

JAN 21 2011

S.B. NO. 118

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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

**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 part to be appropriately designated and  
3 to read as follows:

4                               "PART     .   AGRICULTURAL PARKS

5           "§163D-A Legislative findings. (a) The legislature finds  
6 that:

- 7           (1) Important agricultural lands should be preserved for  
8           productive purposes;
- 9           (2) The contribution of diversified agriculture and  
10           aquaculture to export and local markets should be  
11           expanded, thereby increasing its importance in the  
12           State's economy; and
- 13           (3) Continued use of the State's agricultural land  
14           resources should be ensured by providing lands to new  
15           farmers, displaced farmers, and other qualified  
16           farmers.

17           (b) In order to meet these goals, the objectives of the  
18 State shall include the provision of lands:



- 1 (1) Of appropriate size and productive potential, with an
- 2 adequate supply of water, to ensure economically
- 3 viable farm operations;
- 4 (2) At reasonable cost with long term tenure and security
- 5 from urbanization pressure; and
- 6 (3) With common facilities and activities to encourage
- 7 farm production and distribution economies.

8 **§163D-B Definitions.** For the purpose of this part:

9 "Agricultural activities" means the care and production of  
10 livestock, livestock products, poultry, or poultry products, or  
11 apiary, horticultural, or floricultural products, or the  
12 planting, cultivating, and harvesting of crops or trees,  
13 including tree farms.

14 "Agricultural park" means any agricultural or aquacultural  
15 complex so designated by the board for which state land or state  
16 funds are used, in order to meet the goals and objectives stated  
17 in section 163D-A. Agricultural buildings, farm residences, and  
18 employee dwellings necessary to the production and distribution  
19 of agricultural and aquacultural commodities may be considered  
20 part of the agricultural park.

21 "Aquacultural activities" means the farming or ranching of  
22 any plant or animal species in a controlled salt, brackish, or

1 freshwater environment; provided that the farm or ranch is on or  
2 directly adjacent to land.

3 "Board" means the board of directors of the agribusiness  
4 development corporation.

5 **§163D-C Authority to plan, develop, and manage**  
6 **agricultural parks.** The corporation shall plan, develop, and  
7 manage agricultural parks in accordance with this part, on  
8 public lands set aside by the governor for use as agricultural  
9 parks pursuant to section 171-11; on other lands with the  
10 approval of the board as may be subject to a partnership  
11 agreement pursuant to sections 163D-E and 163D-F; and on lands  
12 acquired by the corporation by way of foreclosure or voluntary  
13 surrender.

14 **§163D-D Commercial activity.** The corporation may allow,  
15 in each of its existing and future agricultural parks, the  
16 disposition of no more than two lots within an agricultural park  
17 for the processing, marketing, and displaying of agricultural  
18 crops or commodities, which shall include any product created  
19 through value-added processes as defined by rules adopted by the  
20 board. The corporation shall allow agricultural-based  
21 commercial venture operations that may sell to the general  
22 public; provided that the lots shall be leased and operated by



1 an agricultural park lessee in good standing with the  
2 corporation.

3 §163D-E Park development. Except as herein provided, the  
4 corporation may develop, on behalf of the State or in  
5 partnership with a federal agency, a county, or a private party,  
6 agricultural parks which, at the option of the board, shall be  
7 exempt from all statutes, ordinances, charter provisions, and  
8 rules of any governmental agency relating to planning, zoning,  
9 construction standards for subdivisions, development and  
10 improvement of land, and the construction of buildings thereon;  
11 provided that:

12 (1) The board finds the agricultural park is consistent  
13 with the purpose and intent of this part, and meets  
14 minimum requirements of health and safety;

15 (2) The development of the proposed agricultural park does  
16 not contravene any safety standards or tariffs  
17 approved by the public utilities commission for public  
18 utilities;

19 (3) The legislative body of the county in which the  
20 agricultural park is to be situated shall have  
21 approved the agricultural park.



