

JAN 26 2011

A BILL FOR AN ACT

RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION.

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

1 SECTION 1. While the original purpose of chapter 163D,
2 Hawaii Revised Statutes, was to create a vehicle and process to
3 make optimal use of agriculture assets for the economic,
4 environmental, and social benefit of the people of Hawaii, the
5 legislature finds that more flexibility is needed for the
6 agribusiness development corporation to be able to make lands
7 available for and support the development of renewable energy
8 projects.

9 With the passage of Act 73, Session Laws of Hawaii 2010,
10 which took effect on July 1, 2010, a clear mandate was
11 established for the planning and implementation of projects that
12 will contribute to ensuring our State's food and energy
13 security. In response to this mandate, it is critically
14 important for the agribusiness development corporation to be
15 able to participate in and partner with entities involved with
16 renewable energy development, in addition to the corporation's
17 traditional support of farming and food production.



1 The purpose of this Act is to authorize the agribusiness
2 development corporation to support and make land available for
3 renewable energy projects.

4 SECTION 2. Section 163D-1, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~§~~163D-1~~§~~ **Findings and purpose.** The legislature
7 finds that the downsizing of the sugar and pineapple industries
8 is presenting an unprecedented opportunity for the conversion of
9 agriculture into a dynamic growth industry. Within the next
10 decade, seventy-five thousand acres of agricultural lands and
11 fifty million gallons per day of irrigation water are expected
12 to be released by plantations. The downsizing of the sugar and
13 pineapple industries will idle a valuable inventory of
14 supporting infrastructure including irrigation systems, roads,
15 drainage systems, processing facilities, workshops, and
16 warehouses. The challenge to government and business is to
17 conserve and convert the arable lands and their associated
18 production infrastructure in a timely manner into new productive
19 uses that are based upon strategies developed from detailed
20 marketing analysis and monitoring of local, national, and
21 international opportunities. Constantly evolving economies
22 require an aggressive and dynamic leadership for the promotion



1 and development of agricultural enterprises, and centralized
2 leadership to coordinate industry development, provide industry-
3 wide services, provide marketing assistance, and facilitate
4 investments and coventures in viable enterprises.

5 The purpose of this chapter is to create a vehicle and
6 process to make optimal use of agricultural assets for the
7 economic, environmental, and social benefit of the people of
8 Hawaii. This chapter establishes a public corporation to
9 administer an aggressive and dynamic agribusiness development
10 program. The corporation shall coordinate and administer
11 programs to assist agricultural enterprises to facilitate the
12 transition of agricultural infrastructure from plantation
13 operations into other agricultural enterprises, to carry on the
14 marketing analysis to direct agricultural industry evolution,
15 and to provide the leadership for the development, financing,
16 improvement, or enhancement of agricultural enterprises.

17 In addition, with the passage of Act 73, Session Laws of
18 Hawaii 2010, the legislature further finds that it is in the
19 best interests of Hawaii's people to enhance the State's
20 initiatives toward self-sufficiency in its energy and food
21 requirements and to protect the health and vitality of our
22 environment. Adding an energy component give the corporation



1 the flexibility to allocate and make available portions of
2 agricultural land and water infrastructure under its control for
3 the purposes of renewable energy, where it makes sense and fits
4 in with the synergy of the existing agricultural industry and
5 business environment. In support of Act 73, the corporation
6 shall have the power and authority to partner with, make land
7 and water available for, and profit from renewable energy
8 projects; provided that the projects are in accordance with Act
9 183, Session Laws of Hawaii 2005, relating to important
10 agriculture lands."

11 SECTION 3. Section 163D-2, Hawaii Revised Statutes, is
12 amended by adding a new definition to be appropriately inserted
13 and to read as follows:

14 "Renewable energy" means energy generated from natural
15 resources including but not limited to sunlight, wind, water
16 flow, biomass, tides, wave, and geothermal heat."

