
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 a business engaged in agricultural production or processing
6 is:

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

9 (2) Interrupted,

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



1 majeure event or of any situation that may lead to a force
2 majeure event."

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

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

15 SECTION 3. Section 209E-2, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By adding three new definitions to be appropriately
18 inserted and to read:

19 "Force majeure event" means an event, including damaging
20 weather or natural disasters such as epidemic disease, pest
21 outbreak, high wind, thunderstorm, hail storm, tornado, fire,
22 flood, earthquake, lava flow or other volcanic activity,



1 drought, tidal wave, hurricane, or without limiting or
2 restricting the foregoing in any way, any event reasonably
3 beyond the control of, and not attributable to neglect by, an
4 agricultural business.

5 "Joint employment" means an employment arrangement:

6 (1) Between two or more employers to share an employee's
7 services, as for example, to interchange employees;

8 (2) In which one employer acts directly or indirectly in
9 the interest of the other employer or employers in
10 relation to the employee; or

11 (3) In which two or more employers are not completely
12 disassociated with respect to the employment of a
13 particular employee and may be deemed to share control
14 of the employee, directly or indirectly, by reason of
15 the fact that one employer controls, is controlled by,
16 or is under common control by the other employer.

17 "Leased employee" means an employee under a professional
18 employment organization arrangement who is assigned to a
19 particular client company on a substantially full-time basis for
20 at least one year."

21 2. By amending the definitions of "full-time employee"
22 and "qualified business" to read:



1 "Full-time employee" means any employee, including leased
2 employees and employees under a joint employment relationship,
3 for whom the employer is legally required to provide employee
4 fringe benefits.

5 "Qualified business" means any corporation, partnership, or
6 sole proprietorship authorized to do business in the [~~State~~]
7 state that is qualified under section 209E-9, subject to the
8 state corporate or individual income tax under chapter 235, and
9 [~~is~~]:

- 10 (1) Engaged in manufacturing, the wholesale sale of
11 tangible personal property as defined in section 237-
12 4, or a service business as defined in this chapter;
13 (2) Engaged in producing agricultural products where the
14 business is a producer as defined in section 237-5[+],
15 or engaged in processing agricultural products;
16 (3) Engaged in research, development, sale, or production
17 of all types of genetically-engineered medical,
18 agricultural, or maritime biotechnology products; or
19 (4) Engaged in producing electric power from wind energy
20 for sale primarily to a public utility company for
21 resale to the public."



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

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

5 (1) Begins the operation of a trade or business within an
6 enterprise zone;

7 (2) During each taxable year has at least fifty per cent
8 of its enterprise zone establishment's gross receipts
9 attributable to the active conduct of trade or
10 business within the enterprise zone;

11 (3) Increases its average annual number of full-time
12 employees by at least ten per cent by the end of its
13 first tax year of participation; and

14 (4) During each subsequent taxable year at least maintains
15 that higher level of employment[-];

16 provided that receipts from value-added products made from crops
17 grown within an enterprise zone and sold at retail pursuant to
18 the limits of subsection (e) shall count towards the gross
19 receipts required under paragraph (2) for business firms engaged
20 in producing or processing agricultural products.



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

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

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

8 (3) Increases its average annual number of full-time
9 employees employed at the business' establishment or
10 establishments located within the enterprise zone

11 [~~by~~]:

12 (A) By at least ten per cent [~~annually.~~] by the end
13 of the first year of operation; and

14 (B) By at least fifteen per cent by the end of each
15 of the fourth, fifth, sixth, and seventh years of
16 operation;

17 provided that the percentage increase shall be based
18 upon the employee count at the beginning of the
19 initial year of operation."

20 SECTION 5. Section 209E-11, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§209E-11 State general excise exemptions.** The department
2 shall certify annually to the department of taxation that any
3 qualified business is exempt from the payment of general excise
4 taxes on the gross proceeds from the manufacture of tangible
5 personal property, the wholesale sale of tangible personal
6 property, the engaging in a service business by a qualified
7 business, or the engaging in research, development, sale, or
8 production of all types of genetically-engineered medical,
9 agricultural, or maritime biotechnology products[-]; provided
10 that agricultural businesses shall not be exempt from the
11 payment of general excise taxes on the gross proceeds of
12 agricultural retail sales. The gross proceeds received by a
13 contractor licensed under chapter 444 shall be exempt from the
14 general excise tax for construction within an enterprise zone
15 performed for a qualified business within an enterprise zone.
16 The exemption shall extend for a period not to exceed seven
17 years."

18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 7. This Act shall take effect on July 1, 2034.



Report Title:

Enterprise Zone; Agriculture; Eligibility; Income and Excise Tax

Description:

Allows agricultural businesses to continue to qualify for zone benefits in case of force majeure events; includes leased and jointly employed workers in hiring formulas; changes schedule of hiring increases; counts value-added agricultural product retail sales towards qualification for tax credits; disallows general excise tax exemption for agricultural product retail sales.

(HB2739 HD1)

