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# A BILL FOR AN ACT

RELATING TO STATE ENTERPRISE ZONES.

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

1           SECTION 1. Chapter 209E, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "~~§209E-~~     Force majeure event; agricultural businesses.

5     If an agricultural business is:

6           (1) Wholly or partially prevented from maintaining  
7           eligibility requirements under section 209E-9; or

8           (2) Interrupted,

9     by reason of or through any force majeure event, then the  
10    agricultural business shall not be disqualified under this  
11    chapter. The agricultural business shall remain eligible for  
12    all tax incentives under this chapter during any period of time  
13    while experiencing conditions under paragraph (1) or (2) caused  
14    by a force majeure event, and the seven-year eligibility period  
15    shall be extended by this period of time. The agricultural  
16    business shall be as prompt and diligent as practicable in  
17    providing the department with notice of a force majeure event or  
18    of any situation that may lead to a force majeure event."



1 SECTION 2. Section 209E-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~f~~]**§209E-1**[~~f~~] **Purpose.** It is declared that the health,  
4 safety, and welfare of the people of this State are dependent  
5 upon the continual encouragement, development, growth, and  
6 expansion of the private sector, and that there are certain  
7 areas in the State that need the particular attention of  
8 government to help attract private sector investment.  
9 Therefore, it is the purpose of this chapter to stimulate  
10 business, agricultural, and industrial growth in areas [~~which~~]  
11 that would result in neighborhood revitalization of those areas  
12 by means of regulatory flexibility and tax incentives."

13 SECTION 3. Section 209E-2, Hawaii Revised Statutes, is  
14 amended by:

15 1. Adding three new definitions to be appropriately  
16 inserted and to read:

17 "Agricultural business" means any corporation,  
18 partnership, or sole proprietorship authorized to do business in  
19 the State that is qualified under section 209E-9, subject to the  
20 state corporate or individual income tax under chapter 235, and  
21 that is engaged in producing agricultural products pursuant to  
22 section 237-5, or processing agricultural products.



1       "Joint employment" means an employment arrangement:  
2       (1) Between two or more employers to share an employee's  
3       services, as for example, to interchange employees;  
4       (2) In which one employer acts directly or indirectly in  
5       the interest of the other employer or employers in  
6       relation to the employee; or  
7       (3) In which two or more employers are not completely  
8       disassociated with respect to the employment of a  
9       particular employee and may be deemed to share control  
10       of the employee, directly or indirectly, by reason of  
11       the fact that one employer controls, is controlled by,  
12       or is under common control by the other employer.

13       "Leased employee" means an employee under a professional  
14       employment organization arrangement who is assigned to a  
15       particular client company on a substantially full-time basis for  
16       at least one year."

17       2. By amending the definition of "full-time employee" to  
18 read:

19       "Full-time employee" means any employee, including leased  
20       employees and employees under a joint employment relationship,  
21       for whom the employer is legally required to provide employee  
22 fringe benefits."



1 SECTION 4. Section 209E-9, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) A business firm also may be eligible to be designated  
4 a qualified business for purposes of this chapter if the  
5 business:

6 (1) Is actively engaged in the conduct of a trade or  
7 business in an area immediately prior to an area being  
8 designated an enterprise zone;

9 (2) Meets the requirements of subsection (a)(2); and

10 (3) Increases its average annual number of full-time  
11 employees employed at the business' establishment or  
12 establishments located within the enterprise zone by  
13 at least ten per cent by the end of its first year of  
14 operation within the enterprise zone and by fifteen  
15 per cent annually[~~-~~] by the end of each of the fourth,  
16 fifth, sixth, and seventh years of operation,  
17 respectively, based upon the employee count at the  
18 beginning of the initial year of operation."

19 SECTION 5. Section 209E-10, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:

21 "(a) The department shall certify annually to the  
22 department of taxation the applicability of the tax credit



1 provided in this chapter for a qualified business against any  
2 taxes due the State[-]; provided that for agricultural  
3 businesses only, retail sales of value-added products made from  
4 crops grown within an enterprise zone shall count towards  
5 certification for the tax credit against any taxes due the  
6 State. Except for the general excise tax, the credit shall be  
7 eighty per cent of the tax due for the first tax year, seventy  
8 per cent of the tax due for the second tax year, sixty per cent  
9 of the tax due for the third year, fifty per cent of the tax due  
10 the fourth year, forty per cent of the tax due the fifth year,  
11 thirty per cent of the tax due the sixth year, and twenty per  
12 cent of the tax due the seventh year. Any tax credit not usable  
13 shall not be applied to future tax years."

14 SECTION 6. Section 209E-11, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§209E-11 State general excise exemptions.** The department  
17 shall certify annually to the department of taxation that any  
18 qualified business is exempt from the payment of general excise  
19 taxes on the gross proceeds from the manufacture of tangible  
20 personal property, the wholesale sale of tangible personal  
21 property, the engaging in a service business by a qualified  
22 business, or the engaging in research, development, sale, or





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**Report Title:**

Enterprise Zone; Agriculture; Eligibility; Income and Excise Tax

**Description:**

Qualifies agricultural businesses for enterprise zones and allows them to receive benefits in case of force majeure. Counts leased employees and joint employment workers in hiring formulas. Changes hiring increases for certain years of operation. Qualifies certain value-added agricultural sales towards certification for income tax credit and disallows general excise tax exemption for agricultural product retail sales.