1 (A) The legislative body shall approve or disapprove  
2 the agricultural park within forty-five days  
3 after the corporation has submitted the  
4 preliminary plans and specifications for the  
5 agricultural park to the legislative body. If  
6 after the forty-fifth day an agricultural park is  
7 not disapproved, it shall be deemed approved by  
8 the legislative body.

9 (B) No action shall be prosecuted or maintained  
10 against any county, its officials, or employees,  
11 on account of actions taken by them in reviewing,  
12 approving, or disapproving the plans and  
13 specifications.

14 (C) The final plans and specifications for the  
15 agricultural park shall be deemed approved by the  
16 legislative body if the final plans and  
17 specifications do not substantially deviate from  
18 the preliminary plans and specifications. The  
19 final plans and specifications for the project  
20 shall constitute the planning, zoning, building,  
21 construction, and subdivision standards for that  
22 agricultural park. For purposes of sections 501-



1           85 and 502-17, the chairperson of the board or  
2           the responsible county official may certify maps  
3           and plans of lands connected with the  
4           agricultural park as having complied with  
5           applicable laws and ordinances relating to  
6           consolidation and subdivision of lands, and the  
7           maps and plans shall be accepted for registration  
8           or recordation by the land court and registrar;  
9           and

- 10       (4) The State shall assume the responsibility of  
11       maintaining all roads within the agricultural park if  
12       the roads are developed exempt from applicable county  
13       ordinances, charter provisions, and rules regarding  
14       roads.

15       **§163D-F Joint ventures.** Any agricultural park developed  
16       by the corporation in partnership with a federal agency, a  
17       county, or a private party shall be subject to a partnership  
18       agreement approved by the board, which agreement shall provide,  
19       at a minimum:

- 20       (1) A determination by the board that it is in the public  
21       interest to enter into the partnership agreement;



- 1           (2) Long-term assurance that the land will be utilized for
- 2           agricultural or aquacultural purposes;
- 3           (3) Board approval of the agricultural park development
- 4           plans and specifications;
- 5           (4) Selection and management of lessees in a manner
- 6           approved by the board; and
- 7           (5) Conditions to ensure a public benefit from any state
- 8           funds expended for the project.

9           **§163D-G Disposition.** (a) Any provision of this part to  
10 the contrary notwithstanding, the board, by negotiation, drawing  
11 of lot, or public auction, may directly dispose of public lands  
12 and related facilities set aside and designated for use as  
13 agricultural parks, and any other lands and facilities under the  
14 jurisdiction of the corporation pursuant to section 163D-C and  
15 notwithstanding chapter 171. Except as provided by subsection  
16 (c), dispositions may be by lease and shall be subject to the  
17 requirements set forth in rules adopted by the board in  
18 conformity with section 163D-K, and subject also to the  
19 following limitations:

- 20           (1) The property shall be disposed of for agricultural or
- 21           aquacultural purposes only;



- 1           (2) The lessee shall derive the major portion of the  
2           lessee's total annual income from the lessee's  
3           activities on the premises; provided that this  
4           restriction shall not apply if failure to meet the  
5           restriction results from mental or physical disability  
6           or the loss of a spouse, or if the premises are fully  
7           utilized in the production of crops or products for  
8           which the disposition was granted;
- 9           (3) The lessee shall comply with all federal and state  
10          laws regarding environmental quality control;
- 11          (4) The board shall:
- 12           (A) Determine the specific uses for which the  
13           disposition is intended;
- 14           (B) Parcel the land into minimum size economic units  
15           sufficient for the intended uses;
- 16           (C) Make, or require the lessee to make improvements  
17           as are required to achieve the intended uses;
- 18           (D) Set the upset price or lease rent based upon an  
19           appraised evaluation of the property value  
20           adjustable as provided in rules adopted in  
21           accordance with chapter 91 to the specified use  
22           of the lot;





