
A BILL FOR AN ACT

RELATING TO AGRICULTURAL LEASES.

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

1 SECTION 1. The legislature finds that the current
2 preference rights for agricultural park lots and other
3 agricultural lands do not consider self-financed improvements
4 made by lessees. This discourages lessees from using their own
5 funds to make improvements near the end of a lease term.

6 The legislature further finds that adding a preference for
7 lessees who have made a significant improvement that furthers
8 commercial agricultural operations to their agricultural lands
9 will improve agricultural productivity, promote agriculture, and
10 increase agricultural self-sufficiency in the State.

11 The purpose of this Act is to:

12 (1) Add an agricultural park lot preference right for
13 lessees who have made a significant improvement that
14 furthers commercial agricultural operations to their
15 lot;

16 (2) Require the department of agriculture to consider the
17 same preferences of awarding agricultural park lot



1 leases in the awarding of non-agricultural park land
2 leases; and

3 (3) Require the department of agriculture to define
4 "agricultural improvement" in administrative rules.

5 SECTION 2. Chapter 166E, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§166E- Preference right. Any person who is otherwise
9 qualified to take a lease pursuant to this chapter and who:

- 10 (1) Is a veteran with an honorable discharge;
- 11 (2) Qualifies as a displaced farmer;
- 12 (3) Operates a farm located in a zoning district where
13 that use is a nonconforming use;
- 14 (4) Qualifies as a new farmer; or
- 15 (5) Pursuant to generally accepted accounting principles
16 or statutory accounting principles, may amortize or
17 depreciate a significant improvement on the land that
18 furtheres commercial agricultural operations, provides
19 a public benefit, and continues a viable agricultural
20 operation,



1 shall be given preference in obtaining a lease pursuant to this
2 chapter."

3 SECTION 3. Section 166-6, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

15 (1) The property shall be disposed of for agricultural or
16 aquacultural purposes only;

17 (2) The lessee shall derive the major portion of the
18 lessee's total annual income from the lessee's
19 activities on the premises; provided that this
20 restriction shall not apply if failure to meet the
21 restriction results from mental or physical disability



1 or the loss of a spouse, or if the premises are fully
2 utilized in the production of crops or products for
3 which the disposition was granted;

4 (3) The lessee shall comply with all federal and state
5 laws regarding environmental quality control;

6 (4) The board shall determine the specific uses for which
7 the disposition is intended; parcel the land into
8 minimum size economic units sufficient for the
9 intended uses; make, or require the lessee to make
10 improvements as are required to achieve the intended
11 uses; set the upset price or lease rent based upon an
12 appraised evaluation of the property value adjustable
13 as provided in rules adopted in accordance with
14 chapter 91 to the specified use of the lot; set the
15 term of the lease, which shall be not less than
16 fifteen years nor more than fifty-five years,
17 including any extension granted for a significant
18 improvement made to the property that furthers
19 commercial agricultural operations or mortgage lending
20 or guarantee purposes; and establish other terms and
21 conditions as it may deem necessary, including but not



1 limited to restrictions against alienation and
2 provisions for withdrawal by the board;

3 (5) No lease shall be made to any person who is in arrears
4 in the payment of taxes, rents, or other obligations
5 owing the State or any county; and

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



1 SECTION 4. Section 166-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§166-8 Preference right.** Any person who [~~is~~]:

4 (1) Is otherwise qualified to take an agricultural park
5 lot [~~, who is~~];

6 (2) Is a veteran with an honorable discharge [~~, or who~~
7 ~~qualifies~~];

8 (3) Qualifies as a displaced farmer [~~, or who operates~~];

9 (4) Operates a farm located in a zoning district where
10 [~~such~~] that use is a nonconforming use [~~, or who~~
11 ~~qualifies~~];

12 (5) Qualifies as a new farmer [~~]~~; or

13 (6) Pursuant to generally accepted accounting principles
14 or statutory accounting principles may amortize or
15 depreciate a significant improvement on the
16 agricultural park lot that furthers commercial
17 agricultural operations, provides a public benefit,
18 and continues a viable agricultural operation,

19 shall be given preference in obtaining an agricultural park
20 lot."



1 SECTION 5. Section 166E-8, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) In all dispositions, the department shall be subject
4 to the requirements set forth in rules adopted by the board
5 consistent with section 166E-6 and subject to the following:

6 (1) All land and facilities shall be disposed of for
7 purposes of agricultural or aquacultural activities
8 only;

9 (2) Each lessee shall derive a major portion of the
10 lessee's total annual income earned from the lessee's
11 activities on the premises; provided that this
12 restriction shall not apply if:

13 (A) Failure to meet the restriction results from
14 mental or physical disability or the loss of a
15 spouse; or

16 (B) The premises are fully used in the production of
17 crops or products for which the disposition was
18 granted;

19 (3) The lessee shall comply with all federal and state
20 laws regarding environmental quality control;

21 (4) The board shall:



- 1 (A) Determine the specific uses for which the
- 2 disposition is intended;
- 3 (B) Parcel the land into minimum size economic units
- 4 sufficient for the intended uses;
- 5 (C) Make, or require the lessee to make, improvements
- 6 that are required to achieve the intended uses;
- 7 (D) Set the upset price or lease rent based upon an
- 8 appraised evaluation of the property value,
- 9 adjustable to the specified use of the lot;
- 10 (E) Set the term of the lease that shall be not less
- 11 than fifteen years nor more than sixty-five
- 12 years, including any extension granted for a
- 13 significant improvement made to the property that
- 14 furtheres commercial agricultural operations or
- 15 mortgage lending or guarantee purposes; and
- 16 (F) Establish other terms and conditions it deems
- 17 necessary, including but not limited to
- 18 restrictions against alienation and provisions
- 19 for withdrawal by the board; and
- 20 (5) Any transferee, assignee, or sublessee of a non-
- 21 agricultural park lease shall first qualify as an



1 applicant under this chapter. For the purpose of this
2 paragraph, any transfer, assignment, sale, or other
3 disposition of any interest, excluding a security
4 interest, by any legal entity that holds a non-
5 agricultural park lease shall be treated as a transfer
6 of the non-agricultural park lease and shall be
7 subject to the approval of the board and to reasonable
8 terms and conditions, consistent with this chapter or
9 rules of the board that the board may deem necessary.
10 No transfer shall be approved by the board if the
11 disposition of the stock or assets or other interest
12 of the legal entity would result in the failure of the
13 entity to qualify for a non-agricultural park land
14 lease."

15 SECTION 6. The department of agriculture shall adopt
16 administrative rules, pursuant to chapter 91, defining the term
17 "significant improvement" as it relates to agricultural and non-
18 agricultural park lease preferences.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Department of Agriculture; Agricultural Park Leases; Non-agricultural Park Land Leases; Qualifications; Terms; Preferences; Improvements

Description:

Gives preference rights for an agricultural park lot and a non-agricultural park land lease to lessees who have made a significant improvement to the land that furthers commercial agricultural operations. Adds the same preferences for a non-agricultural park land lease as those for an agricultural park lot lease. Requires the department of agriculture to define "agricultural improvement" in administrative rules. (SD1)

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