
A BILL FOR AN ACT

RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS.

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

1 SECTION 1. The legislature finds that Act 90, Session Laws
2 of Hawaii 2003 (Act 90), was enacted to transfer certain non-
3 agricultural park lands from the department of land and natural
4 resources to the department of agriculture. While three hundred
5 parcels consisting of approximately nineteen thousand acres have
6 been transferred over the past seventeen years, many parcels
7 have not been transferred.

8 The legislature further finds that Act 139, Session Laws of
9 Hawaii 2021, established the Act 90 working group to determine
10 the process, status, challenges, and potential remedies
11 regarding the transfer of non-agricultural park lands to fulfill
12 the purposes of Act 90. The working group determined that
13 certain lands would be considered eligible for transfer if an
14 easement were provided to allow the department of land and
15 natural resources or the public to access an adjacent parcel.

16 The purpose of this Act is to:



- 1 (1) Exempt easements granted over public lands affecting
2 the transfer of public lands between the department of
3 land and natural resources and department of
4 agriculture from formal county subdivision process and
5 approval requirements;
- 6 (2) Require the department of agriculture to accept the
7 transfer of and manage certain qualifying non-
8 agricultural park lands;
- 9 (3) Require the department of agriculture, prior to
10 offering a lease, to inquire with the department of
11 land and natural resources regarding any easements
12 required for access to landlocked forest reserves or
13 other assets on the lands subject to the lease;
- 14 (4) Require the lessee to develop a conservation program
15 and plan if conservation resources exist on the land;
- 16 (5) Adopt a recommendation from the Act 90 working group
17 that authorizes the department of agriculture, prior
18 to any transfer of certain qualifying non-agricultural
19 park lands, to request from the department of land and
20 natural resources any information related to the



1 establishment of necessary and reasonable easements
2 upon the lands; and

3 (6) Require approval from the board of land and natural
4 resources and board of agriculture before removing
5 pasture lands for reforestation, or other public
6 purposes.

7 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
8 by adding a new section to be appropriately designated and to
9 read as follows:

10 "§46- Easements; formal subdivision process and
11 approval exemption. Notwithstanding any provision of law to the
12 contrary, the granting of easements on public lands affecting
13 the transfer of public lands between the department of land and
14 natural resources and department of agriculture shall be exempt
15 from formal subdivision process and approval requirements,
16 including requirements for surveying and formalizing easements.
17 The government agency that grants the easements may notify in
18 writing the county with jurisdiction to process and approve the
19 easements of the government agency's intent to invoke this
20 exemption."



1 SECTION 3. Section 46-66, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§46-66 Disposition of real property.** Notwithstanding any
4 other law to the contrary[7] and except as provided in section
5 46-_____, each county, subject to the approval of the council, may
6 grant, sell, or otherwise dispose of any easement for particular
7 purposes in perpetuity by direct negotiation or otherwise,
8 subject to reverter to the county upon the termination or
9 abandonment of the specific purpose for which the easement was
10 granted, including easements over, under, through, and across
11 land bordering the ocean and easements for any governmental or
12 public utility purpose or for chilled water and seawater
13 distribution systems for renewable energy seawater air
14 conditioning district cooling systems."

15 SECTION 4. Section 166E-1, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"[+]§166E-1[+]** **Legislative findings.** The legislature
18 finds that article XI, section 10, of the state constitution
19 establishes that "the public lands shall be used for the
20 development of farm and [~~homeownership~~] home ownership on as



1 widespread a basis as possible, in accordance with procedures
2 and limitations prescribed by law".

3 Therefore, the legislature finds that certain public lands
4 classified for agricultural use, including all lands designated
5 as intensive agricultural use, special livestock use, and
6 pasture use under section 171-10(1), (2), and (3), by the
7 department of land and natural resources should be transferred
8 to the department of agriculture [~~with the approval of the~~
9 ~~board of land and natural resources and the board of~~
10 ~~agriculture,~~] for purposes and in a manner consistent with
11 article XI, section 10, of the state constitution.

12 The purpose of this chapter is to ensure the long-term
13 productive use of public lands leased or available to be leased
14 by the department of land and natural resources for agricultural
15 purposes, including pasture use, by allowing these lands to be
16 transferred to and managed by the department of agriculture."

17 SECTION 5. Section 166E-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§166E-3 Transfer and management of non-agricultural park**
20 **lands and related facilities to the department of agriculture.**



1 (a) Upon ~~[mutual agreement and]~~ approval of the board ~~[and the~~
2 ~~board of land and natural resources]~~:

3 (1) The department ~~[may]~~ shall accept the transfer of and
4 manage certain qualifying non-agricultural park
5 lands[+], subject to the suitability of the land for
6 agricultural activities and use as determined by the
7 board; and

8 (2) Certain assets, including position counts, related to
9 the management of existing encumbered and unencumbered
10 non-agricultural park lands and related facilities
11 shall be transferred to the department~~[-]~~;

12 provided that designated conservation lands not in current
13 agricultural use shall remain under the jurisdiction of the
14 department of land and natural resources.