- 1 (E) Set the term of the lease, which shall be not  
2 less than fifteen years nor more than fifty-five  
3 years, including any extension granted for  
4 mortgage lending or guarantee purposes; and
- 5 (F) Establish other terms and conditions as it may  
6 deem necessary, including but not limited to  
7 restrictions against alienation and provisions  
8 for withdrawal by the board;
- 9 (5) No lease shall be made to any person who is in arrears  
10 in the payment of taxes, rents, or other obligations  
11 owing the State or any county; and
- 12 (6) Any transferee, assignee, or sublessee of an  
13 agricultural park lease shall first qualify as an  
14 applicant under this part. For the purpose of this  
15 paragraph, any transfer, assignment, sale, or other  
16 disposition of any interest, excluding a security  
17 interest, of any legal entity that holds an  
18 agricultural park lease shall be treated as a transfer  
19 of the agricultural park lease and shall be subject to  
20 the approval of the board upon reasonable terms and  
21 conditions, not inconsistent with this part or rules  
22 of the board, which the board may deem necessary. No



1 transfer shall be approved by the board if the  
2 disposition of the stock, or assets or other interest  
3 of the legal entity would result in the failure of the  
4 entity to qualify for an agricultural park lease.

5 (b) The violation of any provision contained in this  
6 section shall be sufficient cause for the board, after due  
7 notice of breach or default as provided in rules adopted by the  
8 board in conformance with section 163D-K, to cancel the lease  
9 and take possession of the land.

10 (c) The board may issue easements, permits, and rights of  
11 entry covering agricultural park lands for uses consistent with  
12 the purposes for which the lands were set aside or are otherwise  
13 subject to the authority of the corporation pursuant to section  
14 163D-C.

15 **§163D-H Applicants.** Any person, including a revocable  
16 living trust, partnership, corporation, limited liability  
17 company, association, or an agricultural cooperative organized  
18 under chapter 421 at least seventy-five per cent of the  
19 trustees, partners, officers and stockholders, or members of  
20 which qualify individually, may apply for an agricultural park  
21 lease if the person, trustees, partners, officers and  
22 stockholders, or members are eligible and qualified according to



1 criteria set forth in rules adopted by the board in conformance  
2 with section 163D-K.

3 §163D-I Preference right. Any person who is otherwise  
4 qualified to take an agricultural park lot, who is a veteran  
5 with an honorable discharge, or who qualifies as a displaced  
6 farmer, or who operates a farm located in a zoning district  
7 where such use is a nonconforming use, or who qualifies as a new  
8 farmer, shall be given preference in obtaining an agricultural  
9 park lot.

10 §163D-J Rights of holders of security interests. (a) For  
11 the purpose of this section:

12 "Institutional lender" means a federal, state, or private  
13 lending institution licensed to do business in the State in  
14 making loans to qualified applicants under section 163D-H on the  
15 basis of a lease for security, in whole or in part, together  
16 with any other entity who acquires all or substantially all of  
17 an institutional lender's loan portfolio.

18 "Making a loan" means lending of new money after June 30,  
19 2011, or the renewal or extension of indebtedness owing by a  
20 qualified applicant to an institutional lender.

21 "Security interest" means any interest created or perfected  
22 by a mortgage, assignment by way of mortgage, or by a financing



1 statement and encumbering a lease, land demised by the lease, or  
2 personal property located at, affixed or to be affixed to, or  
3 growing or to be grown upon the demised land.

4 (b) Board action shall be required when an institutional  
5 lender acquires the lessee's interest through a foreclosure  
6 sale, judicial or nonjudicial, or by way of assignment in lieu  
7 of foreclosure, or when the institutional lender sells or causes  
8 the sale of the lessee's interest in a lease by way of a  
9 foreclosure sale, judicial or nonjudicial. The institutional  
10 lender shall convey a copy of the sale or assignment as recorded  
11 in the bureau of conveyances.

