
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, as necessary, may lease or otherwise dispose of
7 lands under its control to the agribusiness development
8 corporation 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) Subsection (b) (2) and (5) shall not apply to any
21 disposition of non-agricultural park lands leased or otherwise



1 disposed of by the department to the agribusiness development
2 corporation; provided that:

- 3 (1) Any transfer, assignment, or other disposition of any
4 interest of a non-agricultural park land lease,
5 excluding a security interest, by the agribusiness
6 development corporation shall be treated as a transfer
7 of the non-agricultural park land lease and shall be
8 subject to the approval of the board and to reasonable
9 terms and conditions, consistent with this chapter or
10 rules of the board that the board may deem necessary;
- 11 (2) Any disposition of lands or facilities to the
12 agribusiness development corporation shall be for the
13 purpose of agricultural or aquacultural activities or
14 shall otherwise promote the purpose established in
15 chapter 163D; and
- 16 (3) The agribusiness development corporation shall not
17 sell any non-agricultural park land that the
18 agribusiness development corporation leases from the
19 department."

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



1 "[+]§166E-11[+] Lease negotiation. (a) The department
2 may negotiate and enter into leases with any person who:

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

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

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

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

- 18 (1) Require the appraisal of the parcel using standards of
19 national appraiser organizations to determine the
20 rental, including percentage rent;
21 (2) Require the payment of a premium, computed at twenty-
22 five per cent of the annual lease rent, with the



1 premium to be added to the annual lease rent for each
2 year of the lease equal to the number of years the
3 lessee has occupied the land, except that the premium
4 period shall not exceed four years; and

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

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

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

21 SECTION 4. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

DOA; Disposition of Lands; ADC

Description:

Authorizes the DOA to dispose of lands and negotiate and enter into leases with the ADC. Exempts non-agricultural park lands disposed of to the ADC from section 166-8(b)(2) and (5), HRS. Effective 07/01/2050. (SD2)

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