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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. Chapter 163D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§163D-       Irrigation repair and maintenance special fund.

5           (a) There is established in the state treasury the irrigation  
6 repair and maintenance special fund that shall be administered  
7 by the corporation.

8           (b) Moneys in the irrigation repair and maintenance  
9 special fund shall be used for the repair and maintenance of the  
10 following irrigation systems:

- 11           (1) East Kauai irrigation system;  
12           (2) Kekaha ditch;  
13           (3) Kokee ditch;  
14           (4) Maui Land/Pioneer Mill irrigation system;  
15           (5) Waiahole ditch;  
16           (6) Lower Hamakua irrigation system;  
17           (7) Molokai irrigation system;  
18           (8) Upcountry Maui irrigation system;



1        (9) Waimanalo irrigation system;

2        (10) Waimea irrigation system;

3        (11) East Maui irrigation system;

4        (12) Kauai coffee irrigation system;

5        (13) West Maui irrigation system;

6        (14) Kau irrigation system;

7        (15) Honomalino irrigation system; and

8        (16) Other privately-owned irrigation systems on former  
9        sugarcane and pineapple plantation lands that have  
10       been converted to diversified agriculture.

11       (c) The irrigation repair and maintenance special fund  
12       shall be funded by legislative appropriations, including general  
13       obligation bond funds and federal funds.

14       (d) Landowners may apply for funding assistance from the  
15       irrigation repair and maintenance special fund; provided that  
16       the landowner:

17       (1) Provides matching funding equal to the amount received  
18       from the irrigation repair and maintenance special  
19       fund;

20       (2) Agrees to file a petition for declaratory ruling  
21       pursuant to section 205-45 designating all lands it  
22       owns or controls within two miles of the water



1           produced by the irrigation system as important  
2           agricultural lands as defined under part III of  
3           chapter 205 and notifies the corporation and county of  
4           the petition and designation for the purpose of  
5           inclusion on maps; and  
6           (3) Agrees to use all lands it owns or controls that are  
7           served by the water produced by the irrigation system  
8           for diversified agriculture production.

9           The corporation shall develop processes, policies,  
10          standards, and criteria for selecting the landowners that are to  
11          receive funding and the amount of such funding. The corporation  
12          shall also develop processes, policies, standards, and criteria  
13          for determining the amount of funding for each State-owned  
14          irrigation system listed in subsection (b).

15          (e) Landowners who apply for and receive funding from the  
16          irrigation repair and maintenance special fund and who provide  
17          matching funding under subsection (d)(1) may apply for an income  
18          tax credit for their matching funds as specified under section  
19          235- .

20          (f) As used in this section:  
21          "Diversified agriculture" means agricultural operations  
22          that produce diversified agricultural products, including but

1 not limited to flowers, nursery products, vegetables, herbs,  
2 melons, seed crops, macadamia nuts, aquaculture, coffee, milk,  
3 cattle, eggs, hogs, and fruit but not sugarcane and pineapple.

4 "Irrigation system" means the agricultural system of  
5 intakes, diversions, wells, ditches, siphons, pipes, reservoirs,  
6 and accessory facilities established to provide water for  
7 agricultural production.

8 "Landowner" means a private entity that:

9 (1) Owns agricultural land, formerly used as a sugarcane  
10 or pineapple plantation that contains a  
11 privately-owned irrigation system that is necessary  
12 for the sustained production of diversified  
13 agriculture on the land served by the irrigation  
14 system; or

15 (2) Owns or partially owns an irrigation system listed in  
16 subsection (b) (1) through (16)."

17 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
18 amended by adding a new section to be appropriately designated  
19 and to read as follows:

20 **"§235- Irrigation repair and maintenance special fund**  
21 **tax credit.** (a) There shall be allowed to each qualified  
22 taxpayer, pursuant to section 163D- (e) and subject to the



1 taxes imposed by this chapter, an income tax credit which shall  
2 be deductible from the qualified taxpayer's net income tax  
3 liability, if any, imposed by this chapter for the taxable year  
4 in which the credit is properly claimed.