12 (c) Notwithstanding any provisions of this part or any law  
13 to the contrary, if any lease is subject to a security interest  
14 held by an institutional lender, and provided the institutional  
15 lender has given to the board a copy of the encumbrance as  
16 recorded in the bureau of conveyances:

17 (1) If the lease is canceled for violation of any non-  
18 monetary lease term or condition, or if the lease is  
19 deemed terminated or rejected under bankruptcy laws,  
20 then in either event, the institutional lender shall  
21 be entitled to issuance of a new lease in its name for  
22 a term equal to the term of the lease remaining



1 immediately prior to the cancellation, termination, or  
2 rejection, with all terms and conditions being the  
3 same as in the canceled, terminated, or rejected  
4 lease, except only for liens, claims, and  
5 encumbrances, if any, which were superior to the  
6 institutional lender prior to the cancellation,  
7 termination, or rejection. If a lease is rejected or  
8 deemed rejected under bankruptcy law, the lease shall  
9 be deemed to be canceled and terminated for all  
10 purposes under state law;

11 (2) If the lessee's interest under a lease is transferred  
12 to an institutional lender, including by reason of the  
13 provisions of paragraph (1) by reason of acquisition  
14 of lessee's interest pursuant to a foreclosure sale,  
15 judicial or nonjudicial, and by reason of an  
16 assignment in lieu of foreclosure, then:

17 (A) The institutional lender shall be liable for the  
18 obligations of the lessee under the lease for the  
19 period of time during which the institutional  
20 lender is the holder of lessee's interest but  
21 shall not be liable for any obligations of the



1 lessee arising after the institutional lender has  
2 assigned the lease;

3 (B) Subsection 163D-G(a)(1) and (2) shall not apply  
4 to the lease or the demised land during the time  
5 the institutional lender holds the lease;  
6 provided, however, that:

7 (i) For non-monetary lease violations, the  
8 institutional lender shall first remedy the  
9 lease terms that caused the cancellation,  
10 termination, or rejection to the  
11 satisfaction of the board; and

12 (ii) The new lease issued to the institutional  
13 lender shall have a sunset date (one hundred  
14 twenty days from the effective date of  
15 issuance), when the institutional lender  
16 shall either sell or assign the lease, after  
17 which date the provisions of subsection  
18 163D-G(a) shall become applicable to the new  
19 lease;

20 (3) As long as there is a delinquent loan balance secured  
21 by a security interest, the lease may not be canceled  
22 or terminated, except for cancellation by reason of



1 default of the lessee, and no increase over and above  
2 the fair market rent, based upon the actual use of the  
3 land demised and subject to the use restrictions  
4 imposed by the lease and applicable laws, may be  
5 imposed or become payable, and no lands may be  
6 withdrawn from the lease, except by eminent domain  
7 proceedings beyond the control of the board, except  
8 with prior written consent by the institutional lender  
9 and that consent shall not be unreasonably withheld;  
10 and

11 (4) If the lease contains any provision requiring the  
12 payment of a premium to the lessor on assignment of  
13 the lease, any premium shall be assessed only after  
14 all amounts owing by any debt secured by a security  
15 interest held by an institutional lender shall have  
16 been paid in full.

17 (d) Ownership of both the lease and the security interest  
18 by an institutional lender shall not effect or cause a merger  
19 thereof, and both interests shall remain distinct and in full  
20 force and effect unless the institutional lender elects in  
21 writing to merge said estates with the consent of the board.



1 (e) The board may include in any consent form or document  
2 such provisions not inconsistent with the intent of this section  
3 as may be required to make a lease mortgageable or more  
4 acceptable for mortgageability by an institutional lender.

5 (f) The rights of a purchaser, assignee, or transferee of  
6 an institutional lender's security interest, including a junior  
7 lien holder, shall be exercisable by the purchaser, assignee, or  
8 transferee as successor in interest to the institutional lender;  
9 provided that:

10 (1) The purchase, assignment, or transfer shall conform  
11 with subsection (c) (4); and

12 (2) The purchase, assignment, or transfer of such rights  
13 shall be reserved for and exercisable only by an  
14 institutional lender.

15 Other purchasers may not be precluded from acquiring the  
16 institutional lender's security interest but shall not have  
17 exercisable rights as successor in interest to the original  
18 institutional lender.

