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# A BILL FOR AN ACT

RELATING TO FARMERS.

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

1           SECTION 1. The legislature finds that nonfarming use of  
2 agricultural lands has significantly increased over the past few  
3 decades. Homes on agricultural lands are often marketed as  
4 "gentlemen estates" where wealthy individuals can purchase large  
5 parcels of land on which to live and pursue farming as a hobby.

6           The legislature further finds that nonagricultural use of  
7 agricultural lands conflicts with article XI, section 3, of the  
8 Hawaii State Constitution which mandates that the State  
9 "conserve and protect agricultural lands, promote diversified  
10 agriculture, increase agricultural self-sufficiency and assure  
11 the availability of agriculturally suitable lands".

12           The purpose of this Act is to clarify that agricultural  
13 lots shall be used for farming by:

14           (1) Requiring that purchasers and lessees of farm lots use  
15           the lots to produce food or conduct other agricultural  
16           activities;



- 1 (2) Reducing the land use conflicts arising from  
2 encroachment of nonagricultural uses into agricultural  
3 areas;
- 4 (3) Discouraging the development or subdivision of lands  
5 within the agricultural district for residential uses,  
6 thereby preserving agricultural lands and allowing  
7 proper planning of land use and infrastructure  
8 development; and
- 9 (4) Imposing farming requirements so that owners,  
10 residents, and other users of agricultural property or  
11 neighboring properties are aware that they may be  
12 subjected to noise, odors, dust, smoke, sounds from  
13 machinery, odors from manure, and other inconveniences  
14 and discomfort arising from normal and accepted  
15 agricultural practices and operations.

16 SECTION 2. Section 171-67, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§171-67 **Restrictions; conditions.** In addition to ~~[such]~~  
19 other restrictions or conditions that may be established by the  
20 board ~~[of land and natural resources]~~ to carry out the purpose  
21 of this chapter and ~~[of the provisions of]~~ the state



1 constitution, all sale, lease, or lease with option to purchase,  
2 of a farm lot or ranch lot shall be subject to the following  
3 conditions [~~which~~] that shall be covenants running with the  
4 land:

- 5 (1) The lot shall be used for farm purposes only;
- 6 (2) The purchaser or lessee shall reside on the premises  
7 granted; provided that with the consent of the board,  
8 the purchaser or lessee may live off the premises if  
9 the purchaser's or lessee's residence is within a  
10 reasonable distance therefrom;
- 11 (3) The purchaser or lessee shall derive the major portion  
12 of the purchaser's or lessee's total annual income  
13 from the production of the crops or products for which  
14 production the land is granted to the purchaser or  
15 lessee; provided that this restriction shall not apply  
16 if the purchaser or lessee becomes enfeebled or is  
17 widowed;
- 18 (4) In the case of a lease, those provisions set forth in  
19 sections 171-35, 171-36 and 171-37, unless otherwise  
20 specifically provided in this section;



- 1 (5) In the case of a fee simple sale, the improvement  
2 required and the specific use or uses intended;
- 3 (6) For a period of five years after the issuance of a  
4 patent or lease, the purchaser or lessee shall not  
5 sell, sublet, assign, transfer, or in other manner  
6 dispose or encumber the whole or any part of the farm  
7 lot to any person not qualified to take a farm lot  
8 except by way of mortgage, testamentary bequest or  
9 devise, intestate succession, or except to a purchaser  
10 at or after sale upon the foreclosure of a  
11 mortgage[-];
- 12 (7) Within two years after the issuance of a patent or  
13 lease, the purchaser or lessee shall submit a farm  
14 plan to the department or the responsible governing  
15 agency exercising enforcement and jurisdictional  
16 oversight;
- 17 (8) Within five years after the issuance of a patent or  
18 lease and every five years thereafter, the purchaser  
19 or lessee shall submit one of the following to the  
20 department:



- 1           (A) Documentation of a current organic certification
- 2                   from the United States Department of Agriculture;
- 3           (B) A current plan from the United States Department
- 4                   of Agriculture;
- 5           (C) Documentation of a current food safety
- 6                   certification from the United States Department
- 7                   of Agriculture; or
- 8           (D) Receipts for expenditures made within the most
- 9                   recent five years demonstrating an investment of
- 10                   not less than \$10,000 in farm equipment,
- 11                   fertilizers, and soil amendments for use on the
- 12                   farm lot;
- 13           provided that this restriction shall not apply if the
- 14                   purchaser or lessee becomes enfeebled or is widowed;
- 15                   and
- 16           (9) Each year, the purchaser or lessee shall submit to the
- 17                   department:
- 18           (A) Excise tax receipts demonstrating annual sales of
- 19                   food generated from the farm lot totaling not
- 20                   less than \$1,000;



1           (B) Evidence of donations of food generated from the  
 2           farm lot made to one or more organizations exempt  
 3           from federal taxation under section 501(c)(3) of  
 4           the Internal Revenue Code of 1986, as amended,  
 5           and valued at not less than \$1,000; or

6           (C) A combination of sales and donations under  
 7           paragraphs (A) and (B) totaling not less than  
 8           \$1,000;

9           provided that this restriction shall not apply if the  
 10          purchaser or lessee becomes enfeebled or is widowed.

