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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 **PART I**

2 SECTION 1. The purpose of this part is to promote fiscal  
3 accountability with regard to agricultural land lease agreements  
4 between the State and lessees by allowing the agribusiness  
5 development corporation to contract with financial institutions  
6 to provide lease management services.

7 SECTION 2. Section 163D-7, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "~~+~~§163D-7~~+~~ **Agricultural projects; agricultural**  
10 **development plans.** (a) The corporation may develop and  
11 implement agricultural projects where large tracts of  
12 agricultural land have been or will be taken out of productive  
13 agriculture or where, through detailed analysis, opportunities  
14 exist to exploit potential local, national, and international  
15 markets.

16 (b) The corporation may initiate and coordinate the  
17 preparation of business and agricultural development plans for  
18 its projects. The plans shall include a proposal for the



1 organization of the enterprise, a marketing information and  
2 strategy, the impact on existing agricultural operations  
3 throughout the State, and a recommendation for the construction,  
4 reconstruction, rehabilitation, improvement, alteration, or  
5 repair of any infrastructure or accessory facilities in  
6 connection with any project.

7 (c) The corporation may enter into cooperative agreements  
8 with coordinating entrepreneurs or public agencies when the  
9 powers, services, and capabilities of the persons or agencies  
10 are deemed necessary and appropriate for the development and  
11 implementation of the business and agricultural development  
12 plans.

13 (d) The corporation may purchase, accept, and maintain  
14 permanent conservation easements, or transfer these easements to  
15 a qualified land trust in accordance with the federal Natural  
16 Resources Conservation Service farm and ranch lands protection  
17 program.

18 (e) Notwithstanding any provision of this chapter to the  
19 contrary, when leasing corporation-controlled agricultural land,  
20 the corporation may contract with a financial institution  
21 chartered under chapter 412 or a federal financial institution,  
22 as defined under section 412:1-109, that transacts business in



1 this State to provide lease management services. For the  
2 purposes of this subsection, "lease management services"  
3 includes the collection of lease rent and any other moneys owed  
4 to the corporation related to the lease of agricultural land  
5 under the corporation's control.

6 [~~(e)~~] (f) The agricultural planning activities of the  
7 corporation shall be coordinated with the county planning  
8 departments and the county land use plans, policies, and  
9 ordinances.

10 [~~(e)~~] (g) The corporation may amend the business and  
11 agricultural development plans as may be necessary.

12 [~~(f)~~] (h) Any undertaking by the corporation pursuant to  
13 this chapter shall be with the express written consent of the  
14 landowner or landowners directly affected."

15 **PART II**

16 SECTION 3. The purpose of this part is to ensure the long-  
17 term availability of lands suitable for agricultural activities  
18 by authorizing the agribusiness development corporation to lease  
19 lands acquired under this Act for up to fifty-five years.

20 SECTION 4. Section 163D-15.6, Hawaii Revised Statutes, is  
21 amended to read as follows:



1 " ~~+~~ §163D-15.6 Commitment and preservation of agricultural  
2 leases. ~~+~~ (a) The agribusiness development corporation shall  
3 work toward obtaining commitments from landowners in the leeward  
4 and central districts of Oahu that their agricultural leases  
5 shall be for a duration of twenty or more years ~~+~~ and shall not  
6 be amended or revoked ~~[in order]~~ to allow for a nonagricultural  
7 use of ~~such~~ the land ~~+~~; provided that for lands in central  
8 Oahu acquired under Act , Session Laws of Hawaii 2008, the  
9 agricultural leases shall be for no more than fifty-five years.  
10 (b) To further ensure the preservation of agriculture in  
11 the leeward and central districts of Oahu, the agribusiness  
12 development corporation shall monitor the agricultural leases of  
13 lands ~~utilizing~~ using the water from the Waiahole water  
14 system. In the event of any proposed amendment or revocation of  
15 any ~~such~~ lease, the corporation shall do all things within its  
16 powers under ~~+~~ this chapter ~~+~~ to protect and defend the  
17 interests of the agricultural leaseholders to ensure the  
18 continuation of agricultural use for those lands."

19 **PART III**

20 SECTION 5. The purpose of this part is to comply with  
21 article XI, sections 3, 4, and 10 of the state constitution,  
22 relating to the protection of agricultural lands, public land



1 banking, and the promotion of farm ownership and diversified  
2 agriculture, by establishing a process to ensure that certain  
3 agricultural lands on the island of Oahu and owned by the  
4 Galbraith Estate:

- 5 (1) Remain available for agricultural use;
- 6 (2) Are properly managed to ensure their continued  
7 economic viability while being used for agriculture;  
8 and
- 9 (3) Are managed in a manner that is sensitive to and  
10 consistent with the needs of farmers in the Waialua  
11 area.

12 The legislature finds that this part is in accordance with  
13 article XI, sections 3, 4, and 10 of the state constitution, is  
14 in the public interest, and will preserve agricultural  
15 activities in the area and a lifestyle that benefits the  
16 community at large.

17 SECTION 6. Chapter 163D, Hawaii Revised Statutes, is  
18 amended by adding three new sections to be appropriately  
19 designated and to read as follows:

20 "§163D-A Acquisitions of important agricultural lands  
21 authorized by the legislature. (a) The legislature may  
22 authorize the corporation to acquire agricultural lands for the



1 protection of agricultural lands, public land banking, or the  
2 promotion of farm ownership and diversified agriculture.

3 (b) The acquisition shall be authorized by a bill enacted  
4 into law and shall contain:

5 (1) A statement of the value of the interest in land as a  
6 resource to the State;

7 (2) A description of the specific parcel of land or  
8 agricultural easement proposed to be acquired;

9 (3) The name of the owner of the property; and

10 (4) The estimated costs of acquiring the interest in the  
11 land.