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

19 "(a) Except as otherwise limited by this chapter, the
20 corporation may:

21 (1) Sue and be sued;

22 (2) Have a seal and alter the same at its pleasure;



- 1 (3) Make and alter bylaws for its organization and
2 internal management;
- 3 (4) Adopt rules under chapter 91 necessary to effectuate
4 this chapter in connection with its projects,
5 operations, and properties;
- 6 (5) Make and execute contracts and all other instruments
7 necessary or convenient for the exercise of its powers
8 and functions under this chapter;
- 9 (6) Carry out surveys, research, and investigations into
10 technological, business, financial, consumer trends,
11 and other aspects of agricultural and renewable energy
12 production in the national and international
13 community;
- 14 (7) Acquire or contract to acquire by grant or purchase
15 any real, personal, or mixed property or any interest
16 therein for its immediate or future use for the
17 purposes of this chapter; own, hold, improve, and
18 rehabilitate any real, personal, or mixed property
19 acquired, and sell, assign, exchange, transfer,
20 convey, lease, or otherwise dispose of, or encumber
21 the same;



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

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

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

20 (i) Amend or modify rights or entitlements to
21 water as provided for by article XI,
22 section 7, of the Constitution of the State



- 1 of Hawaii, or the Hawaiian Homes Commission
2 Act, 1920, as amended, and chapter 168;
- 3 (ii) Diminish or abridge the traditional and
4 customary rights of ahupua'a tenants who
5 inhabited the Hawaiian Islands prior to 1778
6 under sections 1-1 and 7-1; and
- 7 (iii) Impair, abridge, or terminate the legal
8 rights or interests to water and its uses,
9 whether by lease, easement, or other means,
10 which are possessed or held by organizations
11 whose primary purpose is to benefit people
12 of Hawaiian ancestry; and
- 13 (B) All usage of water shall be in accordance with
14 chapter [H]174C[H] and other applicable laws in
15 the State;
- 16 (10) Assist agricultural enterprises by conducting detailed
17 marketing analysis and developing marketing and
18 promotional strategies to strengthen the position of
19 those enterprises and to better exploit local,
20 national, and international markets;
- 21 (11) Carry out specialized programs designed to develop new
22 markets for Hawaii agricultural products;



- 1 (12) Receive, examine, and determine the acceptability of
2 applications of qualified persons for allowances or
3 grants for the development of new crops and
4 agricultural products, the expansion of established
5 agricultural enterprises, and the altering of existing
6 agricultural enterprises;
- 7 (13) Coordinate its activities with any federal or state
8 farm credit programs;
- 9 (14) Grant options to purchase any project or to renew any
10 lease entered into by it in connection with any of its
11 projects, on the terms and conditions it deems
12 advisable;
- 13 (15) Provide advisory, consultative, training, and
14 educational services, technical assistance, and advice
15 to any person, partnership, or corporation, either
16 public or private, in order to carry out the purposes
17 of this chapter, and engage the services of
18 consultants on a contractual basis for rendering
19 professional and technical assistance and advice;
- 20 (16) Procure insurance against any loss in connection with
21 its property and other assets and operations in such
22 amounts and from such insurers as it deems desirable;



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

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

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

7 "(a) The corporation may develop and implement
8 agricultural and renewable energy projects where large tracts of
9 agricultural land have been or will be taken out of productive
10 agriculture or where, through detailed analysis, opportunities
11 exist to exploit potential local, national, and international
12 markets."

13 SECTION 6. Section 163D-31, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) The legislature may authorize the corporation to
16 acquire agricultural lands for the protection of agricultural
17 lands, public land banking, or the promotion of farm ownership
18 [~~and~~], diversified agriculture[-], and renewable energy
19 development."

20 SECTION 7. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

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1 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Agribusiness Development Corporation; Renewable Energy

Description:

Authorizes the agribusiness development corporation to support and make land available for renewable energy projects.

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