

JAN 26 2009

A BILL FOR AN ACT

RELATING TO AGRICULTURAL WATER SYSTEMS.

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- Agricultural water systems; acquisition. (a)

5 The corporation may acquire or contract to acquire by grant,
6 purchase, or gift the real, personal, or mixed property
7 comprising an agricultural water system to provide water for
8 irrigation of agricultural lands.

9 (b) The owner of an agricultural water system to be
10 acquired pursuant to subsection (a) shall provide a description
11 of the system sufficient to identify the property being
12 acquired, including a map of the land and description of the
13 metes and bounds and other information required for recording
14 under chapter 502. The conveying of the property of an
15 agricultural water system to the corporation shall be exempt
16 from county subdivision requirements."

17 SECTION 2. Section 163D-4, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:



- 1 "(a) Except as otherwise limited by this chapter, the
2 corporation may:
- 3 (1) Sue and be sued;
 - 4 (2) Have a seal and alter the same at its pleasure;
 - 5 (3) Make and alter bylaws for its organization and
6 internal management;
 - 7 (4) Adopt rules under chapter 91 necessary to effectuate
8 this chapter in connection with its projects,
9 operations, and properties;
 - 10 (5) Make and execute contracts and all other instruments
11 necessary or convenient for the exercise of its powers
12 and functions under this chapter;
 - 13 (6) Carry out surveys, research, and investigations into
14 technological, business, financial, consumer trends,
15 and other aspects of agricultural production in the
16 national and international community;
 - 17 (7) Acquire or contract to acquire by grant, ~~[or]~~
18 purchase, or gift any real, personal, or mixed
19 property or any interest therein for its immediate or
20 future use for the purposes of this chapter; own,
21 hold, improve, and rehabilitate any real, personal, or
22 mixed property acquired, and sell, assign, exchange,



1 transfer, convey, lease, or otherwise dispose of, or
2 encumber the same;

3 (8) By itself, or in partnership with qualified persons,
4 acquire, construct, reconstruct, rehabilitate,
5 improve, alter, or repair any infrastructure or
6 accessory facilities in connection with any project;
7 own, hold, sell, assign, transfer, convey, exchange,
8 lease, or otherwise dispose of, or encumber any
9 project;

10 (9) In cooperation with the department of agriculture,
11 pursuant to chapter 167, or otherwise through direct
12 investment or coventure with a professional investor
13 or enterprise or any other person, or otherwise, to
14 acquire, construct, operate, and maintain water
15 facilities for conveying, distributing, and
16 transmitting water for irrigation and agricultural
17 uses at rates or charges determined by the
18 corporation; provided that:

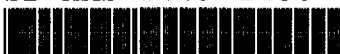
19 (A) This chapter shall not be construed to permit or
20 allow the department of agriculture or any
21 agribusiness development corporation to:



- 1 (i) Amend or modify rights or entitlements to
2 water as provided for by [~~Article~~] article
3 XI, section 7, of the Hawaii Constitution
4 [~~of the State of Hawaii~~], or the Hawaiian
5 Homes Commission Act, 1920, as amended, and
6 chapter 168;
- 7 (ii) Diminish or abridge the traditional and
8 customary rights of ahupua`a tenants who
9 inhabited the Hawaiian [~~Islands~~] islands
10 prior to 1778 under sections 1-1 and 7-1;
11 and
- 12 (iii) Impair, abridge, or terminate the legal
13 rights or interests to water and its uses,
14 whether by lease, easement, or other means,
15 which are possessed or held by organizations
16 whose primary purpose is to benefit people
17 of Hawaiian ancestry; [~~and~~]
- 18 and
- 19 (B) All usage of water shall be in accordance with
20 chapter [+]174C[+] and other applicable laws in
21 the State;