12 (c) The landowner shall receive payment for the interest  
13 in the land in a lump sum, through an installment purchase  
14 agreement as determined pursuant to section 163D-B, or from  
15 revenues derived from the issuance of revenue bonds pursuant to  
16 section 163D-9.

17 **§163D-B Acquisitions; payment.** (a) If the landowner  
18 agrees to the sale of the interest in lands pursuant to section  
19 163D-A, the landowner and the corporation shall agree on whether  
20 the landowner shall receive payment for the interest in a lump  
21 sum or through an installment purchase agreement pursuant to  
22 section 163D-C.



1        (b) The corporation may make payments from moneys  
2 appropriated by the legislature.

3        **§163D-C    Installment purchase agreements; interest payment.**

4        (a) The legislature may authorize the corporation to negotiate  
5 installment purchase agreements for the acquisition of specific  
6 parcels of land for the protection of agricultural lands, public  
7 land banking, or the promotion of farm ownership and diversified  
8 agriculture. The installment purchase agreements shall be  
9 structured pursuant to the requirements of the Internal Revenue  
10 Code of 1986, as amended, to defer recognition of capital gain  
11 until all of the purchase price is paid. The agreement shall  
12 include provisions for the periodic payment of a portion of the  
13 purchase price with the remainder of the purchase price paid at  
14 the end of the term of the agreement. The legislature shall  
15 authorize the purchase of United States Treasury zero coupon  
16 bonds for the installment purchase agreement with a maturity  
17 date equal to the term of the agreement.

18        (b) The interest rate paid on the installment purchase  
19 agreement shall be not less than the interest rate on the zero  
20 coupon bonds at the closing of the agreement or eight per cent,  
21 whichever is higher.



1            (c) The corporation shall make semi-annual interest  
2 payments on the outstanding balance of the installment purchase  
3 agreement purchase price."

4    **PART IV**

5            SECTION 7. Section 163D-9, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7            "(a) The corporation, with the approval of the governor,  
8 may issue, from time to time, revenue bonds in amounts not  
9 exceeding the total amount of bonds authorized to be issued by  
10 the legislature for the purpose of constructing, acquiring,  
11 remodeling, furnishing, and equipping any project facility,  
12 including the acquisition of the site thereof[+]; acquiring  
13 agricultural lands through purchase to sustain and preserve  
14 viable agricultural enterprises within a contiguous geographic  
15 area; or acquiring agricultural lands for the protection of  
16 agricultural lands, public land banking, or the promotion of  
17 farm ownership and diversified agriculture."

18    **PART V**

19            SECTION 8. Pursuant to section 163D-A, Hawaii Revised  
20 Statutes, the agribusiness development corporation is authorized  
21 to acquire certain agricultural lands located on the island of  
22 Oahu and owned by the Galbraith Estate (Land Court Application





1 262), tax map keys 6-5-002:10, 6-5-002:25, 6-5-002:26, 7-1-  
 2 001:01, 7-1-001:02, 7-1-001:03, 7-1-001:05, 7-1-001:06, 7-1-  
 3 001:07, 7-1-001:08, 7-1-001:011, 7-1-001:12, 7-1-001:13, 7-1-  
 4 001:17, 7-1-001:20, 7-1-001:21, 7-1-001:022, 7-1-001:23, 7-1-  
 5 001:24, 7-1-001:25, 7-1-001:26, 7-1-001:27, 7-1-001:31, 7-1-  
 6 001:32.

7       The legislature finds that the lands contain soil qualities  
 8 and growing conditions that support agricultural production of  
 9 food, fiber, or fuel- and energy producing crops and have  
 10 sufficient quantities of water to support viable agricultural  
 11 production and to meet the requirements for the protection of  
 12 agricultural lands, public land banking, or the promotion of  
 13 farm ownership and diversified agriculture.

14       SECTION 9. If an agreement to acquire the property  
 15 identified in section 8 of this Act is not reached within a  
 16 reasonable time as determined by the department of land and  
 17 natural resources, the department of land and natural resources  
 18 shall exercise its power of eminent domain to acquire the  
 19 property. For purposes of this Act, condemnation of the  
 20 property shall not be subject to legislative disapproval.

21       SECTION 10. There is appropriated out of the general  
 22 revenues of the State of Hawaii the sum of \$                    or so



1 much thereof as may be necessary for fiscal year 2008-2009 to  
2 purchase agricultural lands located on the island of Oahu and  
3 owned by the Galbraith Estate (Land Court Application 262)  
4 through:

5 (1) The purchase of United States Treasury zero coupon  
6 bonds for the negotiated installment purchase  
7 agreement pursuant to section 163D-C, Hawaii Revised  
8 Statutes; or

9 (2) Lump sum payment.

10 The sum appropriated shall be expended by the agribusiness  
11 development corporation.

12 SECTION 11. In codifying this Act, the revisor of statutes  
13 shall insert the appropriate number of this Act in section 4 and  
14 in codifying the new sections in section 6 of this Act, the  
15 revisor of statutes shall substitute appropriate section numbers  
16 for the letters used in designating the new sections in this  
17 Act.

18 SECTION 12. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 13. This Act shall take effect on July 1, 2008.



**Report Title:**

Galbraith Estate; Agricultural Lands; Agribusiness

**Description:**

Enables the agribusiness development corporation to contract with banks to provide lease management services. Allows corporation to lease agricultural lands for up to 55 years. Authorizes the corporation to purchase agricultural lands owned by the Galbraith Estate. Allows for use of eminent domain power to acquire Galbraith Estate lands. Makes an appropriation to acquire Galbraith Estate lands. (HB2293 SD2)

