

JAN 18 2013

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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 141, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§141- Department of agriculture lands; disposition;  
5 agribusiness development corporation. The department of  
6 agriculture may, as necessary, lease lands under its control to  
7 the agribusiness development corporation for the agribusiness  
8 development corporation's use for the purposes of chapter 163D."

9 SECTION 2. Section 166E-8, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "[+]§166E-8[+] **Disposition.** (a) Any provision of this  
12 chapter to the contrary notwithstanding, the department may  
13 dispose of:

14 (1) Public lands and related facilities set aside and  
15 designated for use pursuant to this chapter; and

16 (2) Other lands and facilities under the jurisdiction of  
17 the department pursuant to section 166E-9 and  
18 notwithstanding chapter 171,



1 by negotiation, drawing of lot, conversion, or public auction.

2 Except as provided by subsection (d), the department shall  
3 dispose of public lands by lease.

4 (b) In all dispositions, the department shall be subject  
5 to the requirements set forth in rules adopted by the board  
6 consistent with section 166E-6 and subject to the following:

7 (1) All land and facilities shall be disposed of for  
8 purposes of agricultural or aquacultural activities  
9 only;

10 (2) Each lessee shall derive a major portion of the  
11 lessee's total annual income earned from the lessee's  
12 activities on the premises; provided that this  
13 restriction shall not apply if:

14 (A) Failure to meet the restriction results from  
15 mental or physical disability or the loss of a  
16 spouse; or

17 (B) The premises are fully used in the production of  
18 crops or products for which the disposition was  
19 granted;

20 (3) The lessee shall comply with all federal and state  
21 laws regarding environmental quality control;

22 (4) The board shall:



- 1 (A) Determine the specific uses for which the
- 2 disposition is intended;
- 3 (B) Parcel the land into minimum size economic units
- 4 sufficient for the intended uses;
- 5 (C) Make, or require the lessee to make, improvements
- 6 that are required to achieve the intended uses;
- 7 (D) Set the upset price or lease rent based upon an
- 8 appraised evaluation of the property value,
- 9 adjustable to the specified use of the lot;
- 10 (E) Set the term of the lease that shall be not less
- 11 than fifteen years nor more than sixty-five
- 12 years, including any extension granted for
- 13 mortgage lending or guarantee purposes; and
- 14 (F) Establish other terms and conditions it deems
- 15 necessary, including but not limited to
- 16 restrictions against alienation and provisions
- 17 for withdrawal by the board; and
- 18 (5) Any transferee, assignee, or sublessee of a non-
- 19 agricultural park lease shall first qualify as an
- 20 applicant under this chapter. For the purpose of this
- 21 paragraph, any transfer, assignment, sale, or other
- 22 disposition of any interest, excluding a security



1 interest, by any legal entity that holds a non-  
2 agricultural park lease shall be treated as a transfer  
3 of the non-agricultural park lease and shall be  
4 subject to the approval of the board and to reasonable  
5 terms and conditions, consistent with this chapter or  
6 rules of the board that the board may deem necessary.  
7 No transfer shall be approved by the board if the  
8 disposition of the stock or assets or other interest  
9 of the legal entity would result in the failure of the  
10 entity to qualify for a non-agricultural park land  
11 lease.

12 (c) After notice of the breach or default as provided in  
13 rules adopted by the board consistent with section 166E-6, a  
14 violation of any provision in this section shall be cause for  
15 the board to cancel the lease and take possession of the land.

16 (d) The board may issue easements, licenses, permits, and  
17 rights-of-entry for uses that are consistent with the purposes  
18 for which the lands were set aside or are otherwise subject to  
19 the authority of the department pursuant to section 166E-9.

20 (e) This section shall not apply to any disposition of  
21 non-agricultural parks lands leased by the department to the  
22 agribusiness development corporation; provided that any



1 disposition of lands or facilities to the agribusiness  
2 development corporation shall be for the purpose of agricultural  
3 or aquacultural activities, or shall otherwise promote the  
4 purpose established in chapter 163D."

5 SECTION 3. Chapter 166E, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

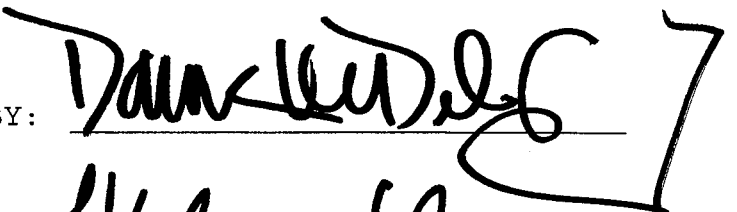
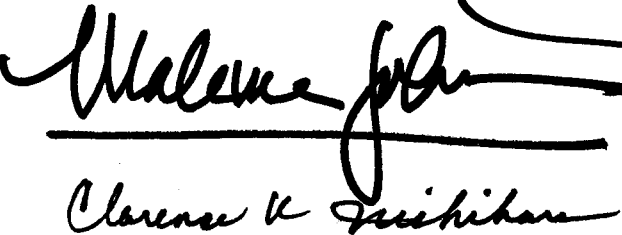
8 "§166E- Lease negotiation. Any provision of this  
9 chapter to the contrary notwithstanding, the department may  
10 directly negotiate and enter into leases with the agribusiness  
11 development corporation and shall be exempt from any  
12 qualification requirements."

13 SECTION 4. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

  
  
Clarence K. Iwihiana



**Report Title:**

Department of Agriculture; Lease of Lands; Agribusiness  
Development Corporation

**Description:**

Exempts non-agricultural parks lands leased to the agribusiness  
development corporation from section 166E-8, HRS. Allows  
department of agriculture to negotiate and enter into leases  
with the agribusiness development corporation.

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not legislation or evidence of legislative intent.*

