

ACT 237

H.B. NO. 3137

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Widespread development of farm ownership is one of several stipulated uses for proceeds from the public land trust. The continued growth and development of diversified agriculture throughout the State is an objective of the Hawaii state plan as stated in chapter 226, Hawaii Revised Statutes.

Certain permittees of agricultural lands have occupied such state lands for long periods of time, but because their tenure is on a month-to-month basis, they do not have security in the assurance of continued tenure on the land and are not able to obtain financing for improving their farm because financing is not available due to the lack of long-term tenure. Farmers who depend on the state land for their livelihood are constrained by their uncertain tenure from developing the land and using it more productively.

Section 171-32, Hawaii Revised Statutes, provides that, unless otherwise specifically authorized by chapter 171 or by subsequent legislation, all dispositions of public lands shall be by lease only, disposed of by public auction. If the lands now occupied by certain permittees, who have been on the land for many years, are leased by public auction, there is a high probability that the permittees will not prevail as successful bidders on the land and would be displaced, thereby resulting in the relocation of farmers who may be forced to turn to public agencies for economic assistance.

The purpose of this Act is to authorize the department of land and natural resources to negotiate long-term leases under specific terms, conditions, and restrictions imposed by this Act with certain permittees of agricultural land. The legislature finds that it is in the public interest to assist qualifying permittees who depend on farming the state land for a livelihood, that the purpose of this Act is consistent with objectives of the Hawaii state plan, and further if the offer of assistance provided by this Act is accepted by qualifying permittees, the State would realize greater returns from the long-term disposition of lands now under permit.

It is the express intent of this Act that public lands under permit for purposes other than agricultural use be excluded from the coverage of this Act.

SECTION 2. The department of land and natural resources, hereinafter in this Act referred to as "the department", may negotiate and enter into leases of not less than fifteen years and not more than thirty-five years with any person who:

- (1) As of the effective date of this Act, holds a revocable permit for (a) agricultural, or (b) residential and home gardening purposes, issued in accordance with section 171-55; or

- (2) Has formerly held a state agricultural lease which expired within the last five years preceding the effective date of this Act and has continued to occupy the state land; and
- (3) Does not own agriculturally-zoned land of twenty five acres or more in the State, individually or jointly with spouse, or whose spouse does not own twenty five acres or more of agriculturally-zoned land in the State.

SECTION 3. The lands eligible for lease negotiation under section 2 of this Act are limited to those lands:

- (1) Not needed by any state or county agency for any other public purpose;
- (2) Zoned and used for agricultural purposes; and
- (3) Not used for sugarcane or pineapple cultivation.

SECTION 4. In negotiating and executing a lease as authorized by section 2, the board of land and natural resources shall:

- (1) Require appraisal of the parcel in accordance with section 171-17(b);
- (2) Impose such other lease provisions, restrictions, and conditions provided by sections 171-35, 171-36, and 171-37 as may be required to protect the State's interests;
- (3) Recover from the lessee the costs of surveying and subdividing the parcel incurred by the department; and
- (4) Require the payment of annual lease rent based on fair market value and a premium, computed at twenty-five per cent of annual lease rent, with the premium to be added to the annual lease rent for each year of the lease equal to the number of years that the lessee had occupied the land under revocable permit, as illustrated by the following example: if a lessee had occupied the land under revocable permit for ten continuous years, the twenty-five per cent premium shall be part of the annual lease rent for the first ten years of the lease.

SECTION 5. Within six months from the effective date of this Act, the department shall notify in writing the permittees of lands eligible for lease negotiations under this Act and shall inform the permittees of the terms, conditions, and restrictions provided by this Act. Any permittee may apply for a lease, provided that the application shall be submitted to the department in writing within thirty days from the date of receipt of notification; provided further that the department may require documentary proof of any applicant to determine that the applicant meets eligibility and qualification requirements for a lease as specified by this Act.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 1988-1989, to implement the purposes of this Act. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act. The department of land and natural resources may hire temporary personnel and consultants without regard to the requirements of chapters 76 and 77, and section 78-1 to carry out duties and responsibilities necessary in implementing this Act.

SECTION 7. This Act shall take effect on July 1, 1988, and shall be repealed on July 1, 1991.

(Approved June 8, 1988.)