

ACT 231

H.B. NO. 2425-74

A Bill for an Act Relating to Use of Public Lands for Agricultural Purposes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to amend the laws relating to the use of public lands for agricultural purposes so as to facilitate the maintenance and growth of agriculture as a primary base of the State's economy. Toward this end, the Act expands the opportunities and incentives for those persons wishing to enter farming through the expansion of eligibility requirements for loans under the new farmer program and the provision of land on which new farm enterprises may be developed. For those who are already farmers, as well as those who would become farmers, the Act broadens the avenues by which public lands may be caused to be used for agricultural purposes and explicitly states that existing public lands may be used for agricultural parks.

SECTION 2. Chapter 155, Hawaii Revised Statutes, is amended by amending the following sections as follows:

1. Section 155-1 is amended to read:

**“Sec. 155-1 Definitions.** Whenever used in this chapter:

- (1) “Farm land” means land in the State used for agricultural purposes, including general farming, cane growing, fruit growing, flower growing, grazing, dairying, the production of any form of livestock or poultry, and any other form of agricultural activity. It includes land required for an adequate farm dwelling and other essential farm buildings, roads, wasteland.
- (2) “Qualified farmer” means a person of proven farming ability who operates his own farm on land owned by him in fee or on land rented or leased from others and who is presently devoting, has recently devoted, or intends to devote at least one-third of his time or derive at least one-third of his net cash income from direct participation in farming in its broadest sense. It includes Hawaii partnerships controlled to the extent of seventy-five per cent by persons who would qualify individually and would meet the eligibility requirements of section 155-10. It also includes small corporations where at least seventy-five per cent of each class of stock issued by the corporation is owned by persons who qualify individually and would meet the eligibility requirements of section 155-10 and where seventy-five per cent of the directors are qualified farmers.
- (3) “New farmer program” means a new farm enterprise for qualified new farmers, including persons who are displaced from employment in an agricultural production enterprise, college graduates in agriculture, community college graduates in agriculture, and members of the Hawaii Young Farmer Association and Future Farmer of America graduates with farming projects who otherwise meet the eligibility requirements of section 155-10.
- (4) “Cooperative” means a nonprofit association of farmers organized under chapter 421.
- (5) “Mortgage” includes such classes of liens on farm land and other authorized security as are approved by the department of agriculture and the credit instruments secured thereby.
- (6) “Private lender” includes banks, savings and loan associations, mortgage companies, and other qualified companies whose business includes the making of loans in the State.”

2. Section 155-10 is amended to read:

**“Sec. 155-10 General eligibility requirements for loans.** To be eligible for loans under this chapter, an applicant shall be:

- (1) A qualified farmer, or a person under the new farmer program;
- (2) A citizen of the United States who has resided in the State for at least three years, or any alien who has resided in the State for at least five years; provided, that this requirement shall not apply to applicants for class “D” loans who otherwise qualify. In the case of

partnerships and corporations, the residence requirement must be met by seventy-five per cent of the members or stockholders who are qualified farmers;

- (3) A sound credit risk with the ability to repay the money borrowed; and
- (4) Willing to carry out recommended farm management practices.”

SECTION 3. Chapter 171, Hawaii Revised Statutes, is amended as follows:

1. Section 171-65 is amended to read:

“**Sec. 171-65 Leases, leases with option to purchase, sales permitted; when.** Land intended for disposition as farm lot for truck crops or for horticultural, pasture, or special livestock use, may be disposed of by lease, lease with option to purchase, or in fee simple. Such disposition may be by drawing of lot, without recourse to public auction, notwithstanding any other provision in this chapter to the contrary; provided, that the right to any values in the land not attributable to these agricultural uses shall be reserved to the State.

Dispositions under this section shall be made only to individuals who satisfy the requirements established by the board and then only if the individual, either himself or whose spouse, or both, does not already own lands of comparable use in the State.”

2. Part V is amended to read:

#### **PART V. LANDS FOR AGRICULTURAL PURPOSES**

**Sec. 171-111 Legislative findings.** The legislature finds that there is a growing scarcity of agricultural lands throughout the State caused by urban encroachment which has made it difficult for agricultural enterprises to survive and has caused the erosion of the agricultural base of the economy; that urban encroachment has caused the unplanned relocation of livestock operations many times in the past twenty years; that urban plans have not placed the necessary emphasis on agriculture and location of agricultural enterprises to insure the survival of agriculture; that there is a need for agricultural land-use planning, particularly, the planning of alternative uses for lands such as Kahuku which have been phased out of sugar without clear use alternatives; that the acquisition of private property for agricultural purposes is a public purpose or use necessary to facilitate sound agricultural land-use planning.

**Sec. 171-112 Acquisition.** The board of land and natural resources is hereby authorized to acquire by lease, exchange, direct purchase, or eminent domain private property for disposition for agricultural purposes, including but not limited to agricultural parks.

**Sec. 171-113 Definition of agricultural park.** For the purposes of this part, agricultural park shall mean any planned agricultural complex which combines and concentrates in a common location a number of agricultural activities for the purpose of realizing production and distribution economies. Agricultural buildings, farm residences, and employee dwellings necessary

to the production and distribution of agricultural commodities shall be considered part of the agricultural park.

**Sec. 171-114 Disposition.** Any provision of this chapter to the contrary notwithstanding, the board of land and natural resources may directly dispose of such land by negotiation or by drawing of lot or by public auction; provided that a reasonable portion of such disposition may be to farmers who qualify under the new farmer program pursuant to section 155-1(3). All such dispositions shall be by lease only and shall be subject to the requirements set forth in Article X, section 4 of the State Constitution and in sections 171-33, 171-34, 171-35, 171-36, 171-37, and 171-66 and subject also to the following limitations:

- (1) The property shall be disposed of for agricultural purposes only;
- (2) The lessee shall derive the major portion of his total annual income from his activities on the premises;
- (3) The lessee must comply with all Federal and State laws regarding environmental quality control;
- (4) Other terms and conditions as may be set by the board.

The violation of any provision herein contained shall be sufficient cause for the board after notice as provided in section 171-20 to cancel said lease and take possession of said land.

**Sec. 171-115 Applicants.** A person shall be eligible to apply for a lease hereunder if he meets the qualifications set forth in section 171-68, or if he qualifies under the new farmer program pursuant to section 155-1(3).

**Sec. 171-116 Preference right.** A displaced farmer who is otherwise qualified to take a farm lot, any farmer whose farm is located in a zoning district where such use is a nonconforming use, or any farmer who qualifies under the new farmer program pursuant to section 155-1(3), shall be given preference in obtaining a lot.

**Sec. 171-188 Public lands; agricultural park lands.** Public lands may be used for agricultural parks under this part.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 1974.)

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\*Edited accordingly.