
A BILL FOR AN ACT

RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS.

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

1 SECTION 1. The legislature finds that Act 90, Session Laws
2 of Hawaii 2003 (Act 90), was enacted to transfer certain non-
3 agricultural park lands from the department of land and natural
4 resources to the department of agriculture. While three hundred
5 parcels consisting of approximately nineteen thousand acres have
6 been transferred over the past seventeen years, many parcels
7 have not been transferred.

8 The legislature further finds that Act 139, Session Laws of
9 Hawaii 2021, established the Act 90 working group to determine
10 the process, status, challenges, and potential remedies
11 regarding the transfer of non-agricultural park lands to fulfill
12 the purposes of Act 90. The working group determined that
13 certain lands would be considered eligible for transfer if an
14 easement were provided to allow the department of land and
15 natural resources or the public to access an adjacent parcel.

16 The purpose of this Act is to:



- 1 (1) Adopt a recommendation from the Act 90 working group
2 that authorizes the department of agriculture, prior
3 to any transfer of certain qualifying non-agricultural
4 park lands, to request from the department of land and
5 natural resources any information related to the
6 establishment of necessary and reasonable easements
7 upon the lands;
- 8 (2) Require the department of agriculture to accept the
9 transfer of and manage certain qualifying non-
10 agricultural park lands;
- 11 (3) Require the department of agriculture, prior to
12 offering a lease, to inquire with the department of
13 land and natural resources regarding any easements
14 required for access to landlocked forest reserves or
15 other assets on the lands subject to the lease;
- 16 (4) Exempt easements granted over public lands affecting
17 the transfer of public lands between the department of
18 land and natural resources and the department of
19 agriculture from formal county subdivision process and
20 approval requirements;



1 (5) Require the lessee to develop a conservation program
2 and plan if conservation resources exist on the land;
3 and

4 (6) Require approval from the board of land and natural
5 resources and the board of agriculture before removing
6 pasture lands for reforestation, or other public
7 purposes.

8 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
9 by adding a new section to be appropriately designated and to
10 read as follows:

11 "§46- Easements; formal subdivision process and
12 approval exemption. Notwithstanding any provision of law to the
13 contrary, the granting of easements on public lands affecting
14 the transfer of public lands between the department of land and
15 natural resources and department of agriculture shall be exempt
16 from formal subdivision process and approval requirements,
17 including requirements for surveying and formalizing easements.
18 The government agency that grants the easements may notify in
19 writing the county with jurisdiction to process and approve the
20 easements of the government agency's intent to invoke this
21 exemption."



1 SECTION 3. Section 46-66, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§46-66 Disposition of real property.** Notwithstanding any
4 other law to the contrary[7] and except as provided in section
5 46-__, each county, subject to the approval of the council, may
6 grant, sell, or otherwise dispose of any easement for particular
7 purposes in perpetuity by direct negotiation or otherwise,
8 subject to reverter to the county upon the termination or
9 abandonment of the specific purpose for which the easement was
10 granted, including easements over, under, through, and across
11 land bordering the ocean and easements for any governmental or
12 public utility purpose or for chilled water and seawater
13 distribution systems for renewable energy seawater air
14 conditioning district cooling systems."

15 SECTION 4. Section 166E-1, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[+]~~**§166E-1**~~[+]~~ **Legislative findings.** The legislature
18 finds that article XI, section 10, of the [~~state constitution~~]
19 Hawaii State Constitution establishes that "the public lands
20 shall be used for the development of farm and [~~homeownership~~]"



1 home ownership on as widespread a basis as possible, in
2 accordance with procedures and limitations prescribed by law".

3 Therefore, the legislature finds that certain public lands
4 classified for agricultural use, including all lands designated
5 as intensive agricultural use, special livestock use, and
6 pasture use under section 171-10(1), (2), and (3), by the
7 department of land and natural resources should be transferred
8 to the department of agriculture[, ~~with the approval of the~~
9 ~~board of land and natural resources and the board of~~
10 ~~agriculture,~~] for purposes and in a manner consistent with
11 article XI, section 10, of the [~~state constitution.~~] Hawaii
12 State Constitution.

13 The purpose of this chapter is to ensure the long-term
14 productive use of public lands leased or available to be leased
15 by the department of land and natural resources for agricultural
16 purposes, including pasture use, by allowing these lands to be
17 transferred to and managed by the department of agriculture."

18 SECTION 5. Section 166E-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§166E-3 Transfer and management of non-agricultural park**
21 **lands and related facilities to the department of agriculture.**



1 (a) Upon [~~mutual agreement and~~] approval of the board [~~and the~~
2 ~~board of land and natural resources~~]:

3 (1) The department [~~may~~] shall accept the transfer of and
4 manage certain qualifying non-agricultural park
5 lands[+], subject to the suitability of the land for
6 agricultural activities and use as determined by the
7 board; and

8 (2) Certain assets, including position counts, related to
9 the management of existing encumbered and unencumbered
10 non-agricultural park lands and related facilities
11 shall be transferred to the department[-];
12 provided that designated conservation lands not in current
13 agricultural use shall remain under the jurisdiction of the
14 department of land and natural resources.

