aside by the governor's executive order to the
17 department of agriculture for agricultural uses only[
18 ~~by the governor through an executive order to the~~
19 ~~department~~]; 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 shall:

3 (1) Require the appraisal of the parcel using standards of
4 national appraiser organizations to determine the
5 rental, including percentage rent;

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

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

15 The department shall notify in writing those persons
16 eligible for lease negotiations under this section and shall
17 inform the applicants of the terms, conditions, and restrictions
18 provided by this section. Any eligible person may apply for a
19 lease by submitting a written application to the department
20 within thirty days from the date of receipt of notification;
21 provided that the department may require documentary proof from



1 any applicant to determine that the applicant meets eligibility
2 and qualification requirements for a lease.

3 (d) After the lot or lots are awarded, the department may
4 select valid proposals as alternatives from the qualified
5 applicants with the next highest proposals. If an award is
6 rescinded for failure to satisfy conditions of award or other
7 reason, the lot or lots made available shall be offered for
8 award to the alternates in the order of the highest bid."

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Agricultural Park Lands; Non-agricultural Park Lands; Back-up Lessees; Sealed Bidding

Description:

Authorizes the department of agriculture to select qualified applicants as back-up lessees when disposing of certain agricultural or non-agricultural park lands through the sealed bidding process. Authorizes the department to negotiate with a back-up lessee if the highest offering bidder or lessee fails to finalize a lease with the department for any reason. Conforms the eligibility criteria for lessees of agricultural parks lands with that of lessees of non-agricultural park lands. Effective 7/1/2050. (SD2)

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