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# 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.

13           The purpose of this Act is to:

14           (1) Adopt a recommendation from the Act 90 working group  
15           that authorizes the department of agriculture, prior  
16           to any transfer of certain qualifying non-agricultural  
17           park lands, to request from the department of land and



- 1 natural resources any information related to the  
2 establishment of necessary and reasonable easements  
3 upon the lands;
- 4 (2) Require the department of agriculture to accept the  
5 transfer of and manage certain qualifying non-  
6 agricultural park lands;
- 7 (3) Require the department of agriculture, prior to  
8 offering a lease, to inquire with the department of  
9 land and natural resources regarding any easements  
10 required for access to landlocked forest reserves or  
11 other assets on the lands subject to the lease;
- 12 (4) Continue to require the lessee to maintain a  
13 conservation plan; and
- 14 (5) Require approval from the board of land and natural  
15 resources and the board of agriculture before removing  
16 pasture lands for reforestation, or other public  
17 purposes.

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

20 "[+]§166E-1[+] **Legislative findings.** The legislature  
21 finds that article XI, section 10, of the [~~state constitution~~]



1 Hawaii State Constitution establishes that "the public lands  
2 shall be used for the development of farm and [~~homeownership~~]  
3 home ownership on as widespread a basis as possible, in  
4 accordance with procedures and limitations prescribed by law".

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

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

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



1 " ~~[+] §166E-3 [.]~~ Transfer and management of non-agricultural  
2 park lands and related facilities to the department of  
3 agriculture. (a) Upon ~~[mutual agreement and]~~ approval of the  
4 board ~~[and the board of land and natural resources]~~:

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

10 (2) Certain assets, including position counts, related to  
11 the management of existing encumbered and unencumbered  
12 non-agricultural park lands and related facilities  
13 shall be transferred to the department ~~[.]~~;  
14 provided that designated conservation lands not in current  
15 agricultural use shall remain under the jurisdiction of the  
16 department of land and natural resources.

17 (b) The department shall administer a program to manage  
18 the transferred non-agricultural park lands under rules adopted  
19 by the board pursuant to chapter 91. The program and its rules  
20 shall be separate and distinct from the agricultural park  
21 program and its rules. Non-agricultural park lands are not the



1 same as, and shall not be selected or managed as ~~are~~, lands  
2 under agricultural park leases. Prior to offering a lease, the  
3 department shall inquire with the department of land and natural  
4 resources regarding any easements required by the department of  
5 land and natural resources to access landlocked forest reserves  
6 or other assets of the department of land and natural resources  
7 on the lands subject to the lease. A lease issued under this  
8 section shall be subject to any easement or right of entry  
9 established to landlocked forest reserves to allow access for  
10 conservation activities, hunting, gathering, and recreation.  
11 The lessee shall cooperate with the rules and regulations of the  
12 appropriate soil and water conservation district and department  
13 in implementing conservation programs and initiatives. Lessees  
14 shall at all times practice good husbandry. If conservation  
15 resources in need of preservation or protection are identified  
16 by the department on the lands subject to the lease, the lessee  
17 shall develop a conservation program and a plan to address those  
18 concerns. The conservation program shall be run in accordance  
19 with a conservation plan, which shall be submitted to the  
20 chairperson of the board for acceptance within one year  
21 following lease commencement. The conservation plan shall



1 include land clearing practices, cropping systems, irrigation  
2 systems, drainage, noxious weed control, and other practices and  
3 systems needed to protect the land against deterioration and to  
4 prevent environmental degradation; provided that this  
5 requirement shall be waived for leases with little or no  
6 apparent conservation problems when verified by the appropriate  
7 soil and water conservation district. In the event the  
8 activities of the lessee under this section shall be found to be  
9 unsatisfactory to the terms of the lease, the department shall  
10 notify the lessee and the lessee shall remedy any issue and  
11 submit satisfactory proof to the department within sixty days of  
12 receiving notice from the department. Notwithstanding any other  
13 law to the contrary, the program shall include the following  
14 conditions pertaining to encumbered non-agricultural park lands:  
15 (1) The lessee or permittee shall perform in full  
16 compliance with the existing lease or permit;  
17 (2) The lessee or permittee shall not be in arrears in the  
18 payment of taxes, rents, or other obligations owed to  
19 the State or any county;



1 (3) The lessee's or permittee's agricultural operation  
2 shall be economically viable as specified by the  
3 board; and

4 (4) No encumbered or unencumbered non-agricultural park  
5 lands with soils classified by the land study bureau's  
6 detailed land classification as overall (master)  
7 productivity rating class A or B shall be transferred  
8 for the use or development of golf courses, golf  
9 driving ranges, and country clubs.

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

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

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



1       (e) 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 not  
 6 less than one year shall be provided to the then-current lessee  
 7 or permittee.

8       (f) Removal of any land pursuant to subsection (e) 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 4. 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 5. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18       SECTION 6. This Act shall take effect on July 1, 2050.

**Report Title:**

Hawaii Department of Agriculture; Department of Land and Natural Resources; Non-Agricultural Park Lands; Transfer; Easements

**Description:**

Before the transfer of non-agricultural park lands, authorizes the Department of Agriculture to request information from the Department of Land and Natural Resources related to the establishment of necessary and reasonable easements upon the lands. Amends legislative findings regarding non-agricultural park lands. Requires the Department of Agriculture to accept the transfer of and manage certain qualifying non-agricultural park lands. Requires the Department of Agriculture, prior to offering a lease, to inquire with the Department of Land and Natural Resources regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease. Continue to require the lessee to maintain a conservation plan. 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. Effective 7/1/2050. (SD1)

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