- 1 (10) Assist agricultural enterprises by conducting detailed
2 marketing analysis and developing marketing and
3 promotional strategies to strengthen the position of
4 those enterprises and to better exploit local,
5 national, and international markets;
- 6 (11) Carry out specialized programs designed to develop new
7 markets for Hawaii agricultural products;
- 8 (12) Receive, examine, and determine the acceptability of
9 applications of qualified persons for allowances or
10 grants for the development of new crops and
11 agricultural products, the expansion of established
12 agricultural enterprises, and the altering of existing
13 agricultural enterprises;
- 14 (13) Coordinate its activities with any federal or state
15 farm credit programs;
- 16 (14) Grant options to purchase any project or to renew any
17 lease entered into by it in connection with any of its
18 projects, on the terms and conditions it deems
19 advisable;
- 20 (15) Provide advisory, consultative, training, and
21 educational services, technical assistance, and advice
22 to any person, partnership, or corporation, either



1 public or private, [~~in order~~] to carry out the
2 purposes of this chapter, and engage the services of
3 consultants on a contractual basis for rendering
4 professional and technical assistance and advice;

5 (16) Procure insurance against any loss in connection with
6 its property and other assets and operations in such
7 amounts and from such insurers as it deems desirable;

8 (17) Accept gifts or grants in any form from any public
9 agency or any other source; and

10 (18) Do all things necessary or proper to carry out the
11 purposes of this chapter."

12 SECTION 3. Section 484-3, Hawaii Revised Statutes, is amended
13 by amending subsection (a) to read as follows:

14 "(a) Unless the method of disposition is adopted for the
15 purpose of evasion of this chapter, or unless the subdivider
16 files in writing with the director that this chapter shall apply
17 to the subdivider's subdivision, this chapter shall not apply to
18 offers or dispositions of an interest in land:

19 (1) By a purchaser of subdivided lands for the purchaser's
20 own account in a single or isolated transaction;



- 1 (2) If fewer than twenty separate lots, parcels, units, or
2 interests in subdivided lands are offered by a person
3 in a period of twelve months;
- 4 (3) Where the division of lands is a leasehold
5 agricultural lot within state agricultural districts
6 on which no dwelling structures are constructed as
7 provided in section 205-4.5(e);
- 8 (4) Where real, personal, or mixed property comprising an
9 agricultural water system providing water for
10 irrigation of agricultural lands is to be conveyed to
11 the agribusiness development corporation;
- 12 ~~(4)~~ (5) On which there is a residential, commercial, or
13 industrial building, or as to which there is a legal
14 obligation on the part of the seller to construct a
15 building on the land within two years from the date of
16 disposition; provided that the obligation to construct
17 shall not be, directly or indirectly, transferred to
18 or otherwise imposed upon the purchaser;
- 19 ~~(5)~~ (6) To persons who are engaged in, and are duly licensed
20 to engage in, the business of construction of
21 buildings for resale, or to persons who acquire an
22 interest in subdivided lands for the purpose of



1 engaging, and do engage in, and are duly licensed to
2 engage in, the business of construction of buildings
3 for resale;

4 ~~[(6)]~~ (7) Pursuant to court order;

5 ~~[(7)]~~ (8) By any government or government agency;

6 ~~[(8)]~~ (9) As cemetery lots or interests;

7 ~~[(9)]~~ (10) Registered as a condominium property regime pursuant
8 to chapter 514A or 514B; or

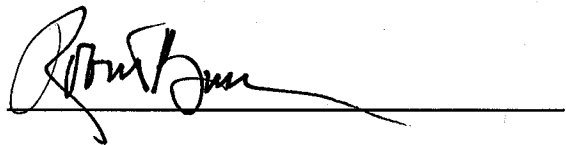
9 ~~[(10)]~~ (11) Registered as a time share plan pursuant to chapter
10 514E."

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.

14

INTRODUCED BY:



Report Title:

Agricultural Water Systems; ADC

Description:

Authorizes the Agribusiness Development Corporation to acquire agricultural water systems to provide water for irrigation of agricultural lands. Exempts agricultural water systems from the subdivision requirements of county ordinances. Provides that, if a description of the system sufficient to identify the property being acquired, including a map, description of metes and bounds, and other information required by the conveyance law is provided by the owner, the system may be conveyed without subdivision.

