

ACT 50

H.B. NO. 723

A Bill for an Act Relating to Tree Farms.

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

SECTION 1. Section 186-2, Hawaii Revised Statutes, is amended to read as follows:

**“§186-2 Eligibility.** (a) Any property of not less than [thirty] 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 [trees of] commercial tree species and other forest products in quantity sufficient to establish a business in the sale thereof [and not suited for some higher and better use].

(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 [rules and regulations prescribed] a management plan approved by the board [of land and natural resources may also be classified] is eligible for classification as tree farm property. Additional noncontiguous property of [fifteen] five acres or more, under the same ownership and in the same vicinity, [may be] is also eligible for classification along with the main acreage sought to be [so] classified. No real property [held by an owner] under a lease having an unexpired term of less than [thirty] twenty years [shall be] is eligible for classification as tree farm property.”

SECTION 2. Section 186-3, Hawaii Revised Statutes, is amended to read as follows:

**“§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 [of land and natural resources] for classification of the owner’s property as tree farm property. The application shall include [a]:

- (1) A description of the property;
- (2) A management plan, which plan shall provide specific information regarding the development by seeding, planting of seedlings, or other approved reforestation techniques, maintenance, and harvesting of trees and other forest products while exercising conservation techniques to prevent the erosion of soils; and [such]

(3) Any additional information [as may be] required by the board. The application shall [state that] be signed by all persons having [any] an interest in or holding any encumbrance upon the property [have joined in making the application] and shall state that all of them will comply with the [laws and regulations relating to the use, development, and protection of the trees and the property and those relating to the harvesting and removal of forest products.] 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 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 alteration of the management plan to adapt to current conditions."

SECTION 3. Section 186-4, Hawaii Revised Statutes, is amended to read as follows:

**"§186-4 Classification[.]; rules.** (a) If the board [of land and natural resources] finds that the property identified in the application is [suitable] suited for the raising of [trees of] commercial tree species[,] and other forest products in quantity sufficient to establish a business in the sale thereof, [the board shall notify the department of taxation, in writing and by September 1, of its finding. Then the department of taxation shall, by November 15, make a finding of fact as to the highest and best use of the property and shall inform the board of its findings in writing. The determination as to the highest and best use of the property shall be based upon all available information on soils, climate, land use trends, watershed values, present use of surrounding similar lands, and other criteria as may be appropriate.

If the department of taxation finds that the highest and best use of the property is for the raising of trees of commercial species in quantity sufficient to establish a business in the sale thereof,] and that the use will not convert a native forest ecosystem into a monoculture, the property shall be classified by the board [and the department of taxation] as tree farm property. [If the department of taxation does not find that the highest and best use of the property is for the raising of trees in such quantity, the application shall be disapproved.

The applicant may appeal any disapproved applications as in the case of an appeal from an assessment.

Lands classified as tree farm property shall be administered by the board. The board may from time to time, make rules and regulations for their administration.]

(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."

SECTION 4. Section 186-5, Hawaii Revised Statutes, is amended to read as follows:

**"§186-5 Agreement with owner.** Upon classification, the board [of land and natural resources] 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 [thirty] 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 [and become subject to the conditions specified in section 186-8] if, upon investigation [by the department of land and natural resources], the board determines that the owner of the property is not complying with this chapter or the [agreement;] 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 [and the application shall be approved subject to the conditions specified in section 186-8];
- (3) The owner shall develop and maintain trees of commercial species[, as determined by the department, either through planting or reproduction and in accordance with rules and regulations of the department.] and other forest products as specified in the management plan.

The agreement shall also contain [such] other terms and conditions [as] deemed advisable by the board."

SECTION 5. Section 186-6, Hawaii Revised Statutes, is amended to read as follows:

**"§186-6 Development and maintenance of tree farm property.** [Within one year following the agreement described in section 186-5, the applicant shall have established trees of the species designated in the agreement on not less than one-fortieth of the acreage in the entire tree farm property, or five acres, whichever is larger. On property adequately stocked with commercial trees at the time of classification, the owner shall, within one year of the classification apply such forestry measures as may be deemed necessary by the board of land and natural resources to not less than one-fortieth of the acreage, or five acres, whichever is larger. Each year subsequent to the first year, the owner must apply good forestry management practices, as prescribed by the board, on additional equivalent acreage until such time as all the property classified as tree farm property is under good forestry management practices.

Following the cutting of forest products from tree farm property, a period of three years shall be allowed the owner to obtain adequate stocking or restocking of trees of commercial species on the property and if after a period of three years the owner has not established a stand of commercial timber thereon in accordance with the rules and regulations of the board,] 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."

SECTION 6. Section 186-11, Hawaii Revised Statutes, is amended to read as follows:

**"§186-11 Additional lands.** An owner of land may at any time apply to the board [of land and natural resources] to have more acreage classified as tree farm property subject either to a new agreement or to the original agreement[; provided that if the land is in the same vicinity of the original tree farm property and the area is less than five hundred acres it shall become a part and parcel of the original tree farm property and shall be subject to the terms of the original agreement]."

SECTION 7. Section 186-7, Hawaii Revised Statutes, is repealed.

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SECTION 8. Section 186-8, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 186-9, Hawaii Revised Statutes, is repealed.

SECTION 10. Section 186-10, Hawaii Revised Statutes, is repealed.

SECTION 11. Section 186-12, Hawaii Revised Statutes, is repealed.

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 13. This Act shall take effect on November 7, 1989.

(Approved April 24, 1989.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.