19 **§163D-K Rules.** The board shall adopt rules in accordance  
20 with chapter 91 in order to effectuate the purposes of this  
21 chapter. The rules shall provide, without limitation, for:

22 (1) Definitions;





- 1           (2) Planning generally and for intensive agricultural
- 2           uses;
- 3           (3) General eligibility requirements;
- 4           (4) Qualifications of applicants;
- 5           (5) Preference rights;
- 6           (6) Disposition of leases;
- 7           (7) Lease provisions;
- 8           (8) Lease restrictions generally and for intensive
- 9           agricultural uses; and
- 10          (9) Notice of breach or default.

11 Rules adopted by the board for the purposes of this part shall  
12 be consistent with sections 171-11 and 171-20.

13           **§163D-L Agricultural park special fund.** (a) There is  
14 created a special fund to be designated as the agricultural park  
15 special fund. The proceeds in the fund shall be used for the  
16 following purposes:

- 17           (1) Payment of agricultural park lease rents of privately
- 18           owned lands under lease to the State pursuant to
- 19           sections 171-112 and 163D-C;
- 20           (2) Establishing, operating, maintaining, and improving
- 21           infrastructure improvements in agricultural parks



1 designated by the corporation pursuant to section  
2 163D-C; and

3 (3) Any other purposes deemed necessary by the corporation  
4 for the purpose of maintaining and operating those  
5 agricultural parks and related facilities designated  
6 by the department pursuant to section 163D-C.

7 For the purpose of paragraph (2), infrastructure  
8 improvements may include, but shall not be limited to:  
9 irrigation water system projects, wind power or hydro power and  
10 pumping systems, waste disposal systems, domestic water systems,  
11 roads, street lights, land and roads drainage, and bridges.

12 (b) The following shall be deposited into the agricultural  
13 park special fund:

14 (1) Moneys appropriated for the purpose of the fund;  
15 (2) Any other provision of the law to the contrary  
16 notwithstanding, all moneys received or collected from  
17 an agricultural park project designated pursuant to  
18 section 163D-C, including residential and agricultural  
19 lot lease rents;

20 (3) All money collected or received by the corporation for  
21 the use and maintenance of domestic and irrigation



1 water systems within an agricultural park and other  
2 systems enumerated in subsection (a).

3 All interest earned or accrued on moneys deposited in the fund  
4 shall become a part of the fund.

5 §163D-M Lease negotiation. (a) The corporation may  
6 negotiate and enter into leases with any person who:

7 (1) As of July 1, 1996, holds a revocable permit for  
8 agricultural purposes; or

9 (2) Has formerly held an agricultural lease that expired  
10 within the last ten years preceding July 1, 1996, and  
11 has continued to occupy the state land; and

12 (3) Does not own agriculturally-zoned land of twenty-five  
13 acres or more in the State, individually or jointly  
14 with a spouse, or whose spouse does not own twenty-  
15 five acres or more of agriculturally-zoned land in the  
16 State.

17 (b) The land eligible for lease negotiations under this  
18 section are limited to those lands:

19 (1) Zoned and used for agricultural purposes;

20 (2) Set aside by governor's executive order to the  
21 department of agriculture for agricultural uses only;

22 and



1 (3) Not needed by any state or county agency for any other  
2 public purpose.

3 (c) In negotiating and executing a lease as authorized,  
4 the board shall:

5 (1) Require the appraisal of the parcel to determine the  
6 fair market value;

7 (2) Require the payment of annual lease rent based on the  
8 fair market value established by appraisal;

9 (3) Require the payment of a premium, computed at twenty-  
10 five per cent of the annual lease rent, with the  
11 premium to be added to the annual lease rent for each  
12 year of the lease equal to the number of years the  
13 lessee has occupied the land, except that the premium  
14 period shall not exceed four years; and

15 (4) Recover from the lessee the costs of expenditures  
16 required by the corporation to convert the parcel into  
17 leasehold.

18 The corporation shall notify in writing the permittees of  
19 lands eligible for lease negotiations under this section and  
20 shall inform the permittees of the terms, conditions, and  
21 restrictions provided by this section. Any permittee may apply  
22 for a lease; provided that the application shall be submitted to



1 the corporation in writing within thirty days from the date of  
2 receipt of notification; provided further that the corporation  
3 may require documentary proof from any applicant to determine  
4 that the applicant meets eligibility and qualification  
5 requirements for a lease as specified by this section."

