

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO FARM WORKER HOUSING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that it is difficult for  
2 farmers in Hawaii who operate small farms to make their farms  
3 sustainable for a myriad of reasons, including but not limited  
4 to disease and pest control, bad weather, available and reliable  
5 markets, and the availability of good farm laborers. The  
6 legislature also finds that finding good farm laborers is a  
7 challenge for many farmers of small farms because although most  
8 are able to pay laborers a decent wage, the farmers are unable  
9 to provide incentives such as affordable farm housing to  
10 laborers.

11       Farm labor housing, like affordable rental housing, is  
12 scarce in Hawaii primarily because of the cost of land and  
13 construction. For farmers of small farms in Hawaii,  
14 particularly those that are long-term lessees of agricultural  
15 and non-agricultural parks, there are prohibitive factors  
16 including restrictive conditions in lease agreements with the  
17 State. Generally, farmers that have long-term agricultural land



1 leases of privately owned land in Hawaii have provisions in the  
2 leases that allow them to build farm labor housing in addition  
3 to an owner-occupied residential dwelling. That is not the case  
4 for farmers who have long-term leases to farm agricultural and  
5 non-agricultural parks because the lease agreements with the  
6 department of agriculture limit the lessee to one farm or  
7 employee dwelling per lot, upon demonstration of need and  
8 approval of the board of agriculture, which must serve as the  
9 principal residence of the lessee.

10 The purpose of this Act is to provide long-term lessees of  
11 agricultural and non-agricultural parks with the opportunity to  
12 build farm labor housing on their leased lots by removing  
13 building restrictions in lease agreements. The legislature  
14 believes that removing these restrictions will have two major  
15 benefits:

16 (1) Long-term lessees of agricultural and non-agricultural  
17 parks will be able to recruit good, reliable farm  
18 laborers that can help them develop sustainable farms;  
19 and

20 (2) Farm laborers will have access to stable, affordable  
21 rental housing for themselves and their families.



SECTION 2. Section 166-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any provision of this chapter to the contrary notwithstanding, the board may by negotiation, drawing of lot, or public auction, directly dispose of public lands and related facilities set aside and designated for use as agricultural parks, and any other lands and facilities under the jurisdiction of the department pursuant to section 166-3 and notwithstanding chapter 171. Except as provided by subsection (c), dispositions may be by lease and shall be subject to the requirements set forth in rules adopted by the board in conformity with section 166-9, and subject also to the following limitations:

(1) The property shall be disposed of for agricultural or aquacultural purposes only;

(2) The lessee shall derive the major portion of the lessee's total annual income from the lessee's activities on the premises; provided that this restriction shall not apply if failure to meet the restriction results from mental or physical disability or the loss of a spouse, or if the premises are fully



utilized in the production of crops or products for which the disposition was granted;

(3) The lessee shall comply with all federal and state laws regarding environmental quality control;

(4) The board shall determine the specific uses for which the disposition is intended; parcel the land into minimum size economic units sufficient for the intended uses; make, or require the lessee to make improvements as are required to achieve the intended uses; set the upset price or lease rent based upon an appraised evaluation of the property value adjustable as provided in rules adopted in accordance with chapter 91 to the specified use of the lot; set the term of the lease, which shall be not less than fifteen years nor more than fifty-five years, including any extension granted for mortgage lending or guarantee purposes; and establish other terms and conditions as it may deem necessary, including but not limited to restrictions against alienation and provisions for withdrawal by the board;



1        (5) Upon demonstration of need and approval of the board,  
2        one or more employee dwellings may be built on a lot  
3        that is leased by a long-term lessee with lease terms  
4        of at least thirty-five years and a lot size of at  
5        least five acres; provided that:

6        (A) The employee dwelling shall serve as the  
7        principal residence of employees employed by the  
8        long-term lessee; and

9        (B) The employee dwellings not owned by their  
10       occupants shall be rented or leased at affordable  
11       rates for agricultural workers, and the lease  
12       rent shall be adjusted to reflect the residential  
13       use of the lot; and

14       ~~[(+5)]~~ (6) No lease shall be made to any person who is in  
15       arrears in the payment of taxes, rents, or other  
16       obligations owing the State or any county; and

