

JAN 17 2014

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS MANAGED BY THE DEPARTMENT OF
AGRICULTURE AND THE AGRIBUSINESS DEVELOPMENT CORPORATION.

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

1 SECTION 1. The legislature finds that a strong
2 agricultural economy is built upon a wide array of agricultural
3 operations that meet the variety of demands for agricultural
4 products. Diversified agriculture requires innovation and
5 adaptability to meet changing consumer demands, such as the
6 growing demand for organic products. The State must provide
7 opportunities for small, niche product farms, and new start-up
8 farmers pioneering innovative techniques and crops in order to
9 build and sustain a robust, diversified agricultural economy.
10 The purpose of this Act is to ensure that lands leased by the
11 department of agriculture or the agribusiness development
12 corporation are leased in a variety of farm sizes, provide
13 protocols to enable farming of specialty products, and generally
14 support diversified agriculture.

15 SECTION 2. Chapter 141, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:



1 "§141- Reporting requirements; leased lands. The
2 department of agriculture shall submit to the legislature and
3 post on its website, no later than twenty days prior to the
4 convening of each regular session, a complete and detailed
5 report with the following information regarding its leased
6 lands:

7 (1) The number of lots the department leased by size and
8 by island;

9 (2) The number of lots by island the department leased
10 that contain protocols and conditions supporting
11 specialty farm products;

12 (3) The number of vacant parcels and unoccupied parcels in
13 the leasing process by island, including the parcel
14 size, location, and date the parcel was last occupied
15 by a tenant; and

16 (4) A description of any lease sales or transfers by
17 lessees approved by the board of agriculture,
18 including:

19 (A) A description of the type of farm products
20 produced by the transferring lessee and the farm
21 products to be produced by the accepting lessee
22 on the leased lands; and



1 (B) The date and description of the transferring
2 lessee's last lease approved by the board."

3 SECTION 3. Section 163D-16, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~**163D-16** **Use of public lands; acquisition of state**
6 **lands.** (a) Notwithstanding chapter 171 to the contrary, the
7 governor may transfer lands located within a project area to the
8 corporation for its use.

9 (b) If state lands under the control and management of
10 other public agencies are required by the corporation for its
11 purposes, the agency having the control and management of those
12 required lands, upon request by the corporation and with the
13 approval of the governor, may lease the lands to the corporation
14 upon such terms and conditions as may be agreed to by the
15 parties.

16 (c) Notwithstanding subsection (b) to the contrary, no
17 public lands shall be leased to the corporation if the lease
18 would impair any covenant between the State or any county, or
19 any department or board thereof, and the holders of bonds issued
20 by the State or the county, department, or board.

21 (d) The corporation shall ensure that all public lands
22 transferred to it are diversified by:



- 1 (1) Ensuring the lands are used or disposed of in each of
- 2 the following ranges:
- 3 (A) At least one but less than ten acres;
- 4 (B) At least ten but less than twenty-five acres;
- 5 (C) At least twenty-five but less than fifty acres;
- 6 (D) At least fifty but less than two hundred acres;
- 7 and
- 8 (E) At least two hundred acres;
- 9 (2) Adopting land-use protocols and conditions that
- 10 support specialty farm products in specified
- 11 locations, including areas for organic production
- 12 where protocols and conditions will protect organic
- 13 farms from pesticide drift by adjacent tenants; and
- 14 (3) Ensuring diversified agricultural opportunities are
- 15 available on each island where there is available land
- 16 to be used or disposed of by the corporation.

17 The corporation shall consider the diversity of its lands when
 18 approving lease sales or transfers by lessees to new tenants."

19 SECTION 4. Section 163D-19, Hawaii Revised Statutes, is
 20 amended to read as follows:

21 "~~+~~§163D-19~~+~~ **Annual report.** (a) The corporation shall
 22 submit to the governor and the legislature, no later than twenty



1 days prior to the convening of each regular session, a complete
2 and detailed report of its plans and activities.

3 (b) The following information shall be included in the
4 annual report and shall be posted on the corporation's website:

5 (1) The number of lots the corporation leased or used by
6 size and by island;

7 (2) The number of lots by island the corporation leased or
8 used that contain protocols and conditions supporting
9 specialty farm products;

10 (3) The number of vacant parcels and unoccupied parcels in
11 the leasing process by island, including the parcel
12 size, location, and date the parcel was last occupied
13 by a tenant; and

14 (4) A description of any lease sales or transfers approved
15 by the corporation, including:

16 (A) A description of the type of farm products
17 produced by the transferring lessee and the farm
18 products to be produced by the accepting lessee
19 on the leased lands; and

20 (B) The date and description of the transferring
21 lessee's last lease approved by the corporation."