6 SECTION 2. Section 141-10, Hawaii Revised Statutes, is  
7 amended by amending subsection (c) to read as follows:

8 "(c) Subject to legislative appropriation, moneys in the  
9 special fund may be expended for the following purposes:

- 10 (1) The awarding of grants to farmers for agricultural  
11 production or processing activity;
- 12 (2) The acquisition of real property for agricultural  
13 production or processing activity;
- 14 (3) The improvement of real property, irrigation systems,  
15 and transportation networks necessary to promote  
16 agricultural production or processing activity;
- 17 (4) The purchase of equipment necessary for agricultural  
18 production or processing activity;
- 19 (5) The conduct of research on and testing of agricultural  
20 products and markets;
- 21 (6) The funding of agricultural inspector positions within  
22 the department of agriculture; and



1       ~~[(7) The promotion and marketing of agricultural products~~  
2       ~~grown or raised in the State; and~~

3       ~~(8)]~~ (7) Any other activity intended to increase  
4       agricultural production or processing that may lead to  
5       reduced importation of food, fodder, or feed from  
6       outside the State."

7       SECTION 3. Section 163D-4, Hawaii Revised Statutes, is  
8       amended to read as follows:

9       "**§163D-4 Powers; generally.** (a) Except as otherwise  
10       limited by this chapter, the corporation may:

- 11       (1) Sue and be sued;
- 12       (2) Have a seal and alter the same at its pleasure;
- 13       (3) Make and alter bylaws for its organization and  
14       internal management;
- 15       (4) Adopt rules under chapter 91 necessary to effectuate  
16       this chapter in connection with its projects,  
17       operations, and properties;
- 18       (5) Make and execute contracts and all other instruments  
19       necessary or convenient for the exercise of its powers  
20       and functions under this chapter;
- 21       (6) Carry out surveys, research, and investigations into  
22       technological, business, financial, consumer trends,



1 and other aspects of agricultural production in the  
2 national and international community;

3 (7) Acquire or contract to acquire by grant or purchase  
4 any real, personal, or mixed property or any interest  
5 therein for its immediate or future use for the  
6 purposes of this chapter; own, hold, improve, and  
7 rehabilitate any real, personal, or mixed property  
8 acquired, and sell, assign, exchange, transfer,  
9 convey, lease, or otherwise dispose of, or encumber  
10 the same;

11 (8) By itself, or in partnership with qualified persons,  
12 acquire, construct, reconstruct, rehabilitate,  
13 improve, alter, or repair any infrastructure or  
14 accessory facilities in connection with any project;  
15 own, hold, sell, assign, transfer, convey, exchange,  
16 lease, or otherwise dispose of, or encumber any  
17 project;

18 (9) In cooperation with the department of agriculture,  
19 pursuant to chapter 167, or otherwise through direct  
20 investment or coventure with a professional investor  
21 or enterprise or any other person, or otherwise, to  
22 acquire, construct, operate, and maintain water



1 facilities for conveying, distributing, and  
2 transmitting water for irrigation and agricultural  
3 uses at rates or charges determined by the  
4 corporation; provided that:

5 (A) This chapter shall not be construed to permit or  
6 allow the department of agriculture or any  
7 agribusiness development corporation to:

8 (i) Amend or modify rights or entitlements to  
9 water as provided for by article XI, section  
10 7, of the Constitution of the State of  
11 Hawaii, or the Hawaiian Homes Commission  
12 Act, 1920, as amended, and chapter 168;

13 (ii) Diminish or abridge the traditional and  
14 customary rights of ahupua`a tenants who  
15 inhabited the Hawaiian Islands prior to 1778  
16 under sections 1-1 and 7-1; and

17 (iii) Impair, abridge, or terminate the legal  
18 rights or interests to water and its uses,  
19 whether by lease, easement, or other means,  
20 which are possessed or held by organizations  
21 whose primary purpose is to benefit people  
22 of Hawaiian ancestry; and