17       ~~[(+6)]~~ (7) Any transferee, assignee, or sublessee of an  
18       agricultural park lease shall first qualify as an  
19       applicant under this chapter. For the purpose of this  
20       paragraph, any transfer, assignment, sale, or other  
21       disposition of any interest, excluding a security



1 interest, of any legal entity which holds an  
2 agricultural park lease shall be treated as a transfer  
3 of the agricultural park lease and shall be subject to  
4 the approval of the board of agriculture upon  
5 reasonable terms and conditions, not inconsistent with  
6 this chapter or rules of the board, which the board  
7 may deem necessary. No transfer shall be approved by  
8 the board if the disposition of the stock, or assets  
9 or other interest of the legal entity would result in  
10 the failure of the entity to qualify for an  
11 agricultural park lease."

12 SECTION 3. Section 166E-8, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) In all dispositions, the department shall be subject  
15 to the requirements set forth in rules adopted by the board  
16 consistent with section 166E-6 and subject to the following:

17 (1) All land and facilities shall be disposed of for  
18 purposes of agricultural or aquacultural activities  
19 only;

20 (2) Each lessee shall derive a major portion of the  
21 lessee's total annual income earned from the lessee's



activities on the premises; provided that this restriction shall not apply if:

(A) Failure to meet the restriction results from mental or physical disability or the loss of a spouse; or

(B) The premises are fully used in the production of crops or products for which the disposition was granted;

(3) The lessee shall comply with all federal and state laws regarding environmental quality control;

(4) The board shall:

(A) Determine the specific uses for which the disposition is intended;

(B) Parcel the land into minimum size economic units sufficient for the intended uses;

(C) Make, or require the lessee to make, improvements that are required to achieve the intended uses;

(D) Set the upset price or lease rent based upon an appraised evaluation of the property value, adjustable to the specified use of the lot;



(E) Set the term of the lease that shall be not less than fifteen years nor more than sixty-five years, including any extension granted for mortgage lending or guarantee purposes; and

(F) Establish other terms and conditions it deems necessary, including but not limited to restrictions against alienation and provisions for withdrawal by the board; ~~[and]~~

(5) Upon demonstration of need and approval of the board, one or more employee dwellings may be built on a lot that is leased by a long-term lessee with lease terms of at least thirty-five years and a lot size of at least five acres; provided that:

(A) The employee dwelling shall serve as the principal residence of employees employed by the long-term lessee; and

(B) The employee dwellings not owned by their occupants shall be rented or leased at affordable rates for agricultural workers, and the lease rent shall be adjusted to reflect the residential use of the lot; and





1       ~~[(5)]~~ (6) Any transferee, assignee, or sublessee of a non-  
2       agricultural park lease shall first qualify as an  
3       applicant under this chapter. For the purpose of this  
4       paragraph, any transfer, assignment, sale, or other  
5       disposition of any interest, excluding a security  
6       interest, by any legal entity that holds a non-  
7       agricultural park lease shall be treated as a transfer  
8       of the non-agricultural park lease and shall be  
9       subject to the approval of the board and to reasonable  
10      terms and conditions, consistent with this chapter or  
11      rules of the board that the board may deem necessary.  
12      No transfer shall be approved by the board if the  
13      disposition of the stock or assets or other interest  
14      of the legal entity would result in the failure of the  
15      entity to qualify for a non-agricultural park land  
16      lease."

17       SECTION 4. There is appropriated out of the general  
18      revenues of the State of Hawaii the sum of \$                or so  
19      much thereof as may be necessary for fiscal year 2015-2016 and  
20      the same sum or so much thereof as may be necessary for fiscal  
21      year 2016-2017 for the development of farm worker housing.



1       The sums appropriated shall be expended by the department  
2 of agriculture for the purposes of this Act.

3       SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5       SECTION 6. This Act shall take effect on July 1, 2015.

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[Signature]



**Report Title:**

Farm Worker Housing; Agricultural Parks; Non-agricultural Parks; Appropriation

**Description:**

Allows one or more employee dwellings to be built on an agricultural park lot or non-agricultural park lot that is leased by a long-term lessee with lease terms of at least thirty-five years and a lot size of at least five acres, with restrictions. Appropriates an unspecified amount from the general fund to be expended by the department of agriculture to develop farm worker housing.

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