

ACT 257

S.B. NO. 3170

A Bill for an Act Relating to Waimanalo.

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

SECTION 1. The legislature finds that certain farmers in the Waimanalo area on the island of Oahu, through no fault of their own, conduct farming activities on nonagriculturally-zoned land. Other Waimanalo farms may have been deemed ineligible because of some confusion in providing information to qualify for a lease. As such, these farmers are only eligible to obtain a month-to-month revocable permit from the department of land and natural resources to conduct their farming activities.

These revocable permittees, some of whom have occupied these lands for long periods of time, are not able to obtain financing for improving their farm because financing is not available due to the lack of long-term tenure. Because their tenure is on a month-to-month basis, these farmers do not have the security of assured long-term land tenure. Hence, these farmers who depend on the state land for their livelihood are constrained by their uncertain tenure from developing the land and using it more productively.

The legislature also finds that in an effort to address the concerns of Waimanalo area farmers, Act 237, Session Laws of Hawaii 1988 (Act 237), was enacted to authorize the department of land and natural resources to enter into lease negotiations with revocable permittees on state-owned agricultural lands so that the permittees would be able to establish long-term land tenure, thereby allowing the permittees to secure financing for farm productivity enhancement. Unfortunately, because Act 237 limited the opportunity to obtain a long-term lease to only those qualified revocable permittees situated on agriculturally-zoned land, those revocable permittees farming on nonagriculturally-zoned lands or deemed ineligible for other reasons could not qualify for long-term lease agreements with the State.

The purpose of this Act is to authorize the department of land and natural resources to enter into long-term lease negotiations and execute long-term leases with those revocable permittees who are situated in the Waimanalo area, who are farming, and previously deemed ineligible to obtain a lease under Act 237.

SECTION 2. (a) The department of land and natural resources shall enter into long-term lease negotiations and execute long-term leases with qualified revo-

cable permittees in the Waimanalo area who were deemed ineligible to obtain long-term leases under Act 237.

- (b) The department may negotiate and enter into leases with any person who:
 - (1) As of July 1, 1988, held a revocable permit to conduct agricultural activities on nonagriculturally- or agriculturally-zoned lands; or
 - (2) Has formerly held an agricultural lease which expired within the last ten years preceding the effective date of this Act and has continued to occupy the state land; and
 - (3) Does not own agriculturally-zoned land of twenty-five acres or more in the State, individually or jointly with the person's spouse, or whose spouse does not own twenty-five acres or more of agriculturally-zoned land in the State.

SECTION 3. The land eligible for lease negotiations under this section are limited to those lands:

- (1) Nonagriculturally-zoned land used for agricultural purposes;
- (2) Agriculturally-zoned land used for agricultural purposes; and
- (3) Not needed by any state or county agency for any other public purpose.

SECTION 4. In negotiating and executing a lease as authorized, the board shall:

- (1) Require the appraisal of the parcel in accordance with section 171-17(b), Hawaii Revised Statutes;
- (2) Impose such other lease provisions, restrictions, and conditions as provided by sections 171-35, 171-36, and 171-37, Hawaii Revised Statutes, as may be required to protect the State's interests;
- (3) Require the payment of a premium, computed at twenty-five per cent of annual lease rent, with the premium to be added to the annual lease rent for each year of the lease equal to the number of years the lessee has occupied the land, except the premium period shall not exceed four years; and
- (4) Recover from the lessee the costs of expenditures required by the department to convert the parcel into leasehold.

SECTION 5. Within six months from the effective date of this Act, the department of land and natural resources 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 department of land and natural resources in writing within thirty days from the date of receipt of notification; provided further that the department of land and natural resources may require documentary proof from any applicant to determine that the applicant meets eligibility and qualification requirements for a lease as specified by this Act.

SECTION 6. The department of land and natural resources shall cooperate with reclassification activities initiated by revocable permittees farming nonagriculturally-zoned lands in the Waimanalo area to have their lands reclassified from nonagricultural to agricultural use.

SECTION 7. This Act shall take effect upon its approval and shall be repealed on July 1, 1999.

(Approved June 18, 1996.)