

JAN 23 2015

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
11 the 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.



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

- 10 (1) The number of lots the department leased by size and
11 by island;
- 12 (2) The number of lots by island the department leased
13 that contain protocols and conditions supporting
14 specialty farm products;
- 15 (3) The number of vacant parcels and unoccupied parcels in
16 the leasing process by island, including the parcel
17 size, location, and date the parcel was last occupied
18 by a tenant; and
- 19 (4) A description of any lease sales or transfers by
20 lessees approved by the board of agriculture,
21 including:



1 (A) A description of the type of farm products
 2 produced by the transferring lessee and the farm
 3 products to be produced by the accepting lessee
 4 on the leased lands; and

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

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

9 "~~§~~163D-16 ~~§~~ Use of public lands; acquisition of state
 10 lands. (a) Notwithstanding chapter 171 to the contrary, the
 11 governor may transfer lands located within a project area to the
 12 corporation for its use.

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

20 (c) Notwithstanding subsection (b) to the contrary, no
 21 public lands shall be leased to the corporation if the lease



1 would impair any covenant between the State or any county, or
2 any department or board thereof, and the holders of bonds issued
3 by the State or the county, department, or board.

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

6 (1) Ensuring the lands are used or disposed of in each of
7 the following ranges:

8 (A) At least one but less than ten acres;

9 (B) At least ten but less than twenty-five acres;

10 (C) At least twenty-five but less than fifty acres;

11 (D) At least fifty but less than two hundred acres;

12 and

13 (E) At least two hundred acres;

14 (2) Adopting land-use protocols and conditions that

15 support specialty farm products in specified

16 locations, including areas for organic production

17 where protocols and conditions will protect organic

18 farms from pesticide drift by adjacent tenants; and

19 (3) Ensuring diversified agricultural opportunities are

20 available on each island where there is available land

21 to be used or disposed of by the corporation.



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

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

5 "[+]§163D-19[+] **Annual report.** (a) The corporation shall
6 submit to the governor and the legislature, no later than twenty
7 days prior to the convening of each regular session, a complete
8 and detailed report of its plans and activities.

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

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

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

16 (3) The number of vacant parcels and unoccupied parcels in
17 the leasing process by island, including the parcel
18 size, location, and date the parcel was last occupied
19 by a tenant; and

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



- 1 (A) A description of the type of farm products
- 2 produced by the transferring lessee and the farm
- 3 products to be produced by the accepting lessee
- 4 on the leased lands; and
- 5 (B) The date and description of the transferring
- 6 lessee's last lease approved by the corporation."

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

9 "(a) Any provision of this chapter to the contrary
10 notwithstanding, the board may by negotiation, drawing of lot,
11 or public auction, directly dispose of public lands and related
12 facilities set aside and designated for use as agricultural
13 parks, and any other lands and facilities under the jurisdiction
14 of the department pursuant to section 166-3 and notwithstanding
15 chapter 171. Except as provided by subsection (c), dispositions
16 may be by lease and shall be subject to the requirements set
17 forth in rules adopted by the board in conformity with section
18 166-9, and subject also to the following limitations:

- 19 (1) The property shall be disposed of for agricultural or
- 20 aquacultural purposes only;



- 1 (2) The lessee shall derive the major portion of the
2 lessee's total annual income from the lessee's
3 activities on the premises; provided that this
4 restriction shall not apply if failure to meet the
5 restriction results from mental or physical disability
6 or the loss of a spouse, or if the premises are fully
7 utilized in the production of crops or products for
8 which the disposition was granted;
- 9 (3) The lessee shall comply with all federal and state
10 laws regarding environmental quality control;
- 11 (4) The board shall determine the specific uses for which
12 the disposition is intended; parcel the land into
13 minimum size economic units sufficient for the
14 intended uses; make, or require the lessee to make
15 improvements as are required to achieve the intended
16 uses; set the upset price or lease rent based upon an
17 appraised evaluation of the property value adjustable
18 as provided in rules adopted in accordance with
19 chapter 91 to the specified use of the lot; set the
20 term of the lease, which shall be not less than
21 fifteen years nor more than fifty-five years,



1 including any extension granted for mortgage lending
2 or guarantee purposes; and establish other terms and
3 conditions as it may deem necessary, including but not
4 limited to restrictions against alienation and
5 provisions for withdrawal by the board;

6 (5) No lease shall be made to any person who is in arrears
7 in the payment of taxes, rents, or other obligations
8 owing the State or any county; [~~and~~]

9 (6) Any transferee, assignee, or sublessee of an
10 agricultural park lease shall first qualify as an
11 applicant under this chapter. For the purpose of this
12 paragraph, any transfer, assignment, sale, or other
13 disposition of any interest, excluding a security
14 interest, of any legal entity which holds an
15 agricultural park lease shall be treated as a transfer
16 of the agricultural park lease and shall be subject to
17 the approval of the board of agriculture upon
18 reasonable terms and conditions, not inconsistent with
19 this chapter or rules of the board, which the board
20 may deem necessary. No transfer shall be approved by
21 the board if the disposition of the stock, or assets



1 or other interest of the legal entity would result in
2 the failure of the entity to qualify for an
3 agricultural park lease[-]; and

4 (7) The board shall ensure that leased lands are
5 diversified by:

6 (A) Ensuring the lands are leased in each of the
7 following ranges:

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

9 (ii) At least ten but less than twenty-five
10 acres;

11 (iii) At least twenty-five but less than fifty
12 acres;

13 (iv) At least fifty but less than two hundred
14 acres; and

15 (v) At least two hundred acres;

16 (B) Adopting protocols and lease conditions that
17 support specialty farm products in specified
18 locations, including areas for organic production
19 where protocols and conditions will protect
20 organic farms from pesticide drift by adjacent
21 tenants; and



1 (C) Ensuring diversified leasing opportunities are
2 available on each island where there are
3 available leases.

4 The board shall consider the diversity of its leased
5 lands when approving lease sales or transfers by
6 lessees to new tenants."

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

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

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

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

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



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1 (B) The premises are fully used in the production of
2 crops or products for which the disposition was
3 granted;

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

6 (4) The board shall:

7 (A) Determine the specific uses for which the
8 disposition is intended;

9 (B) Parcel the land into minimum size economic units
10 sufficient for the intended uses;

11 (C) Make, or require the lessee to make, improvements
12 that are required to achieve the intended uses;

13 (D) Set the upset price or lease rent based upon an
14 appraised evaluation of the property value,
15 adjustable to the specified use of the lot;

16 (E) Set the term of the lease that shall be not less
17 than fifteen years nor more than sixty-five
18 years, including any extension granted for
19 mortgage lending or guarantee purposes; and

20 (F) Establish other terms and conditions it deems
21 necessary, including but not limited to



1 restrictions against alienation and provisions
2 for withdrawal by the board; [~~and~~]

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

19 (6) The board shall ensure that leased lands are
20 diversified by:



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- 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 production
14 where protocols and conditions will protect
15 organic farms from pesticide drift by adjacent
16 tenants; and
17 (C) Ensuring diversified leasing opportunities are
18 available on each island where there are
19 available leases.



1 The board shall consider the diversity of its leased
 2 lands when approving lease sales or transfers by
 3 lessees to new tenants."

4 SECTION 7. Statutory material to be repealed is bracketed
 5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 2015.

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S.B. NO. 510

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.

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