

CHAPTER 186
TREE FARMS

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Note

L 2014, c 218, §8 purports to amend this chapter.

Cross References

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

" **§186-1 Definitions.** When used herein:

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Owner" shall include any person leasing the real property of another under a lease having a stated term of not less than thirty years.

"Stumpage value" means the value that a willing buyer will pay to a willing seller per thousand board feet for trees standing and uncut. This value shall not include logging costs. [L 1963, c 141, §2; Supp, §87D-2; HRS §186-1]

Revision Note

Numeric designations deleted and definitions rearranged.

" **§186-2 Eligibility.** (a) Any property of not less than ten acres:

(1) Included within the agricultural district pursuant to section 205-2; or

(2) Included within the conservation district and zoned for commercial forest use;

is eligible for classification as tree farm property if it is suited for the raising of commercial tree species and other forest products in quantity sufficient to establish a business in the sale thereof.

(b) Property on which the owner is already growing trees of commercial species and other forest products in quantity sufficient to establish a business in the sale thereof under good forestry management practices and which the owner agrees to manage in accordance with a management plan approved by the board is eligible for classification as tree farm property. Additional noncontiguous property of five acres or more, under the same ownership and in the same vicinity, is also eligible for classification along with the main acreage sought to be classified. No real property under a lease having an unexpired term of less than twenty years is eligible for classification as

tree farm property. [L 1963, c 141, §3; Supp, §87D-3; HRS §186-2; am L 1989, c 50, §1]

" **§186-3 Applications; management plans.** (a) The owner of any property which complies with the requirements specified in section 186-2 may apply to the board for classification of the owner's property as tree farm property. The application shall comply with rules adopted by the department to implement this section and shall include any additional information required by the board. The application shall be signed by all persons having an interest in or holding any encumbrance upon the property and shall state that all of them will comply with the management plan upon its approval.

(b) All public hearings required by statute or rules of the department shall be held before any management plan is approved. The management plan shall be available to the public not less than thirty days before approval. Notice of its availability shall be published in the bulletin of the office of environmental quality control. The plan shall be reviewed periodically by the board or its employees or authorized agents at intervals of no more than every five years. The review shall determine whether the owner has met the objectives in the management plan. The board may approve or require in consultation with the landowner alteration of the management plan to adapt to current conditions. [L 1963, c 141, §4; Supp, §87D-4; HRS §186-3; gen ch 1985; am L 1989, c 50, §2; am L 1994, c 207, §2]

" **§186-4 Classification; rules.** (a) If the board finds that the property identified in the application is suited for the raising of commercial tree species and other forest products in quantity sufficient to establish a business in the sale thereof, and that the use will not have a significant negative effect on a native forest ecosystem, the property may be classified by the board as tree farm property.

(b) The board shall adopt rules pursuant to chapter 91 necessary for the purposes of this chapter to include procedures, conditions, and fees for establishing tree farms. [L 1963, c 141, §5; Supp, §87D-5; HRS §186-4; am L 1969, c 170, §32; am L 1975, c 157, §29; am L 1989, c 50, §3; am L 1994, c 207, §3]

" **§186-5 Agreement with owner.** Upon classification, the board shall be responsible for preparing, executing, and administering an agreement with the applicant and others having an interest in or encumbrance upon the tree farm property. The

agreement shall be for a period of not less than twenty years but shall contain, inter alia, the following conditions:

- (1) The agreement shall be canceled and terminated and the tree farm property shall thereby be declassified if, upon investigation, the board determines that the owner of the property is not complying with this chapter or the management plan;
- (2) Any owner of tree farm property desiring to withdraw all or part of the property from the operations of this chapter may at any time make written application to the board;
- (3) The owner shall develop and maintain trees of commercial species and other forest products as specified in the management plan.

The agreement shall also contain other terms and conditions deemed advisable by the board. [L 1963, c 141, §6; Supp, §87D-6; HRS §186-5; am L 1989, c 50, §4]

" **§186-5.5 Right to harvest.** (a) The owner of land shall have the right to harvest new trees generated according to a management plan approved by the department on lands within the agricultural district as provided by section 186-2(a)(1), or on degraded forest and pasture lands within the conservation district and zoned for commercial forest use as provided by section 186-2(a)(2); provided that this right shall be subject to the power of the State to protect health, safety, and welfare.

(b) The State's liability as a result of the right to harvest new trees shall be limited to actions taken only by the State and shall not extend to any private property rights.

(c) As used in this section, "degraded forests" means areas which have had considerable disturbance, are altered from their natural state, and contain less than twenty per cent crown canopy of native tree species. [L 1994, c 207, §1]

" **§186-6 Development and maintenance of tree farm property.**

The applicant shall implement the tree farm management plan according to the schedule set forth in the plan. If the board determines that a satisfactory crop has not been established within the schedule set forth in the management plan, the property shall be declassified from its status as tree farm property. [L 1963, c 141, §7; Supp, §87D-7; HRS §186-6; am L 1989, c 50, §5]

" **§§186-7 to 10 REPEALED.** L 1989, c 50, §§7 to 10.

" **§186-11 Additional lands.** An owner of land may at any time apply to the board to have more acreage classified as tree farm property subject either to a new agreement or to the original agreement. [L 1963, c 141, §12; Supp, §87D-12; HRS §186-11; am L 1989, c 50, §6]

" **§186-12 REPEALED.** L 1989, c 50, §11.