1 SECTION 5. Section 166-6, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 **"§166-6 Disposition.** (a) Any provision of this chapter
4 to the contrary notwithstanding, the board may by negotiation,
5 drawing of lot, or public auction, directly dispose of public
6 lands and related facilities set aside and designated for use as
7 agricultural parks, and any other lands and facilities under the
8 jurisdiction of the department pursuant to section 166-3 and
9 notwithstanding chapter 171. Except as provided by subsection
10 (c), dispositions may be by lease and shall be subject to the
11 requirements set forth in rules adopted by the board in
12 conformity with section 166-9, and subject also to the following
13 limitations:

- 14 (1) The property shall be disposed of for agricultural or
15 aquacultural purposes only;
- 16 (2) The lessee shall derive the major portion of the
17 lessee's total annual income from the lessee's
18 activities on the premises; provided that this
19 restriction shall not apply if failure to meet the
20 restriction results from mental or physical disability
21 or the loss of a spouse, or if the premises are fully



1 utilized in the production of crops or products for
2 which the disposition was granted;

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

5 (4) The board shall determine the specific uses for which
6 the disposition is intended; parcel the land into
7 minimum size economic units sufficient for the
8 intended uses; make, or require the lessee to make
9 improvements as are required to achieve the intended
10 uses; set the upset price or lease rent based upon an
11 appraised evaluation of the property value adjustable
12 as provided in rules adopted in accordance with
13 chapter 91 to the specified use of the lot; set the
14 term of the lease, which shall be not less than
15 fifteen years nor more than fifty-five years,
16 including any extension granted for mortgage lending
17 or guarantee purposes; and establish other terms and
18 conditions as it may deem necessary, including but not
19 limited to restrictions against alienation and
20 provisions for withdrawal by the board;



- 1 (5) No lease shall be made to any person who is in arrears
2 in the payment of taxes, rents, or other obligations
3 owing the State or any county; ~~and~~
- 4 (6) Any transferee, assignee, or sublessee of an
5 agricultural park lease shall first qualify as an
6 applicant under this chapter. For the purpose of this
7 paragraph, any transfer, assignment, sale, or other
8 disposition of any interest, excluding a security
9 interest, of any legal entity which holds an
10 agricultural park lease shall be treated as a transfer
11 of the agricultural park lease and shall be subject to
12 the approval of the board of agriculture upon
13 reasonable terms and conditions, not inconsistent with
14 this chapter or rules of the board, which the board
15 may deem necessary. No transfer shall be approved by
16 the board if the disposition of the stock, or assets
17 or other interest of the legal entity would result in
18 the failure of the entity to qualify for an
19 agricultural park lease~~[]~~; and
- 20 (7) The board shall ensure that leased lands are
21 diversified by:



1 (A) Ensuring the lands are leased in each of the
2 following ranges:

3 (i) At least one but less than ten acres;

4 (ii) At least ten but less than twenty-five
5 acres;

6 (iii) At least twenty-five but less than fifty
7 acres;

8 (iv) At least fifty but less than two hundred
9 acres; and

10 (v) At least two hundred acres;

11 (B) Adopting protocols and lease conditions that
12 support specialty farm products in specified
13 locations, including areas for organic
14 production where protocols and conditions will
15 protect organic farms from pesticide drift by
16 adjacent tenants; and

17 (C) Ensuring diversified leasing opportunities are
18 available on each island where there are
19 available leases.

20 The board shall consider the diversity of its leased
21 lands when approving lease sales or transfers by
22 lessees to new tenants."



1 SECTION 6. Section 166E-8, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

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

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

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

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

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

21 (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[-]; and

12 (6) The board shall ensure that leased lands are
13 diversified by:

14 (A) Ensuring the lands are leased in each of the
15 following ranges:

16 (i) At least one but less than ten acres;

17 (ii) At least ten but less than twenty-five
18 acres;

19 (iii) At least twenty-five but less than fifty
20 acres;

21 (iv) At least fifty but less than two hundred
22 acres; and



S.B. NO. 2394

Report Title:

Department of Agriculture; Agribusiness Development Corporation;
Diversified Agriculture; Leased Lands; Reporting Requirements

Description:

Requires that lands managed by the department of agriculture and the agribusiness development corporation are disposed of in a variety of sizes and to diversified tenants to support a diversified agricultural economy. Requires the department of agriculture and the agribusiness development corporation to: (1) consider the diversity of their leased or transferred lands when approving leases or transfers; and (2) submit annual reports regarding land dispositions to the legislature and to post a copy of the reports on the Internet.

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

