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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 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 an  
16 equivalent period of time. The business shall be as prompt and  
17 diligent as practicable in providing the department with notice



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

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

5 "[+]§209E-1[+] **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 definition of "full-time employee" to  
22 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        3. By amending the definition of "qualified business" to  
6 read:

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

- 12        (1) Engaged in manufacturing, the wholesale sale of  
13 tangible personal property as defined in section  
14 237-4, or a service business as defined in this  
15 chapter;
- 16        (2) Engaged in producing agricultural products where the  
17 business is a producer as defined in section 237-5[†],  
18 or engaged in processing agricultural products;
- 19        (3) Engaged in research, development, sale, or production  
20 of all types of genetically-engineered medical,  
21 agricultural, or maritime biotechnology products; or



1 (4) Engaged in producing electric power from wind energy  
2 for sale primarily to a public utility company for  
3 resale to the public."

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

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

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

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

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

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

19 provided that receipts from value-added products made from crops  
20 grown within an enterprise zone and sold at retail pursuant to  
21 the limits of subsection (e) shall count towards the gross



1 receipts required under paragraph (2) for business firms engaged  
2 in producing or processing agricultural products.

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) (A) Increases its average annual number of full-time  
11 employees employed at the business' establishment  
12 or establishments located within the enterprise  
13 zone by at least ten per cent annually[-];  
14 provided that the percentage increase shall be  
15 based upon the employee count at the beginning of  
16 the initial year of operation; or

17 (B) Increases its gross sales of agricultural crops  
18 or products produced within the enterprise zone  
19 by two per cent annually."

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 not engaged in genetically-  
11 engineered agricultural production shall not be exempt from the  
12 payment of general excise taxes on the gross proceeds of  
13 agricultural retail sales. The gross proceeds received by a  
14 contractor licensed under chapter 444 shall be exempt from the  
15 general excise tax for construction within an enterprise zone  
16 performed for a qualified business within an enterprise zone.  
17 The exemption shall extend for a period not to exceed seven  
18 years."

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

21           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.

(SD1)

