

## ACT 102

S.B. NO. 1473

A Bill for an Act Relating to Agricultural Parks.

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

SECTION 1. Section 166-3, Hawaii Revised Statutes, is amended to read as follows:

**“§166-3 Authority to plan, develop, and manage agricultural parks.** [After June 30, 1986, the] The department of agriculture shall plan, develop, and manage agricultural parks in accordance with this chapter, on public lands set aside by the governor for use as agricultural parks pursuant to section 171-11[.]; on other lands with the approval of the board of agriculture as may be subject to a partnership agreement pursuant to sections 166-4 and 166-5; and on lands acquired by the department by way of foreclosure, voluntary surrender, or otherwise pursuant to section 155-4(12).”

SECTION 2. Section 166-5, Hawaii Revised Statutes, is amended to read as follows:

**“§166-5 Joint ventures.** Any agricultural park developed by the [State] department in partnership with a federal agency, a county, or a private party shall be subject to a partnership agreement approved by the board of agriculture, which agreement shall provide, at a minimum:

- (1) A determination by the board that it is in the public interest to enter into the partnership agreement;
- (2) Long-term assurance that the land will be utilized for agricultural or aquacultural purposes;
- (3) [State] Board approval of the agricultural park development plans and specifications;
- (4) [State selection] Selection and management of lessees[;] in a manner approved by the board; and
- (5) Conditions to ensure a public benefit from any state funds expended for the project.”

SECTION 3. Section 166-6, Hawaii Revised Statutes, is amended to read as follows:

**“§166-6 Disposition.** (a) Any provision of this chapter to the contrary notwithstanding, the board may by negotiation, drawing of lot, or public auction, directly dispose of public lands and related facilities set aside and designated for use as agricultural parks, and any other lands and facilities under the jurisdiction of the department pursuant to section 166-3 and notwithstanding chapter 171 [by negotiation, drawing of lot, or public auction]. [The] Except as provided by subsection (c), dispositions may be by lease and shall be subject to the requirements set forth in rules adopted by the board in conformity with section 166-9, and subject also to the following limitations:

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- (1) The property shall be disposed of for agricultural or aquacultural purposes only;
- (2) The lessee shall derive the major portion of the lessee's total annual income from the lessee's activities on the premises; provided that this restriction shall not apply if failure to meet the restriction results from mental or physical disability or the loss of a spouse, or if the premises are fully utilized in the production of crops or products for which the disposition was granted;
- (3) The lessee shall comply with all federal and state laws regarding environmental quality control;
- (4) The board shall determine the specific uses for which the disposition is intended; parcel the land into minimum size economic units sufficient for the intended uses; make<sup>1</sup> or require the lessee to make[, such] improvements as are required to achieve the intended uses; set the upset price or lease rent based upon fair market value for the intended use of a lot; set the term of the lease, which shall be not less than fifteen years nor more than fifty-five years, including any extension granted for mortgage lending or guarantee purposes; and establish [such] other terms and conditions as it may deem necessary, including but not limited to restrictions against alienation and provisions for withdrawal by the board;
- (5) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any of its political subdivisions; and
- (6) Any transferee, assignee, or sublessee of an agricultural park lease shall first qualify as an applicant under this chapter. For the purpose of this paragraph, any transfer, assignment, sale, or other disposition of any interest, excluding a security interest, of any legal entity which holds an agricultural park lease shall be treated as a transfer of the agricultural park lease and shall be subject to the approval of the board of agriculture upon [such] reasonable terms and conditions, not inconsistent with this chapter or rules of the board, which the board may deem necessary. No [such] transfer shall be approved by the board if the disposition of the stock, or assets or other interest of the legal entity would result in the failure of the entity to qualify for an agricultural park lease.

(b) The violation of any provision contained in this section shall be sufficient cause for the board, after due notice of breach or default as provided in rules adopted by the board in conformance with section 166-9, to cancel the lease and take possession of the land.

[Further, the] (c) The board of agriculture may issue easements, permits, and rights of entry covering agricultural park lands for [use] uses consistent with the purposes for which the lands were set aside [on the same terms, conditions, and restrictions applicable to the disposition of public lands as provided in chapter 171.] or are otherwise subject to the authority of the department pursuant to section 166-3.<sup>22</sup>

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 7, 1993.)

**Note**

1. Prior to amendment “;” appeared here.