

ACT 211

S.B. NO. 3309

A Bill for an Act Relating to Public Lands.

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

SECTION 1. The legislature recognizes that the steady decline of sugar in the agricultural sector and the severe financial problems that have resulted from the downturn in sugar production have threatened the economic stability and social fabric of the entire Hamakua and Hilo coast on the island of Hawaii. As a result, not only the residents of the Hamakua and Hilo coast communities, but the residents of the rest of the State as well, have an urgent need to ensure that the long-term economic stability of the Hamakua and Hilo coast regions are restored.

The legislature also recognizes that despite the immense challenges currently experienced by the Hamakua and Hilo coast communities in trying to find solutions to regain their economic stability and livelihood, the residents of these regions continue to demonstrate their resolve and determination to play a greater role in defining their future. The formation of the Hamakua/north Hilo agricultural co-op is a clear example of the way the citizens of the Hamakua and Hilo coast communities have worked together to initiate agricultural projects in the Hamakua and Hilo coast regions. Through the co-op, a variety of alternative crops, including a papaya project, a taro project, and a cattle project, are being pursued as viable agricultural projects to bring about the economic stability in the Hamakua and Hilo coast regions.

In addition, a Hamakua dislocated sugar workers' association has been formed to work with the co-op to help address the needs of dislocated sugar workers who are interested in the agricultural options available to them. Furthermore, in the effort to provide greater alternatives and solutions that will provide a

smoother economic transition for the Hamakua community, a 2.4-acre parcel of state land in Paauhau was approved for use as a diversified agriculture project in the Hamakua region.

The legislature has also supported recovery efforts. Last year, through the enactment of Act 311, Session Laws of Hawaii 1993, the legislature responded to the needs of Hamakua residents by designating the entire Hamakua planning region, as described in the 1990 Hamakua regional plan, as a community development district. This designation authorizes the replanning, renewal, and redevelopment of the Hamakua region by the Hawaii community development authority. Also, the legislature, among other things:

- (1) Provided a state loan guarantee that ensured a final harvest at Hamakua Sugar; and
- (2) Appropriated \$100,000 as "start-up money" to assist the Hamakua housing corporation in protecting the interests of company workers and their families.

The purpose of this Act is to further the legislature's commitment to assist Hamakua and Hilo coast residents by enabling certain permittees on state lands in the Hamakua community development district and the Hilo coast region to obtain long term leases. Section 171-32, Hawaii Revised Statutes, provides that all dispositions of public lands shall be by lease only, disposed of by public auction, unless otherwise specifically authorized. If the lands now occupied by certain permittees are leased by public auction, there is a high probability that the permittees will not prevail as successful bidders on the land and will be displaced, thereby compounding the existing economic crisis within the Hamakua community development district and the Hilo coast region. On the other hand, the granting of long-term leases would provide assurance to the permittees of continued tenure on the land and would enable the permittees to obtain financing for improving their operations.

The legislature finds that:

- (1) It is in the public interest to assist qualified permittees who depend on state land in the Hamakua and Hilo regions for their livelihood;
- (2) The purpose of this Act is consistent with objectives of the Hawaii state plan; and
- (3) If the offer of assistance provided by this Act is accepted by qualified permittees, the State would realize greater returns from the long-term disposition of lands now under permit and would expedite the economic recovery of the Hamakua and Hilo regions.

It is the express intent of this Act that public lands under permit for purposes other than agricultural use be excluded from the scope of this Act.

SECTION 2. As used in this Act, except as otherwise specifically provided herein:

"Departments" mean the department of land and natural resources and the department of agriculture.

"Hilo coast region" consists of that portion of land on the island of Hawaii within the North Hilo and South Hilo districts, as defined in section 4-1, Hawaii Revised Statutes, bounded by a line starting in the vicinity of Ookala at the intersection of the shoreline and the boundary between the Hamakua and North Hilo districts, as defined in section 4-1, Hawaii Revised Statutes, and extending inland to its intersection with Saddle Road; extending eastward along Saddle Road and

then further eastward along Waianuenue Avenue; and ending with its projected extension to the shoreline of Hilo Harbor.

“Person” includes an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity engaging in an effort to create employment opportunities for residents of the Hamakua community development district and the Hilo coast region, especially employees and former employees of the Hamakua Sugar Company and the Hilo Coast Processing Company.

SECTION 3. The departments may negotiate and enter into leases of lands eligible under section 4 of not less than fifteen years but not more than thirty-five years with any person who, as of December 31, 1994, holds a revocable permit for a slaughterhouse and feedlot or for any other agricultural purpose, issued in accordance with section 166-6 or 171-55, Hawaii Revised Statutes.

SECTION 4. The lands eligible for lease negotiation under section 3 of this Act are limited to those lands:

- (1) Not needed by any state or county agency for any other public purpose;
- (2) Within the Hamakua community development district pursuant to section 206E-171, Hawaii Revised Statutes; or the Hilo coast region;
- (3) Zoned and used for agricultural purposes; and
- (4) Engaged in an effort to create employment opportunities.

SECTION 5. In negotiating and executing a lease as authorized by section 3, the board of land and natural resources and the board of agriculture shall:

- (1) Require appraisal of the parcel in accordance with section 171-17(b), Hawaii Revised Statutes;
- (2) Impose such other lease provisions, restrictions, and conditions provided by sections 171-35, 171-36, and 171-37, Hawaii Revised Statutes, as may be required to protect the State’s interests;
- (3) Recover from the lessee the cost of appraisal and surveying of the parcel incurred by the departments; and
- (4) Require the payment of an annual lease rent based on fair market value.

SECTION 6. The departments shall notify in writing the permittees of lands eligible for lease negotiations under this Act and shall inform the permittees of the terms, conditions, and restrictions provided by this Act. Any permittee may apply for a lease; provided that the application shall be submitted to the respective departments in writing within thirty days of the date of receipt of notification; and provided further that the departments may require documentary proof of any applicant to determine that the applicant meets the eligibility and qualification requirements for a lease as specified by this Act.

SECTION 7. Notwithstanding any other law to the contrary, including chapter 171, Hawaii Revised Statutes, the departments are authorized to negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act; provided that the authority granted by this Act shall expire on

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June 30, 1996; and provided further that any lease agreement entered into pursuant to this Act shall not be affected by the June 30, 1996, expiration of authority in accordance with this Act.

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

(Approved June 21, 1994.)