

ACT 90

S.B. NO. 1034

A Bill for an Act Relating to Agricultural Lands.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to title 11, to be appropriately designated and to read as follows:

**“CHAPTER
NON-AGRICULTURAL PARK LANDS**

§ **-1 Legislative findings.** The legislature finds that article XI, section 10, of the State Constitution establishes that “the public lands shall be used for the development of farm and homeownership on as widespread a basis as possible, in accordance with procedures and limitations prescribed by law.”

Therefore, the legislature finds that certain public lands classified for agricultural use by the department of land and natural resources should be transferred to the department of agriculture, with the approval of the board of land and natural resources and the board of agriculture, for purposes and in a manner consistent with article XI, section 10, of the State Constitution.

The purpose of this chapter is to ensure the long-term productive use of public lands leased or available to be leased by the department of land and natural resources for agricultural purposes by allowing these lands to be transferred to and managed by the department of agriculture.

§ **-2 Definitions.** For the purposes of this chapter:

“Agricultural activities” means the care and production of livestock, live-stock products, poultry, or poultry products, or apiary, horticultural, or floricultural products, or the planting, cultivating, and harvesting of crops or trees.

“Board” means the board of agriculture.

“Department” means the department of agriculture.

“Non-agricultural park lands” means lands that are not designated as agricultural parks pursuant to chapter 166.

§ -3 Transfer and management of non-agricultural park lands and related facilities to the department of agriculture. (a) Upon mutual agreement and approval of the board and the board of land and natural resources:

- (1) The department may accept the transfer of and manage certain qualify- ing non-agricultural park lands; and
- (2) Certain assets, including position counts, related to the management of existing encumbered and unencumbered non-agricultural park lands and related facilities shall be transferred to the department.

(b) The department shall administer a program to manage the transferred non-agricultural park lands under rules adopted by the board pursuant to chapter 91. The program and its rules shall be separate and distinct from the agricultural park program and its rules. Non-agricultural park lands are not the same as, and shall not be selected or managed as are lands under agricultural park leases. Notwithstanding any other law to the contrary, the program shall include the following conditions pertaining to encumbered non-agricultural park lands:

- (1) The lessee or permittee shall perform in full compliance with the existing lease or permit;
- (2) The lessee or permittee shall not be in arrears in the payment of taxes, rents, or other obligations owed to the State or any county; and
- (3) The lessee's or permittee's agricultural operation shall be economically viable as specified by the board.
- (4) No encumbered or unencumbered non-agricultural park lands with soils classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B shall be transferred for the use or development of golf courses, golf driving ranges, and country clubs.

The transfer of non-agricultural park lands shall be done in a manner to be determined by the board of agriculture may include more than one parcel; provided that these parcels are geographically adjacent to one another.

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

§ -4 Conversion of qualified and encumbered other agricultural lands. The department shall establish criteria and rules pursuant to chapter 91 and subject to approval by the board to convert qualified and encumbered non-agricultural park lands to department leases or other forms of encumbrance.

§ -5 Extension of other agricultural lands encumbered by permit and transferred to and managed by the department. Notwithstanding chapter 171, the board shall establish criteria and rules to allow the cancellation, renegotiation, and extension of transferred encumbrances by the department. Notwithstanding any law to the contrary, leases of encumbered non-agricultural park lands transferred to the department shall not have their respective length of term or rents reduced over the remaining fixed term of the leases.

§ -6 Rules. The board shall adopt rules pursuant to chapter 91 to effectuate the purposes of this chapter."

SECTION 2. The board of agriculture and the board of land and natural resources shall jointly report to the legislature, not later than twenty days prior to the convening of the 2004 regular session, on their efforts to effectuate the transfers authorized under this Act.

SECTION 3. This Act shall not be applied so as to impair any contract existing as of the effective date of this Act in a manner violative of either the Constitution of the State of Hawaii or Article I, Section 10, of the United States Constitution.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 2003.)