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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; provided further that any  
 5 disposition to the agribusiness development corporation shall be  
 6 approved by the board."

7 SECTION 3. Section 166E-11, Hawaii Revised Statutes, is  
 8 amended to read as follows:

9 "[~~§~~166E-11] **Lease negotiation.** (a) The department  
 10 may negotiate and enter into leases with any person who:

- 11 (1) Holds a revocable permit for agricultural purposes;
- 12 (2) Has formerly held an agricultural lease or a holdover  
 13 lease of public land that expired within the last ten  
 14 years and has continued to occupy the land; or
- 15 (3) Is determined by the department to have a beneficial  
 16 impact on agriculture.

17 (b) Lands eligible for lease negotiations under this  
 18 section are limited to lands that are:

- 19 (1) Zoned and used for agricultural purposes;
- 20 (2) Set aside for agricultural uses only, by the governor  
 21 through an executive order to the department; 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 using standards of  
6 national appraiser organizations to determine the  
7 rental, including percentage rent;

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

14 (3) Recover from the lessee the costs of expenditures  
15 required by the department to convert the parcel into  
16 leasehold.

17 The department shall notify in writing those eligible for  
18 lease negotiations under this section and shall inform the  
19 applicants of the terms, conditions, and restrictions provided  
20 by this section. Any eligible person may apply for a lease by  
21 submitting a written application to the department within thirty  
22 days from the date of receipt of notification; provided that the



1 department may require documentary proof from any applicant to  
2 determine that the applicant meets eligibility and qualification  
3 requirements for a lease.

4 (d) Any provision of this chapter to the contrary  
5 notwithstanding, the department may directly negotiate and enter  
6 into leases with the agribusiness development corporation and  
7 shall be exempt from any qualification requirements."

8 SECTION 4. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

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

11



**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, under certain  
conditions. Allows department of agriculture to negotiate and  
enter into leases with the agribusiness development corporation.  
(SD1)

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not legislation or evidence of legislative intent.*

