
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:

13 (1) Clarify that agricultural lots shall be used for
14 farming by requiring that purchasers and lessees of
15 farm lots submit proof of using the lots to produce
16 food or conduct other agricultural activities; and

17 (2) Authorize certain agricultural cooperative
18 associations to apply for farm lots.



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

3 "§171-67 **Restrictions; conditions.** In addition to [~~such~~]
4 other restrictions or conditions that may be established by the
5 board [~~of land and natural resources~~] to carry out the purpose
6 of this chapter and [~~of the provisions of~~] the state
7 constitution, [~~all~~] each sale, lease, or lease with option to
8 purchase, of a farm lot or ranch lot shall be subject to the
9 following conditions, which shall be covenants running with the
10 land:

- 11 (1) The lot shall be used for farm purposes only;
- 12 (2) The purchaser or lessee shall reside on the premises
13 granted; provided that with the consent of the board,
14 the purchaser or lessee may live off the premises if
15 the purchaser's or lessee's residence is within a
16 reasonable distance therefrom;
- 17 (3) The purchaser or lessee shall derive the major portion
18 of the purchaser's or lessee's total annual income
19 from the production of the crops or products for which
20 production the land is granted to the purchaser or
21 lessee; provided that this restriction shall not apply



- 1 if the purchaser or lessee becomes enfeebled or is
2 widowed;
- 3 (4) In the case of a lease, those provisions set forth in
4 sections 171-35, 171-36 and 171-37, unless otherwise
5 specifically provided in this section;
- 6 (5) In the case of a fee simple sale, the improvement
7 required and the specific use or uses intended;
- 8 (6) For a period of five years after the issuance of a
9 patent or lease, the purchaser or lessee shall not
10 sell, sublet, assign, transfer, or in other manner
11 dispose or encumber the whole or any part of the farm
12 lot to any person not qualified to take a farm lot
13 except by way of mortgage, testamentary bequest or
14 devise, intestate succession, or except to a purchaser
15 at or after sale upon the foreclosure of a
16 mortgage[-];
- 17 (7) Within two years after the issuance of a patent or
18 lease, the purchaser or lessee shall submit a farm
19 plan to the department or the responsible governing
20 agency exercising enforcement and jurisdictional
21 oversight;



1 (8) Within five years after the issuance of a patent or
2 lease and every five years thereafter, the purchaser
3 or lessee shall submit one of the following to the
4 department:
5 (A) Documentation of a current organic certification
6 from the United States Department of Agriculture;
7 (B) A current plan from the United States Department
8 of Agriculture;
9 (C) Documentation of a current food safety
10 certification from the United States Department
11 of Agriculture; or
12 (D) Receipts for expenditures made within the most
13 recent five years demonstrating an investment of
14 not less than \$10,000 in farm equipment,
15 fertilizers, and soil amendments for use on the
16 farm lot;
17 provided that this requirement shall not apply if the
18 purchaser or lessee becomes enfeebled or is widowed or
19 experiences significant economic hardship directly
20 caused by a disaster; and



1 (9) Each year, the purchaser or lessee shall submit to the
2 department:

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

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

11 (C) A combination of sales and donations under
12 subparagraphs (A) and (B) totaling not less than
13 \$1,000;

14 provided that this requirement shall not apply if the
15 purchaser or lessee becomes enfeebled or is widowed or
16 experiences significant economic hardship directly
17 caused by a disaster.

18 The violation of any [~~of such~~] restrictions or conditions
19 established under this section shall be sufficient for the
20 board, upon failure of the purchaser or lessee within a
21 reasonable period of time to remedy the default after notice



1 thereof as provided in section 171-20, to take possession of the
2 premises without demand or previous entry and with or without
3 legal process and thereby determine the estate, subject to the
4 provisions contained in section 171-21."

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

7 "§171-68 Applicants; qualifications of. (a) A person
8 shall be eligible to apply for a farm if the person has the
9 qualifications as follows:

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

12 (2) The person is a bona fide farmer[+]; provided that the
13 person meets any of the following criteria:

14 (A) [~~Who has~~] Has not less than two [~~years~~¹] years of
15 experience as a full-time farmer; [e]

16 (B) [~~Who was~~] Was an owner-operator of an established
17 farm conducting a substantial farming operation
18 and [~~who~~] for a substantial period of the
19 person's life resided on a farm or depended on
20 farm income for the person's livelihood; [e]



- 1 (C) [~~Who has~~] Has been a farm tenant or farm laborer
2 or other individual, who has for the two years
3 last preceding the person's application obtained
4 the major portion of the person's income from
5 farming operations; [~~or~~]
- 6 (D) [~~Who has~~] Has a college degree in agriculture;
7 [~~or~~]
- 8 (E) [~~Who by~~] By reason of ability, experience, and
9 training as a vocational trainee is likely to
10 successfully operate a farm; [~~or~~]
- 11 (F) [~~Who has~~] Has qualified for and received a
12 commitment for a loan under the Bankhead-Jones
13 Farm Tenant Act as amended, or as may hereafter
14 be amended, for the acquisition of a farm; [~~or~~]
- 15 (G) [~~Who is~~] Is displaced from employment in an
16 agricultural production enterprise; or
- 17 (H) [~~Who is~~] Is a member of the Hawaii Young Farmer
18 Association or a Future Farmer of America
19 graduate with two years of training with farming
20 projects; or



1 (3) The person meets [~~such~~] any other qualifications [~~as~~]
2 the board [~~of land and natural resources~~] may
3 prescribe pursuant to section 171-6.

4 (b) No person shall be entitled to apply for a farm:

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

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

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

17 (B) Any person who would otherwise qualify to take a
18 farm lot shall not be disqualified by reason of
19 taking, holding, or owning land for farm or
20 homesteading or otherwise, if the land [~~se~~]



1 taken, held, or owned becomes unusable for the
2 purpose of farming as defined in section 171-65.

3 (c) If the person is an association formed under chapter
4 421, the person shall be eligible to apply for a farm if the
5 association has at least fifty-one per cent ownership by one or
6 more members who satisfy the qualifications under subsection
7 (a) (1) through (3) and who are not disqualified under subsection
8 (b).

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

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

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



Report Title:

Farming; Farm Lots; Ranch Lots; Bona Fide Farmers; Agricultural Cooperative Associations

Description:

Requires that lessees and purchasers of farm lots and ranch lots use that land for farming and producing food, under certain conditions. Authorizes certain agricultural cooperative associations to apply for farm lots. (CD1)

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