11          The violation of any [~~of such~~] restrictions or conditions  
 12          established under this section shall be sufficient for the  
 13          board, upon failure of the purchaser or lessee within a  
 14          reasonable period of time to remedy the default after notice  
 15          thereof as provided in section 171-20 to take possession of the  
 16          premises without demand or previous entry and with or without  
 17          legal process and thereby determine the estate, subject to the  
 18          provisions contained in section 171-21."

19          SECTION 3. Section 171-68, Hawaii Revised Statutes, is  
 20          amended by amending subsections (a) and (b) to read as follows:



1           "(a) A person shall be eligible to apply for a farm if the  
2 person has the qualifications as follows:

3           (1) The person has been a resident in the State at any  
4 time for at least three years;

5           (2) The person is a bona fide farmer[+]; provided that the  
6 person meets any of the following criteria:

7           (A) [~~who has~~] Has not less than two [~~years<sup>1</sup>~~] years of  
8 experience as a full-time farmer; [œ]

9           (B) [~~who was~~] Was an owner-operator of an established  
10 farm conducting a substantial farming operation  
11 and who for a substantial period of the person's  
12 life resided on a farm or depended on farm income  
13 for the person's livelihood; [œ]

14           (C) [~~who has~~] Has been a farm tenant or farm laborer  
15 or other individual, who has for the two years  
16 last preceding the person's application obtained  
17 the major portion of the person's income from  
18 farming operations; [œ]

19           (D) [~~who has~~] Has a college degree in agriculture;  
20 [œ]



- 1 (E) [~~who by~~] By reason of ability, experience, and  
2 training as a vocational trainee is likely to  
3 successfully operate a farm; [~~or~~]
- 4 (F) [~~who has~~] Has qualified for and received a  
5 commitment for a loan under the Bankhead-Jones  
6 Farm Tenant Act as amended, or as may hereafter  
7 be amended, for the acquisition of a farm; [~~or~~]
- 8 (G) [~~who is~~] Is displaced from employment in an  
9 agricultural production enterprise; [~~or~~]
- 10 (H) [~~who is~~] Is a member of the Hawaii Young Farmer  
11 Association or a Future Farmer of America  
12 graduate with two years of training with farming  
13 projects; or
- 14 (I) If the person is a partnership, corporation, or  
15 association, is an agricultural cooperative under  
16 chapter 421 and for which a combination of  
17 individuals owning not less than fifty-one per  
18 cent of the agricultural cooperative satisfy the  
19 qualifications under this section; and





1 (3) The person meets [~~such~~] any other qualifications [~~as~~]  
2 the board [~~of land and natural resources~~] may  
3 prescribe pursuant to section 171-6.

4 (b) No person shall be entitled to apply for a farm:

5 (1) Who, or whose [~~husband or wife,~~] spouse, has  
6 previously taken or held land for farm or homesteading  
7 under any certificate, lease, or agreement or under  
8 any homestead lease or patent based thereon; or

9 (2) Who, or whose [~~husband or wife,~~] spouse, or both of  
10 them, owns in fee simple other land in the State, the  
11 combined area of which with the land in question  
12 exceeds eighty acres; provided that:

13 (A) The ownership of a residence lot or tract, not  
14 exceeding three acres in area, shall not  
15 disqualify any person otherwise qualified from  
16 applying for and receiving any form of farm; and

17 (B) Any person who would otherwise qualify to take a  
18 farm lot shall not be disqualified by reason of  
19 taking, holding, or owning land for farm or  
20 homesteading or otherwise, if the land [~~se~~]



1                    taken, held, or owned becomes unusable for the  
2                    purpose of farming as defined in section 171-65."

3                    SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5                    SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

Farming; Gentleman Estates; Bona Fide Farmers; Agricultural District

**Description:**

Requires that lessees and purchasers of farm lots and ranch lots use that land for farming and producing food. Authorizes agricultural cooperatives to apply for farmlands. Takes effect 7/1/2050. (SD1)

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