1 (B) All usage of water shall be in accordance with  
2 chapter [†]174C[†] and other applicable laws in  
3 the State;

4 (10) Assist agricultural enterprises by conducting detailed  
5 marketing analysis and developing marketing and  
6 promotional strategies to strengthen the position of  
7 those enterprises and to better exploit local,  
8 national, and international markets[†], including the  
9 carrying out of the actual promotion and marketing of  
10 agricultural products grown or raised in the State  
11 that was previously carried out under chapter 141;

12 (11) Carry out specialized programs designed to develop new  
13 markets for Hawaii agricultural products;

14 (12) Receive, examine, and determine the acceptability of  
15 applications of qualified persons for allowances or  
16 grants for the development of new crops and  
17 agricultural products, the expansion of established  
18 agricultural enterprises, and the altering of existing  
19 agricultural enterprises;

20 (13) Provide equity financing to farmers to improve farming  
21 activities;



- 1     ~~[(13)]~~ (14)   Coordinate its activities with any federal or  
2                   state farm credit programs;
- 3     ~~[(14)]~~ (15)   Grant options to purchase any project or to  
4                   renew any lease entered into by it in connection with  
5                   any of its projects, on the terms and conditions it  
6                   deems advisable;
- 7     ~~[(15)]~~ (16)   Provide advisory, consultative, training, and  
8                   educational services, technical assistance, and advice  
9                   to any person, partnership, or corporation, either  
10                  public or private, in order to carry out the purposes  
11                  of this chapter, and engage the services of  
12                  consultants on a contractual basis for rendering  
13                  professional and technical assistance and advice;
- 14    ~~[(16)]~~ (17)   Procure insurance against any loss in connection  
15                  with its property and other assets and operations in  
16                  such amounts and from such insurers as it deems  
17                  desirable;
- 18    ~~[(17)]~~ (18)   Accept gifts or grants in any form from any  
19                  public agency or any other source; and
- 20    ~~[(18)]~~ (19)   Do all things necessary or proper to carry out  
21                  the purposes of this chapter.



1           (b) The corporation shall develop, promote, assist, and  
2 market export crops and other crops for local markets[-],  
3 including the promotion and marketing of agricultural products  
4 grown or raised in the State that was previously carried out  
5 under chapter 141."

6           SECTION 4. Section 163D-5, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8           "(a) The corporation shall prepare the Hawaii agribusiness  
9 plan which shall define and establish goals, objectives,  
10 policies, and priority guidelines for its agribusiness  
11 development strategy. The plan shall include but not be limited  
12 to:

13           (1) An inventory of agricultural lands with suitable  
14 adequate water resources that are or will become  
15 available due to the downsizing of the sugar and  
16 pineapple industries that can be used to meet present  
17 and future agricultural production needs;

18           (2) An inventory of agricultural infrastructure that will  
19 be abandoned by sugar and pineapple industries such as  
20 irrigation systems, drainage systems, processing  
21 facilities, and other accessory facilities;



- 1           (3) An analysis of imported agricultural products and the  
2           potential for increasing local production to replace  
3           imported products in a manner that complements  
4           existing local producers and increases Hawaii's  
5           agricultural self-sufficiency;
- 6           (4) Alternatives in the establishment of sound financial  
7           programs to promote the development of diversified  
8           agriculture;
- 9           (5) Feasible strategies for the promotion, marketing, and  
10          distribution of Hawaii agricultural products in local,  
11          national, and international markets [7], including the  
12          promotion and marketing of agricultural products grown  
13          or raised in the State that was previously carried out  
14          under chapter 141;
- 15          (6) Programs to promote and facilitate the absorbing of  
16          displaced agricultural workers into alternative  
17          agricultural enterprises;
- 18          (7) Strategies to [~~insure~~] ensure the provision of  
19          adequate air and surface transportation services and  
20          supporting facilities to support the agricultural  
21          industry in meeting local, national, and international  
22          market needs;



1 (8) Proposals to improve the gathering of data and the  
2 timely presentation of information on market demands  
3 and trends that can be used to plan future harvests  
4 and production; and

5 (9) Strategies for federal and state legislative actions  
6 that will promote the development and enhancement of  
7 Hawaii's agricultural industries."

