
A BILL FOR AN ACT

RELATING TO FARMERS.

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

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

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

12 The purpose of this Act is to clarify that agricultural
13 lots shall be used for farming by:

14 (1) Requiring that purchasers and lessees of farm lots use
15 the lots to produce food or conduct other agricultural
16 activities;



- 1 (2) Reducing the land use conflicts arising from
2 encroachment of nonagricultural uses into agricultural
3 areas;
- 4 (3) Discouraging the development or subdivision of lands
5 within the agricultural district for residential uses,
6 thereby preserving agricultural lands and allowing
7 proper planning of land use and infrastructure
8 development; and
- 9 (4) Imposing farming requirements so that owners,
10 residents, and other users of agricultural property or
11 neighboring properties are aware that they may be
12 subjected to noise, odors, dust, smoke, sounds from
13 machinery, odors from manure, and other inconveniences
14 and discomfort arising from normal and accepted
15 agricultural practices and operations.

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

18 "**§171-67 Restrictions; conditions.** In addition to ~~[such]~~ .
19 other restrictions or conditions that may be established by the
20 board ~~[of land and natural resources]~~ to carry out the purpose
21 of this chapter and ~~[of the provisions of]~~ the state

1 constitution, all sale, lease, or lease with option to purchase,
2 of a farm lot or ranch lot shall be subject to the following
3 conditions [~~7, which~~] that shall be covenants running with the
4 land:

- 5 (1) The lot shall be used for farm purposes only;
- 6 (2) The purchaser or lessee shall reside on the premises
7 granted; provided that with the consent of the board,
8 the purchaser or lessee may live off the premises if
9 the purchaser's or lessee's residence is within a
10 reasonable distance therefrom;
- 11 (3) The purchaser or lessee shall derive the major portion
12 of the purchaser's or lessee's total annual income
13 from the production of the crops or products for which
14 production the land is granted to the purchaser or
15 lessee; provided that this restriction shall not apply
16 if the purchaser or lessee becomes enfeebled or is
17 widowed;
- 18 (4) In the case of a lease, those provisions set forth in
19 sections 171-35, 171-36 and 171-37, unless otherwise
20 specifically provided in this section;



- 1 (5) In the case of a fee simple sale, the improvement
2 required and the specific use or uses intended;
- 3 (6) For a period of five years after the issuance of a
4 patent or lease, the purchaser or lessee shall not
5 sell, sublet, assign, transfer, or in other manner
6 dispose or encumber the whole or any part of the farm
7 lot to any person not qualified to take a farm lot
8 except by way of mortgage, testamentary bequest or
9 devise, intestate succession, or except to a purchaser
10 at or after sale upon the foreclosure of a
11 mortgage[-];
- 12 (7) Within two years after the issuance of a patent or
13 lease, the purchaser or lessee shall submit a farm
14 plan to the department or the responsible governing
15 agency exercising enforcement and jurisdictional
16 oversight;
- 17 (8) Within five years after the issuance of a patent or
18 lease and every five years thereafter, the purchaser
19 or lessee shall submit one of the following to the
20 department:



1 (A) Documentation of a current organic certification
2 from the United States Department of Agriculture;

3 (B) A current plan from the United States Department
4 of Agriculture;

5 (C) Documentation of a current food safety
6 certification from the United States Department
7 of Agriculture; or

8 (D) Receipts for expenditures made within the most
9 recent five years demonstrating an investment of
10 not less than \$10,000 in farm equipment,
11 fertilizers, and soil amendments for use on the
12 farm lot;

13 provided that this restriction shall not apply if the
14 purchaser or lessee becomes enfeebled or is widowed;
15 and

16 (9) Each year, the purchaser or lessee shall submit to the
17 department:

18 (A) Excise tax receipts demonstrating annual sales of
19 food generated from the farm lot totaling not
20 less than \$1,000;



1 (B) Evidence of donations of food generated from the
2 farm lot made to one or more organizations exempt
3 from federal taxation under section 501(c)(3) of
4 the Internal Revenue Code of 1986, as amended,
5 and valued at not less than \$1,000; or

6 (C) A combination of sales and donations under
7 paragraphs (A) and (B) totaling not less than
8 \$1,000;

9 provided that this restriction shall not apply if the
10 purchaser or lessee becomes enfeebled or is widowed.

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

19 SECTION 3. Section 171-68, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:



1 "(a) A person shall be eligible to apply for a farm if the
2 person has the qualifications as follows:

3 (1) The person has been a resident in the State at any
4 time for at least three years;

5 (2) The person is a bona fide farmer:

6 (A) Who has not less than two [~~years~~] years of
7 experience as a full-time farmer; [~~or~~]

8 (B) Who was an owner-operator of an established farm
9 conducting a substantial farming operation and
10 who for a substantial period of the person's life
11 resided on a farm or depended on farm income for
12 the person's livelihood; [~~or~~]

13 (C) Who has been a farm tenant or farm laborer or
14 other individual, who has for the two years last
15 preceding the person's application obtained the
16 major portion of the person's income from farming
17 operations; [~~or~~]

18 (D) Who has a college degree in agriculture; [~~or~~]

19 (E) Who by reason of ability, experience, and
20 training as a vocational trainee is likely to
21 successfully operate a farm; [~~or~~]



- 1 (F) Who has qualified for and received a commitment
- 2 for a loan under the Bankhead-Jones Farm Tenant
- 3 Act as amended, or as may hereafter be amended,
- 4 for the acquisition of a farm; [~~or~~]
- 5 (G) Who is displaced from employment in an
- 6 agricultural production enterprise; [~~or~~]
- 7 (H) Who is a member of the Hawaii Young Farmer
- 8 Association or a Future Farmer of America
- 9 graduate with two years of training with farming
- 10 projects; or
- 11 (I) Who, if the person is a partnership, corporation,
- 12 or association, is an agricultural cooperative
- 13 under chapter 421 and for which a combination of
- 14 individuals owning not less than fifty-one per
- 15 cent of the agricultural cooperative satisfy the
- 16 qualifications under this section; and
- 17 (3) The person meets [~~such~~] any other qualifications [~~as~~]
- 18 the board [~~of land and natural resources~~] may
- 19 prescribe pursuant to section 171-6.
- 20 (b) No person shall be entitled to apply for a farm:



1 (1) Who, or whose [~~husband or wife,~~] spouse, has
2 previously taken or held land for farm or homesteading
3 under any certificate, lease, or agreement or under
4 any homestead lease or patent based thereon; or

5 (2) Who, or whose [~~husband or wife,~~] spouse, or both of
6 them, owns in fee simple other land in the State, the
7 combined area of which with the land in question
8 exceeds eighty acres; provided that:

9 (A) The ownership of a residence lot or tract, not
10 exceeding three acres in area, shall not
11 disqualify any person otherwise qualified from
12 applying for and receiving any form of farm; and

13 (B) Any person who would otherwise qualify to take a
14 farm lot shall not be disqualified by reason of
15 taking, holding, or owning land for farm or
16 homesteading or otherwise, if the land [~~se~~]
17 taken, held, or owned becomes unusable for the
18 purpose of farming as defined in section 171-65."

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



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

2

INTRODUCED BY:

Albert M. Rios



S.B. NO. 2960

Report Title:

Farming; Gentleman Estates; Bona Fide Farmers; Agricultural District

Description:

Requires that lessees and purchasers of farm lots and ranch lots use that land for farming and producing food. Authorizes agricultural cooperatives to apply for farmlands.

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