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# A BILL FOR AN ACT

RELATING TO FARM WORKER HOUSING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that it is difficult for  
2 farmers in Hawaii who operate small farms to make their farms  
3 sustainable for a myriad of reasons, including but not limited  
4 to disease and pest control, bad weather, available and reliable  
5 markets, and the availability of good farm laborers. The  
6 legislature also finds that finding good farm laborers is a  
7 challenge for many farmers of small farms because although most  
8 are able to pay laborers a decent wage, the farmers are unable  
9 to provide incentives such as affordable farm housing to  
10 laborers.

11           Farm labor housing, like affordable rental housing, is  
12 scarce in Hawaii primarily because of the cost of land and  
13 construction. For farmers of small farms in Hawaii,  
14 particularly those that are long-term lessees of agricultural  
15 and non-agricultural parks, there are prohibitive factors  
16 including restrictive conditions in lease agreements with the  
17 State. Generally, farmers that have long-term agricultural land  
18 leases of privately owned land in Hawaii have provisions in the



1 leases that allow them to build farm labor housing in addition  
 2 to an owner-occupied residential dwelling. It appears that this  
 3 may not be for every farmer who has a long-term lease to farm  
 4 agricultural and non-agricultural parks because the lease  
 5 agreements with the department of agriculture limit the lessee  
 6 to one farm or employee dwelling per lot, upon demonstration of  
 7 need and approval of the board of agriculture, which must serve  
 8 as the principal residence of the lessee.

9 The purpose of this Act is to temporarily provide long-term  
 10 lessees of non-agricultural parks with the opportunity to build  
 11 farm labor housing on their leased lots by removing building  
 12 restrictions in lease agreements. The legislature believes that  
 13 removing these restrictions will have two major benefits:

- 14 (1) Long-term lessees of non-agricultural parks will be  
 15 able to recruit good, reliable farm laborers that can  
 16 help them develop sustainable farms; and
- 17 (2) Farm laborers will have access to stable, affordable  
 18 rental housing for themselves and their families.

19 SECTION 2. Section 166E-8, Hawaii Revised Statutes, is  
 20 amended by amending subsection (b) to read as follows:



1           "(b) In all dispositions, the department shall be subject  
2 to the requirements set forth in rules adopted by the board  
3 consistent with section 166E-6 and subject to the following:

4           (1) All land and facilities shall be disposed of for  
5 purposes of agricultural or aquacultural activities  
6 only;

7           (2) Each lessee shall derive a major portion of the  
8 lessee's total annual income earned from the lessee's  
9 activities on the premises; provided that this  
10 restriction shall not apply if:

11           (A) Failure to meet the restriction results from  
12 mental or physical disability or the loss of a  
13 spouse; or

14           (B) The premises are fully used in the production of  
15 crops or products for which the disposition was  
16 granted;

17           (3) The lessee shall comply with all federal and state  
18 laws regarding environmental quality control;

19           (4) The board shall:

20           (A) Determine the specific uses for which the  
21 disposition is intended;



- 1 (B) Parcel the land into minimum size economic units
- 2 sufficient for the intended uses;
- 3 (C) Make, or require the lessee to make, improvements
- 4 that are required to achieve the intended uses;
- 5 (D) Set the upset price or lease rent based upon an
- 6 appraised evaluation of the property value,
- 7 adjustable to the specified use of the lot;
- 8 (E) Set the term of the lease that shall be not less
- 9 than fifteen years nor more than sixty-five
- 10 years, including any extension granted for
- 11 mortgage lending or guarantee purposes; and
- 12 (F) Establish other terms and conditions it deems
- 13 necessary, including but not limited to
- 14 restrictions against alienation and provisions
- 15 for withdrawal by the board; [~~and~~]
- 16 (5) Upon demonstration of need and approval of the board,
- 17 one or more employee dwellings may be built on a lot
- 18 that is leased by a long-term lessee with lease terms
- 19 of at least thirty-five years and a lot size of at
- 20 least five acres; provided that:



1           (A) The employee dwelling shall serve as the  
2           principal residence of employees employed by the  
3           long-term lessee; and

4           (B) The employee dwellings not owned by their  
5           occupants shall be rented or leased at affordable  
6           rates for agricultural workers, and the lease  
7           rent shall be adjusted to reflect the residential  
8           use of the lot; and

9       ~~(5)~~ (6) Any transferee, assignee, or sublessee of a non-  
10       agricultural park lease shall first qualify as an  
11       applicant under this chapter. For the purpose of this  
12       paragraph, any transfer, assignment, sale, or other  
13       disposition of any interest, excluding a security  
14       interest, by any legal entity that holds a non-  
15       agricultural park lease shall be treated as a transfer  
16       of the non-agricultural park lease and shall be  
17       subject to the approval of the board and to reasonable  
18       terms and conditions, consistent with this chapter or  
19       rules of the board that the board may deem necessary.  
20       No transfer shall be approved by the board if the  
21       disposition of the stock or assets or other interest



1 of the legal entity would result in the failure of the  
2 entity to qualify for a non-agricultural park land  
3 lease."

4 SECTION 3. (a) The department of agriculture shall  
5 examine the implementation of rental housing on non-agricultural  
6 park lands as it relates to tenants, including the following:

7 (1) Activities related to agriculture on non-agricultural  
8 park lands;

9 (2) A performance plan with the board of agriculture to  
10 improve agriculture production on non-agricultural  
11 park lands;

12 (3) Procedures to remove tenants living in rental housing  
13 on non-agricultural park lands for failure to actively  
14 farm;

15 (4) Whether to continue to allow employee dwellings on  
16 non-agricultural park lands; and

17 (5) Whether lessees are complying with the obligation to  
18 actively farm the leased land.

19 (b) The department of agriculture shall submit a report of  
20 its findings, recommendations, and proposed legislation to the  
21 legislature no later than twenty days prior to the convening of



1 the regular session of 2018. The report's findings shall  
2 include the number of lessees of non-agricultural park lands  
3 placed on compliance plans with the board of agriculture, the  
4 number of lessees removed for failure to actively farm, and the  
5 number of tenants actively farming.

6 SECTION 4. There is appropriated out of the general  
7 revenues of the State of Hawaii the sum of \$ or so  
8 much thereof as may be necessary for fiscal year 2015-2016 and  
9 the same sum or so much thereof as may be necessary for fiscal  
10 year 2016-2017 for enforcement to ensure that tenants living in  
11 rental housing on non-agricultural park lands are living in  
12 farming residences, including rentals, and are accessory to  
13 agricultural use.

14 The sums appropriated shall be expended by the department  
15 of agriculture for the purposes of this Act.

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, 2015;  
19 provided that section 2 shall be repealed on June 29, 2018.



**Report Title:**

Farm Worker Housing; Non-agricultural Parks; Appropriation

**Description:**

Allows, until 6/29/2018, one or more employee dwellings to be built on a non-agricultural park lot that is leased by a long-term lessee with lease terms of at least thirty-five years and a lot size of at least five acres, with restrictions.

Appropriates an unspecified amount from the general fund to be expended by the department of agriculture for rental housing enforcement on non-agricultural park lands. (SD1)

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