

**ACT 194**

S.B. NO. 2960

A Bill for an Act Relating to Farmers.

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

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

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

The purpose of this Act is to:

- (1) Clarify that agricultural lots shall be used for farming by requiring that purchasers and lessees of farm lots submit proof of using the lots to produce food or conduct other agricultural activities; and
- (2) Authorize certain agricultural cooperative associations to apply for farm lots.

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

**“§171-67 Restrictions; conditions.** In addition to ~~[such]~~ other restrictions or conditions that may be established by the board ~~[of land and natural resources]~~ to carry out the purpose of this chapter and ~~[of the provisions of]~~ the state constitution, ~~[a]n~~ each sale, lease, or lease with option to purchase, of a farm lot or ranch lot shall be subject to the following conditions, which shall be covenants running with the land:

- (1) The lot shall be used for farm purposes only;
- (2) The purchaser or lessee shall reside on the premises granted; provided that with the consent of the board, the purchaser or lessee may live off the premises if the purchaser's or lessee's residence is within a reasonable distance therefrom;
- (3) The purchaser or lessee shall derive the major portion of the purchaser's or lessee's total annual income from the production of the crops or products for which production the land is granted to the purchaser or lessee; provided that this restriction shall not apply if the purchaser or lessee becomes enfeebled or is widowed;
- (4) In the case of a lease, those provisions set forth in sections 171-35, 171-36 and 171-37, unless otherwise specifically provided in this section;
- (5) In the case of a fee simple sale, the improvement required and the specific use or uses intended;
- (6) For a period of five years after the issuance of a patent or lease, the purchaser or lessee shall not sell, sublet, assign, transfer, or in other manner dispose or encumber the whole or any part of the farm lot to any person not qualified to take a farm lot except by way of mortgage, testamentary bequest or devise, intestate succession, or except to a purchaser at or after sale upon the foreclosure of a mortgage[-];
- (7) Within two years after the issuance of a patent or lease, the purchaser or lessee shall submit a farm plan to the department or the responsible governing agency exercising enforcement and jurisdictional oversight;
- (8) Within five years after the issuance of a patent or lease and every five years thereafter, the purchaser or lessee shall submit one of the following to the department:
  - (A) Documentation of a current organic certification from the United States Department of Agriculture;
  - (B) A current plan from the United States Department of Agriculture;
  - (C) Documentation of a current food safety certification from the United States Department of Agriculture; or
  - (D) Receipts for expenditures made within the most recent five years demonstrating an investment of not less than \$10,000 in farm equipment, fertilizers, and soil amendments for use on the farm lot;

- provided that this requirement shall not apply if the purchaser or lessee becomes enfeebled or is widowed or experiences significant economic hardship directly caused by a disaster; and
- (9) Each year, the purchaser or lessee shall submit to the department:
- (A) Excise tax receipts demonstrating annual sales of food generated from the farm lot totaling not less than \$1,000;
  - (B) Evidence of donations of food generated from the farm lot made to one or more organizations exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and valued at not less than \$1,000; or
  - (C) A combination of sales and donations under subparagraphs (A) and (B) totaling not less than \$1,000;
- provided that this requirement shall not apply if the purchaser or lessee becomes enfeebled or is widowed or experiences significant economic hardship directly caused by a disaster.

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

SECTION 3. Section 171-68, Hawaii Revised Statutes, is amended to read as follows:

**“§171-68 Applicants; qualifications of.** (a) A person shall be eligible to apply for a farm if the person has the qualifications as follows:

- (1) The person has been a resident in the State at any time for at least three years;
- (2) The person is a bona fide farmer[~~];~~ provided that the person meets any of the following criteria:
  - (A) [~~Who has~~] Has not less than two [~~years<sup>2</sup>~~] years of experience as a full-time farmer; [~~or~~]
  - (B) [~~Who was~~] Was an owner-operator of an established farm conducting a substantial farming operation and [~~who~~] for a substantial period of the person’s life resided on a farm or depended on farm income for the person’s livelihood; [~~or~~]
  - (C) [~~Who has~~] Has been a farm tenant or farm laborer or other individual, who has for the two years last preceding the person’s application obtained the major portion of the person’s income from farming operations; [~~or~~]
  - (D) [~~Who has~~] Has a college degree in agriculture; [~~or~~]
  - (E) [~~Who by~~] By reason of ability, experience, and training as a vocational trainee is likely to successfully operate a farm; [~~or~~]
  - (F) [~~Who has~~] Has qualified for and received a commitment for a loan under the Bankhead-Jones Farm Tenant Act as amended, or as may hereafter be amended, for the acquisition of a farm; [~~or~~]
  - (G) [~~Who is~~] Is displaced from employment in an agricultural production enterprise; or
  - (H) [~~Who is~~] Is a member of the Hawaii Young Farmer Association or a Future Farmer of America graduate with two years of training with farming projects; or
- (3) The person meets [~~such~~] any other qualifications [~~as~~] the board [~~of land and natural resources~~] may prescribe pursuant to section 171-6.

- (b) No person shall be entitled to apply for a farm:
- (1) Who, or whose ~~[husband or wife,]~~ spouse, has previously taken or held land for farm or homesteading under any certificate, lease, or agreement or under any homestead lease or patent based thereon; or
  - (2) Who, or whose ~~[husband or wife,]~~ spouse, or both of them, owns in fee simple other land in the State, the combined area of which with the land in question exceeds eighty acres; provided that:
    - (A) The ownership of a residence lot or tract, not exceeding three acres in area, shall not disqualify any person otherwise qualified from applying for and receiving any form of farm; and
    - (B) Any person who would otherwise qualify to take a farm lot shall not be disqualified by reason of taking, holding, or owning land for farm or homesteading or otherwise, if the land ~~[is]~~ is taken, held, or owned becomes unusable for the purpose of farming as defined in section 171-65.

(c) If the person is an association formed under chapter 421, the person shall be eligible to apply for a farm if the association has at least fifty-one per cent ownership by one or more members who satisfy the qualifications under subsection (a)(1) through (3) and who are not disqualified under subsection (b).

~~[(e)]~~ (d) The terms “farm” and “farmer” as used herein also mean ranch and rancher respectively for the purposes of this section.”

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

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

(Approved July 3, 2024.)