5 The amount of the credit shall be equal to the amount of  
6 matching funds provided by the qualified taxpayer in obtaining  
7 funding from the irrigation repair and maintenance special fund,  
8 as specified in section 163D- (d)(1); provided that:

9 (1) The amount of the credit shall not exceed \$ \_\_\_\_\_,  
10 per year in the aggregate for all qualified taxpayers;

11 (2) The amount of the credit shall not exceed \$ \_\_\_\_\_,  
12 in the aggregate for all qualified taxpayers for all  
13 taxable years; and

14 (3) The tax credit shall be available for matching fund  
15 costs incurred after December 31, 2005, and before  
16 January 1, 2026.

17 In the case of a partnership, S corporation, estate, or  
18 trust, the cost upon which the tax credit is computed shall be  
19 determined at the entity level. Distribution and share of  
20 credit shall be determined pursuant to section 235-110.7(a).

21 If a deduction is taken under Section 179 (with respect to  
22 election to expense depreciable business assets) of the Internal



1 Revenue Code, no tax credit shall be allowed for that portion of  
2 the construction or renovation cost for which the deduction is  
3 taken.

4 The basis of eligible property for depreciation or  
5 accelerated cost recovery system purposes for state income taxes  
6 shall be reduced by the amount of credit allowable and claimed.

7 In the alternative, the qualified taxpayer shall treat the  
8 amount of the credit allowable and claimed as a taxable income  
9 item for the taxable year in which it is properly recognized  
10 under the method of accounting used to compute taxable income.

11 (b) If the tax credit under this section exceeds the  
12 qualified taxpayer's income tax liability, the excess of credit  
13 over liability may be used as a credit against the qualified  
14 taxpayer's income tax liability in subsequent years until  
15 exhausted. All claims for a tax credit under this section shall  
16 be filed on or before the end of the twelfth month following the  
17 close of the taxable year for which the credit may be claimed.  
18 Failure to comply with the foregoing provision shall constitute  
19 a waiver of the right to claim the credit.

20 (c) The director of taxation shall prepare any forms that  
21 may be necessary to claim a credit under this section. The  
22 director may also require the qualified taxpayer to furnish



1 information to ascertain the validity of the claim for credit  
2 made under this section and may adopt rules pursuant to chapter  
3 91 necessary to effectuate the purposes of this section.

4 (d) To qualify for the income tax credit, the qualified  
5 taxpayer shall be in compliance with all applicable federal,  
6 state, and county statutes, rules, and regulations.

7 (e) No qualified taxpayer that claims a credit under this  
8 section shall claim any other tax credit for the same costs for  
9 which a credit is claimed under this section.

10 (f) No later than March 31 of each year following the year  
11 in which the cost of matching funds provided by the qualified  
12 taxpayer in obtaining funding from the irrigation repair and  
13 maintenance special fund were incurred, each qualified taxpayer  
14 claiming the tax credit shall submit a written, notarized  
15 statement to the director of taxation identifying the matching  
16 fund costs incurred in the year being claimed.

17 (g) The department of taxation, with the assistance of the  
18 agribusiness development corporation, shall maintain records of  
19 the names of qualified taxpayers eligible for the credit and the  
20 total amount of eligible costs incurred in each taxable year,  
21 beginning after December 31, 2005, by each qualified taxpayer.  
22 The department of taxation, with the assistance of the



1 agribusiness development corporation, shall compile all eligible  
2 matching fund costs, and upon each determination, shall issue a  
3 certificate to the taxpayer pursuant to subsection (h)  
4 indicating:

5 (1) The amount of matching fund costs eligible for the tax  
6 credit;

7 (2) The amount of the tax credit that the qualified  
8 taxpayer may use for the tax year in which the costs  
9 were incurred; and

10 (3) The amount of previous tax credits the qualified  
11 taxpayer may carry forward.

