

JAN 27 2021

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 PART I

2 SECTION 1. Chapter 166E, Hawaii Revised Statutes, is
3 amended by adding a new section to be appropriately designated
4 and to read as follows:

5 "§166E- Disputes in land classification. (a) For lands
6 that are deemed appropriate and acceptable for transfer pursuant
7 to section 166E-3 and do not appear to have significant impacts
8 on conservation, cultural, or recreational uses of the
9 department of land and natural resources, including without
10 limitation, watershed protection, forest reserve, game
11 management activities, carbon sequestration programs, the
12 department of land and natural resources shall transfer, by set
13 aside, the management jurisdiction of such lands to the
14 department by the governor's executive order.

15 (b) For lands that are deemed appropriate and acceptable
16 for transfer pursuant to section 166E-3 and may have potentially
17 conflicting or compatible agricultural and conservation,



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1 cultural, or recreational uses, to achieve collaborative
2 management of those lands while preserving the agencies'
3 abilities to carry out their respective mission priorities, the
4 department and the department of land and natural resources,
5 shall implement one or more of the following:

6 (1) Transfer concurrent management jurisdiction, to both
7 the department and the department of land and natural
8 resources, division of forestry and wildlife, for
9 their respective subject matter purposes and
10 expertise, by the governor's executive order;

11 (2) The department of land and natural resources may
12 reclassify those areas needed for its purposes as
13 conservation district lands, as defined in chapter
14 183C; provided it is designated as a limited subzone
15 ensuring that agricultural activity is allowed to
16 occur in those areas, pursuant to a conservation
17 district use permit, as may be required; and

18 (3) The department of land and natural resources may
19 create a conservation easement over those portions of
20 the lands they have identified as having significant
21 conservation, cultural, or recreational resource



1 value, subject to a specific allowance for
2 agricultural activities that may be revoked or
3 modified upon notification of the implementation of a
4 conservation project.

5 For all lands described in this subsection, the department shall
6 have management authority over all agricultural activities and
7 all land disposition and management matters pertaining to such
8 use, and the department of land and natural resources shall have
9 management authority over conservation, cultural, and
10 recreational activities. Provided that the forgoing conditions
11 have been met, and upon the written request from the chairperson
12 of the board of land and natural resources to the chairperson of
13 the board of agriculture, the department shall require
14 termination or modification of agricultural uses and shall
15 transfer management jurisdiction by re-designation of use,
16 withdrawal, or re-set aside of those portions of the lands
17 identified as having conservation, cultural, or recreational
18 resource value, to the department of land and natural resources,
19 division of forestry and wildlife.

20 (c) Any transfer to the department made pursuant to this
21 section shall be subject to a use restriction that requires that



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1 any allowed agricultural use shall not unreasonably diminish,
2 degrade, or destroy future potential use by the department of
3 land and natural resources.

4 (d) For all lands the department of land and natural
5 resources identifies pursuant to this section as having
6 conservation, cultural, or recreational resource value that is
7 necessary and appropriate for protection to facilitate the
8 department of land and natural resources' mission objectives,
9 the department of land and natural resources shall bear the
10 responsibility and costs for identifying, mapping, designating
11 or subdividing those areas.

12 (e) If at any time land transferred pursuant to this
13 section is in productive agricultural use under the department's
14 authority, and the department of land and natural resources
15 seeks to alter or convert the existing use to its reserved uses
16 or priorities, preference to the department of land and natural
17 resources use shall be given; provided that as of the
18 anticipated commencement of the proposed use:

19 (1) The department of land and natural resources has
20 completed a plan of utilization or project plan for



1 its intended use that is approved by the board of land
2 and natural resources;

3 (2) The department of land and natural resources has
4 secured sufficient funding to commence implementation
5 of the plan;

6 (3) The department of land and natural resources shall be
7 solely responsible for all costs for identification,
8 mapping, designation, and subdivision of the land or
9 any portions thereof that is required for
10 implementation of its plan; and

11 (4) The department of land and natural resources has given
12 prior written notice to the department and the
13 occupant no later than one year prior to alteration or
14 conversion. The occupant shall be responsible for
15 costs of relocating its operations ordinarily
16 associated with reconfiguring existing operations to
17 accommodate the loss of areas removed for the
18 department of land and natural resources use.

19 (f) Any dispute regarding management of the lands under
20 this section shall be fully and finally resolved by the
21 governor, as may be necessary."



1 PART II

2 SECTION 2. Section 166E-1, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "[+]§166E-1[+] **Legislative findings.** The legislature
5 finds that article XI, section 10, of the state constitution
6 establishes that "the public lands shall be used for the
7 development of farm and homeownership on as widespread a basis
8 as possible, in accordance with procedures and limitations
9 prescribed by law". The legislature also finds that article XI,
10 section 1, of the state constitution establishes that the State
11 "shall conserve and protect Hawaii's natural beauty and all
12 natural resources, including land, water, air, minerals and
13 energy sources".

14 Therefore, the legislature finds that certain public lands
15 classified for agricultural use by the department of land and
16 natural resources should be transferred to the department of
17 agriculture, with the approval of the board of land and natural
18 resources and the board of agriculture, for purposes and in a
19 manner consistent with article XI, section 10, of the state
20 constitution. The legislature further finds that considerations
21 such as watershed preservation, forest reserves, game management



1 reserves, carbon sequestration, and other conservation,
2 cultural, and recreational policy considerations should be
3 considered when determining management oversight of public lands
4 classified for agricultural.

5 The purpose of this chapter is to ensure the long-term
6 productive use of public lands leased or available to be leased
7 by the department of land and natural resources for agricultural
8 purposes by allowing [~~these~~] those lands that have no
9 significant conservation, cultural, or recreational resource
10 value, to be transferred to and managed by the department of
11 agriculture.

12 Additionally, the purpose of this chapter is to provide
13 concurrent management by the department and the department of
14 land and natural resources, division of forestry and wildlife,
15 for public lands leased, or available to be leased, for
16 agricultural use, which also have significant conservation,
17 cultural, or recreational resource value."

18 SECTION 3. Section 166E-2, Hawaii Revised Statutes, is
19 amended by amending the definition of "agricultural activities"
20 to read as follows:



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1 "\"Agricultural activities\" means the care and production of
2 livestock, livestock products, poultry, or poultry products, or
3 apiary, horticultural, or floricultural products, or the
4 planting, cultivating, and harvesting of crops or trees.

5 \"Agricultural activities\" includes pasture use.\"

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

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

9

INTRODUCED BY: 



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Report Title:

HDOA; DLNR; Non-agricultural Park Lands; Land Transfer; Land Management

Description:

Authorizes the transfer and co-management of certain agricultural lands between the department of agriculture and department of land and natural resources as identified in Act 90, Session Laws of Hawaii 2003.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