15 (b) The department shall administer a program to manage
16 the transferred non-agricultural park lands under rules adopted
17 by the board pursuant to chapter 91. The program and its rules
18 shall be separate and distinct from the agricultural park
19 program and its rules. Non-agricultural park lands are not the
20 same as, and shall not be selected or managed as ~~[are]~~, lands
21 under agricultural park leases. Notwithstanding any other law



1 to the contrary, the program shall include the following
2 conditions pertaining to encumbered non-agricultural park lands:

- 3 (1) The lessee or permittee shall perform in full
4 compliance with the existing lease or permit;
- 5 (2) The lessee or permittee shall not be in arrears in the
6 payment of taxes, rents, or other obligations owed to
7 the State or any county;
- 8 (3) The lessee's or permittee's agricultural operation
9 shall be economically viable as specified by the
10 board; and
- 11 (4) No encumbered or unencumbered non-agricultural park
12 lands with soils classified by the land study bureau's
13 detailed land classification as overall (master)
14 productivity rating class A or B shall be transferred
15 for the use or development of golf courses, golf
16 driving ranges, and country clubs.

17 The transfer of non-agricultural park lands shall be done in a
18 manner to be determined by the board of agriculture.

19 (c) Prior to offering a lease, the department shall
20 inquire with the department of land and natural resources
21 regarding any easements required by the department of land and



1 natural resources to access landlocked forest reserves or other
2 assets of the department of land and natural resources on the
3 lands subject to the lease. A lease issued under this section
4 shall be subject to any easement or right of entry established
5 to allow access for conservation activities, hunting, gathering,
6 and recreation. The lessee shall:

7 (1) Cooperate with the rules and regulations of the
8 appropriate soil and water conservation district and
9 department in implementing conservation programs and
10 initiatives; and

11 (2) At all times practice good husbandry.

12 If conservation resources in need of preservation or
13 protection are identified by the department on the lands subject
14 to the lease, the lessee shall develop a conservation program
15 and a plan to address those concerns. The conservation program
16 shall be run in accordance with a conservation plan, which shall
17 be submitted to the chairperson of the board for acceptance
18 within one year following lease commencement. The conservation
19 plan shall include land clearing practices, cropping systems,
20 irrigation systems, drainage, noxious weed control, and other
21 practices and systems needed to protect the land against



1 deterioration and to prevent environmental degradation; provided
2 that this requirement shall be waived for leases with little or
3 no apparent conservation problems when verified by the
4 appropriate soil and water conservation district. In the event
5 the activities of the lessee under this section shall be found
6 to be unsatisfactory to the department, the department shall
7 notify the lessee and the lessee shall remedy any issue and
8 submit satisfactory proof to the department within sixty days of
9 receiving notice from the department.

10 [~~e~~] (d) For any encumbered or unencumbered non-
11 agricultural park lands transferred to the department that are
12 not being utilized or required for the public purpose stated,
13 the order setting aside the lands shall be withdrawn and the
14 lands shall be returned to the department of land and natural
15 resources.

16 (e) Before any transfer of certain qualifying non-
17 agricultural park lands, the department may request from the
18 department of land and natural resources any information related
19 to the establishment of necessary and reasonable easements upon
20 the lands.



1 (f) The department of land and natural resources shall
2 seek approval from the board of land and natural resources and
3 the board prior to the removal of any land designated for
4 pasture leases for reforestation or other public purposes. If
5 withdrawal is approved by both boards, adequate notice of no
6 less than one year shall be provided to the then-current lessee
7 or permittee.

8 (g) Removal of any land pursuant to subsection (f) shall
9 be subject to the prior approval by the board of land and
10 natural resources of a feasible and funded action plan submitted
11 by the division of forestry and wildlife for reforestation or
12 other conservation purposes on current pasture lease lands."

13 SECTION 6. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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

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H.B. NO. 698

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INTRODUCED BY: *Andrew Lee*

JAN 20 2023



Report Title:

DOA; DLNR; Non-agricultural Park Lands; Transfer; Easements

Description:

Exempts easements granted over public lands affecting the transfer of public lands between DLNR and DOA from formal county subdivision process and approval requirements. Requires the DOA to accept the transfer of and manage certain qualifying non-agricultural park lands. Requires the DOA, prior to offering a lease, to inquire with the DLNR regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease. Requires the lessee to develop a conservation program and plan if conservation resources exist on the land. Before the transfer of non-agricultural park lands, authorizes the DOA to request information from the DLNR related to the establishment of necessary and reasonable easements upon the lands. Requires approval from the board of land and natural resources and the board of agriculture before removing pasture lands for reforestation, or other public purposes.

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