12 (h) The department of taxation shall certify no more than  
13 \$ \_\_\_\_\_, in credits in the aggregate, including carryforward  
14 amounts, for all qualified taxpayers for each taxable year;  
15 provided that if the total amount claimed on all statements in  
16 the aggregate, including carryforward amounts, filed by March 31  
17 for the previous tax year amounts to:

18 (1) \$ \_\_\_\_\_, or less, the department of taxation shall  
19 certify all claims; and

20 (2) More than \$ \_\_\_\_\_, the department of taxation  
21 shall certify claims for each qualified taxpayer in an  
22 amount proportional to the total amount claimed.





1 The department of taxation shall certify no more than  
2 \$ \_\_\_\_\_, in credits, including carryforward amounts, in the  
3 aggregate for all qualified taxpayers for all taxable years.

4 (i) As used in this section "qualified taxpayer" means the  
5 same as "landowner" under section 163D- (f)."

6 SECTION 3. The director of finance is authorized to issue  
7 general obligation bonds in the sum of \$ \_\_\_\_\_, or so much  
8 thereof as may be necessary, and the same sum, or so much  
9 thereof as may be necessary, is appropriated for fiscal year  
10 2006-2007, to be deposited into the irrigation repair and  
11 maintenance special fund and used for the repair and maintenance  
12 of the irrigation systems specified under section 163D- (b),  
13 Hawaii Revised Statutes; provided that \$ \_\_\_\_\_ in federal  
14 matching funds are also deposited into the irrigation repair and  
15 maintenance special fund.

16 The sum appropriated shall be expended by the department of  
17 budget and finance for the purposes of this Act.

18 SECTION 4. There is appropriated out of the irrigation  
19 repair and maintenance special fund the sum of \$ \_\_\_\_\_, or  
20 so much thereof as may be necessary for fiscal year 2006-2007,  
21 to be expended for the repair and maintenance of the irrigation

1 systems specified under section 163D- (b), Hawaii Revised  
2 Statutes.

3 The sum appropriated shall be expended by the agribusiness  
4 development corporation for the purposes of this Act.

5 SECTION 5. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$ , or so  
7 much thereof as may be necessary for fiscal year 2006-2007, for  
8 repair and maintenance of irrigation systems as follows:

- 9 (1) \$ for the East Kauai irrigation system;
- 10 (2) \$ for the Waimanalo irrigation system;
- 11 (3) \$ for the Molokai irrigation system;
- 12 (4) \$ for the Waimea irrigation system; and
- 13 (5) \$ for the Lower Hamakua irrigation system.

14 The sum appropriated shall be expended by the agribusiness  
15 development corporation for the purposes of this Act.

16 SECTION 6. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$ , or so  
18 much thereof as may be necessary for fiscal year 2006-2007, for  
19 operational, management, and administrative costs incurred by  
20 the agribusiness development corporation.

21 The sum appropriated shall be expended by the agribusiness  
22 development corporation for the purposes of this Act.

1           SECTION 7. The appropriation made for the capital  
2 improvement irrigation repair and maintenance projects  
3 authorized in this Act shall not lapse at the end of the fiscal  
4 year for which the appropriation is made; provided that all  
5 moneys from the appropriation unencumbered as of June 30, 2008,  
6 shall lapse as of that date.

7           SECTION 8. New statutory material is underscored.

8           SECTION 9. This Act shall take effect upon its approval;  
9 provided that:

- 10           (1) Section 2 shall take effect on July 1, 2006, and apply  
11           to taxable years beginning after December 31, 2005;  
12           and  
13           (2) Sections 3, 4, 5, 6, and 7 shall take effect on  
14           July 1, 2006.

**Report Title:**

Agribusiness Development Corporation

**Description:**

Establishes an irrigation repair and maintenance special fund.  
Establishes a tax credit for matching funds provided by  
landowners who receive funding from the special fund.  
Appropriates money for the repair of irrigation systems  
statewide. (SD2)

