
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 or otherwise dispose of
7 lands under its control to the agribusiness development
8 corporation for the agribusiness development corporation's use
9 for the purposes of chapter 163D."

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

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

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



1 (2) Other lands and facilities under the jurisdiction of
2 the department pursuant to section 166E-9 and
3 notwithstanding chapter 171,
4 by negotiation, drawing of lot, conversion, or public auction.

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

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

10 (1) All land and facilities shall be disposed of for
11 purposes of agricultural or aquacultural activities
12 only;

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

17 (A) Failure to meet the restriction results from
18 mental or physical disability or the loss of a
19 spouse; or

20 (B) The premises are fully used in the production of
21 crops or products for which the disposition was
22 granted;



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



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

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

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



1 (e) Subsection (b) (2) and (5) shall not apply to any
2 disposition of non-agricultural park lands leased or otherwise
3 disposed of by the department to the agribusiness development
4 corporation; provided that:

5 (1) Any transfer, assignment, or other disposition of any
6 interest of a non-agricultural park land lease,
7 excluding a security interest, by the agribusiness
8 development corporation, shall be treated as a
9 transfer of the non-agricultural park land lease and
10 shall be subject to the approval of the board and to
11 reasonable terms and conditions, consistent with this
12 chapter or rules of the board that the board may deem
13 necessary;

14 (2) Any disposition of lands or facilities to the
15 agribusiness development corporation shall be for the
16 purpose of agricultural or aquacultural activities, or
17 shall otherwise promote the purpose established in
18 chapter 163D; and

19 (3) The agribusiness development corporation shall not
20 attempt to, nor make any agreement to, sell any leased
21 non-agricultural park land."



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

3 "[+]§166E-11[+] **Lease negotiation.** (a) The department
4 may negotiate and enter into leases with any person who:

- 5 (1) Holds a revocable permit for agricultural purposes;
6 (2) Has formerly held an agricultural lease or a holdover
7 lease of public land that expired within the last ten
8 years and has continued to occupy the land; or
9 (3) Is determined by the department to have a beneficial
10 impact on agriculture.

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

- 13 (1) Zoned and used for agricultural purposes;
14 (2) Set aside for agricultural uses only, by the governor
15 through an executive order to the department; and
16 (3) Not needed by any state or county agency for any other
17 public purpose.

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

- 20 (1) Require the appraisal of the parcel using standards of
21 national appraiser organizations to determine the
22 rental, including percentage rent;



1 (2) Require the payment of a premium, computed at twenty-
2 five per cent of the annual lease rent, with the
3 premium to be added to the annual lease rent for each
4 year of the lease equal to the number of years the
5 lessee has occupied the land, except that the premium
6 period shall not exceed four years; and

7 (3) Recover from the lessee the costs of expenditures
8 required by the department to convert the parcel into
9 leasehold.

10 The department shall notify in writing those eligible for
11 lease negotiations under this section and shall inform the
12 applicants of the terms, conditions, and restrictions provided
13 by this section. Any eligible person may apply for a lease by
14 submitting a written application to the department within thirty
15 days from the date of receipt of notification; provided that the
16 department may require documentary proof from any applicant to
17 determine that the applicant meets eligibility and qualification
18 requirements for a lease.

19 (d) Notwithstanding any provision of this chapter to the
20 contrary, the department may directly negotiate and enter into
21 leases with the agribusiness development corporation and shall
22 be exempt from any qualification requirements."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

4



Report Title:

Department of Agriculture; Disposition of Lands; Agribusiness
Development Corporation

Description:

Authorizes the department of agriculture to dispose of lands and negotiate and enter into leases with the agribusiness development corporation. Exempts non-agricultural parks lands disposed to the agribusiness development corporation from section 166-8(b)(2) and (5), HRS. (SD1)

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