8 SECTION 5. Chapter 166, Hawaii Revised Statutes, is  
9 repealed.

10 SECTION 6. All rights, powers, functions, and duties  
11 relating to the agricultural parks program of the department of  
12 agriculture are transferred to the agribusiness development  
13 corporation.

14 All officers and employees whose functions are transferred  
15 by this Act shall be transferred with their functions and shall  
16 continue to perform their regular duties upon their transfer,  
17 subject to the state personnel laws and this Act.

18 No officer or employee of the State having tenure shall  
19 suffer any loss of salary, seniority, prior service credit,  
20 vacation, sick leave, or other employee benefit or privilege as  
21 a consequence of this Act, and such officer or employee may be  
22 transferred or appointed to a civil service position without the



1 necessity of examination; provided that the officer or employee  
2 possesses the minimum qualifications for the position to which  
3 transferred or appointed; and provided that subsequent changes  
4 in status may be made pursuant to applicable civil service and  
5 compensation laws.

6 An officer or employee of the State who does not have  
7 tenure and who may be transferred or appointed to a civil  
8 service position as a consequence of this Act shall become a  
9 civil service employee without the loss of salary, seniority,  
10 prior service credit, vacation, sick leave, or other employee  
11 benefits or privileges and without the necessity of examination;  
12 provided that such officer or employee possesses the minimum  
13 qualifications for the position to which transferred or  
14 appointed.

15 In the event that an office or position held by an officer  
16 or employee having tenure is abolished, the officer or employee  
17 shall not thereby be separated from public employment, but shall  
18 remain in the employment of the State with the same pay and  
19 classification and shall be transferred to some other office or  
20 position for which the officer or employee is eligible under the  
21 personnel laws of the State as determined by the head of the  
22 department or the governor.



1 SECTION 7. All appropriations, records, equipment,  
2 machines, files, supplies, contracts, books, papers, documents,  
3 maps, and other personal property heretofore made, used,  
4 acquired, or held by the department of agriculture relating to  
5 the functions transferred to the agribusiness development  
6 corporation shall be transferred with the functions to which  
7 they relate.

8 SECTION 8. All rules, policies, procedures, guidelines,  
9 and other material adopted or developed by the department of  
10 agriculture with respect to the agricultural parks program shall  
11 remain in full force and effect until amended or repealed by the  
12 agribusiness development corporation pursuant to chapter 91,  
13 Hawaii Revised Statutes. In the interim, every reference to the  
14 department of agriculture in those rules, policies, procedures,  
15 guidelines, and other material as they relate to the  
16 agricultural parks program is amended to refer to the  
17 agribusiness development corporation or the executive director  
18 of the agribusiness development corporation, as appropriate.

19 SECTION 9. It is the intent of this Act not to jeopardize  
20 the receipt of any federal aid nor to impair the obligation of  
21 the State or any agency thereof to the holders of any bond  
22 issued by the State or by any such agency, and to the extent,



1 and only to the extent, necessary to effectuate this intent, the  
2 governor may modify the strict provisions of this Act, but shall  
3 promptly report any such modification with reasons therefor to  
4 the legislature at its next session thereafter for review by the  
5 legislature.

6 SECTION 10. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 11. This Act shall take effect upon its approval,  
9 except that:

10 (1) Sections 1 and 5 shall take effect on July 1, 2011;  
11 and

12 (2) The amendments made to section 141-10(c), Hawaii  
13 Revised Statutes, by section 2 of this Act shall not  
14 be repealed when that section is repealed on June 30,  
15 2015, pursuant to Act 73, Session Laws of Hawaii 2010.  
16

INTRODUCED BY:

Malama Pua

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D

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**Report Title:**

Agribusiness Development Corporation

**Description:**

Transfers the agricultural parks program from the DOA to the Agribusiness Development Corporation (ADC). Transfers promotion and marketing of agricultural products from DOA to ADC. Authorizes ADC to provide equity financing to farmers to improve farming activities.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