15 (b) The department shall administer a program to manage
16 the transferred non-agricultural park lands under rules adopted
17 by the board pursuant to chapter 91. The program and its rules
18 shall be separate and distinct from the agricultural park
19 program and its rules. Non-agricultural park lands are not the
20 same as, and shall not be selected or managed as [~~are~~], lands
21 under agricultural park leases. Prior to offering a lease, the



1 department shall inquire with the department of land and natural
2 resources regarding any easements required by the department of
3 land and natural resources to access landlocked forest reserves
4 or other assets of the department of land and natural resources
5 on the lands subject to the lease. A lease issued under this
6 section shall be subject to any easement or right of entry
7 established to allow access for conservation activities,
8 hunting, gathering, and recreation. The lessee shall cooperate
9 with the rules and regulations of the appropriate soil and water
10 conservation district and department in implementing
11 conservation programs and initiatives. Lessees shall at all
12 times practice good husbandry. If conservation resources in
13 need of preservation or protection are identified by the
14 department on the lands subject to the lease, the lessee shall
15 develop a conservation program and a plan to address those
16 concerns. The conservation program shall be run in accordance
17 with a conservation plan, which shall be submitted to the
18 chairperson of the board for acceptance within one year
19 following lease commencement. The conservation plan shall
20 include land clearing practices, cropping systems, irrigation
21 systems, drainage, noxious weed control, and other practices and



1 systems needed to protect the land against deterioration and to
2 prevent environmental degradation; provided that this
3 requirement shall be waived for leases with little or no
4 apparent conservation problems when verified by the appropriate
5 soil and water conservation district. In the event the
6 activities of the lessee under this section shall be found to be
7 unsatisfactory to the department, the department shall notify
8 the lessee and the lessee shall remedy any issue and submit
9 satisfactory proof to the department within sixty days of
10 receiving notice from the department. Notwithstanding any other
11 law to the contrary, the program shall include the following
12 conditions pertaining to encumbered non-agricultural park lands:

- 13 (1) The lessee or permittee shall perform in full
- 14 compliance with the existing lease or permit;
- 15 (2) The lessee or permittee shall not be in arrears in the
- 16 payment of taxes, rents, or other obligations owed to
- 17 the State or any county;
- 18 (3) The lessee's or permittee's agricultural operation
- 19 shall be economically viable as specified by the
- 20 board; and



1 (4) No encumbered or unencumbered non-agricultural park
 2 lands with soils classified by the land study bureau's
 3 detailed land classification as overall (master)
 4 productivity rating class A or B shall be transferred
 5 for the use or development of golf courses, golf
 6 driving ranges, and country clubs.

7 The transfer of non-agricultural park lands shall be done in a
 8 manner to be determined by the board of agriculture.

9 (c) For any encumbered or unencumbered non-agricultural
 10 park lands transferred to the department that are not being
 11 utilized or required for the public purpose stated, the order
 12 setting aside the lands shall be withdrawn and the lands shall
 13 be returned to the department of land and natural resources.

14 (d) Before any transfer of certain qualifying non-
 15 agricultural park lands, the department may request from the
 16 department of land and natural resources any information related
 17 to the establishment of necessary and reasonable easements upon
 18 the lands.

19 (e) The department of land and natural resources shall
 20 seek approval from the board of land and natural resources and
 21 the board prior to the removal of any land designated for



1 pasture leases for reforestation or other public purposes. If
2 withdrawal is approved by both boards, adequate notice of not
3 less than one year shall be provided to the then-current lessee
4 or permittee.

5 (f) Removal of any land pursuant to subsection (e) shall
6 be subject to the prior approval by the board of land and
7 natural resources of a feasible and funded action plan submitted
8 by the division of forestry and wildlife for reforestation or
9 other conservation purposes on current pasture lease lands."

10 SECTION 6. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 7. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

HDOA; DLNR; Non-agricultural Park Lands; Transfer; Easements

Description:

Exempts easements granted over public lands affecting the transfer of public lands between the Department of Land and Natural Resources and the Department of Agriculture from formal county subdivision process and approval requirements. Before the transfer of non-agricultural park lands, authorizes the Department of Agriculture to request information from the Department of Land and Natural Resources related to the establishment of necessary and reasonable easements upon the lands. Amends legislative findings regarding non-agricultural park lands. Requires the Department of Agriculture to accept the transfer of and manage certain qualifying non-agricultural park lands. Requires the Department of Agriculture, prior to offering a lease, to inquire with the Department of Land and Natural Resources regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease. Requires the lessee to develop a conservation program and plan if conservation resources exist on the land. Requires approval from the Board of Land and Natural Resources and the Board of Agriculture before removing pasture lands for reforestation, or other public purposes. Effective 7/1/2050.
(SD2)

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

