
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 PART I

2 SECTION 1. The legislature finds that the agribusiness
3 development corporation was established in 1994 to address the
4 issues of large tracts of land becoming available due to the
5 downsizing of the sugar and pineapple industries. Hawaii now
6 faces different issues in agriculture, mainly sustainable
7 agriculture and local food production. The agribusiness
8 development corporation manages over 20,000 acres of public
9 agricultural lands with significant potential to shape the
10 State's agricultural public policy toward the goal of food self-
11 sufficiency. The lack of affordable agricultural land with
12 long-term leases is cited as a key inhibitor of the growth and
13 expansion of local agriculture.

14 The purpose of this Act is to ensure that:

15 (1) The agribusiness development corporation makes food
16 production a priority;

17 (2) The agribusiness development corporation and
18 department of agriculture provide transparency and



1 accountability on leasing activities through reporting
2 requirements;

3 (3) The department of agriculture and the agribusiness
4 development corporation lease lands in a variety of
5 farm sizes, provide protocols to enable farming of
6 specialty products, and generally support diversified
7 agriculture; and

8 (4) The department of agriculture and the agribusiness
9 development corporation lease lands so that at least
10 fifty per cent of their managed lands are leased for
11 local food production.

12 PART II

13 SECTION 2. Section 163D-1, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§163D-1[+] Findings and purpose. The legislature
16 finds that the downsizing of the sugar and pineapple industries
17 is presenting an unprecedented opportunity for the conversion of
18 agriculture into a ~~[dynamic-growth]~~ local food production
19 industry. Within the next decade, seventy-five thousand acres
20 of agricultural lands and fifty million gallons per day of
21 irrigation water are expected to be released by plantations.



1 The downsizing of the sugar and pineapple industries will idle a
2 valuable inventory of supporting infrastructure including
3 irrigation systems, roads, drainage systems, processing
4 facilities, workshops, and warehouses. The challenge to
5 government and business is to conserve and convert the arable
6 lands and their associated production infrastructure in a timely
7 manner into new productive uses that are based upon strategies
8 developed from detailed marketing analysis and monitoring of
9 local, national, and international opportunities. Constantly
10 evolving economies require an aggressive and dynamic leadership
11 for the promotion and development of agricultural enterprises,
12 and centralized leadership to coordinate industry development,
13 provide industry-wide services, provide marketing assistance,
14 and facilitate investments and coventures in viable enterprises.

15 The purpose of this chapter is to create a vehicle and
16 process to ~~[make optimal use of agricultural assets]~~ support and
17 increase local food production for the ~~[economic,]~~
18 ~~environmental,~~ and social benefit of the people of Hawaii.
19 This chapter establishes a public corporation to administer ~~[an~~
20 ~~aggressive and]~~ a dynamic agribusiness development program
21 that shall support and increase local food production in a



1 manner that contributes to the health of Hawaii residents,
2 protects the natural environment, enhances soil and water
3 quality, and preserves and protects existing agricultural lands.

4 The corporation shall coordinate and administer programs to
5 assist agricultural enterprises to facilitate the transition of
6 agricultural infrastructure from plantation operations into
7 other agricultural enterprises, to carry on the marketing
8 analysis to direct agricultural industry evolution, and to
9 provide the leadership for the development, financing,
10 improvement, or enhancement of agricultural enterprises."

11 SECTION 3. Section 163D-2, Hawaii Revised Statutes, is
12 amended by adding a new definition to be appropriately inserted
13 and to read as follows:

14 "Local food production" means crops, livestock, poultry,
15 and other foods that are grown and raised in Hawaii at least in
16 part for direct consumption by Hawaii residents and visitors."

17 SECTION 4. Section 163D-5, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The corporation shall prepare the Hawaii agribusiness
20 plan which shall define and establish goals, objectives,
21 policies, and priority guidelines for its agribusiness



1 development strategy. The plan shall include but not be limited
2 to:

- 3 (1) An inventory of agricultural lands with suitable
4 adequate water resources that are or will become
5 available due to the downsizing of the sugar and
6 pineapple industries that can be used to meet present
7 and future agricultural production needs;
- 8 (2) An inventory of agricultural infrastructure that will
9 be abandoned by sugar and pineapple industries such as
10 irrigation systems, drainage systems, processing
11 facilities, and other accessory facilities;
- 12 (3) An analysis of imported agricultural products and the
13 potential for increasing local production to replace
14 imported products in a manner that complements
15 existing local producers and increases Hawaii's
16 agricultural self-sufficiency;
- 17 (4) Alternatives in the establishment of sound financial
18 programs to promote the development of diversified
19 agriculture;



- 1 (5) Feasible strategies for the promotion, marketing, and
2 distribution of Hawaii agricultural products in local,
3 national, and international markets;
- 4 (6) Programs to promote and facilitate the absorbing of
5 displaced agricultural workers into alternative
6 agricultural enterprises;
- 7 (7) Strategies to insure the provision of adequate air and
8 surface transportation services and supporting
9 facilities to support the agricultural industry in
10 meeting local, national, and international market
11 needs;
- 12 (8) Proposals to improve the gathering of data and the
13 timely presentation of information on market demands
14 and trends that can be used to plan future harvests
15 and production; [and]
- 16 (9) Strategies for federal and state legislative actions
17 that will promote the development and enhancement of
18 Hawaii's agricultural industries [-];
- 19 (10) Consultation with stakeholders experienced in local
20 food production practices; and



- 1 (11) Provisions that encourage partnerships with county
 2 governments."

3 PART III

4 SECTION 5. Chapter 141, Hawaii Revised Statutes, is
 5 amended by adding a new section to be appropriately designated
 6 and to read as follows:

7 "§141- Reporting requirements; leased lands. The
 8 department of agriculture shall submit to the legislature and
 9 post on its website, no later than twenty days prior to the
 10 convening of each regular session, a complete and detailed
 11 report with the following information regarding its leased
 12 lands:

13 (1) The number of lots the department leased by size and
 14 by island;

15 (2) The number of lots by island the department leased
 16 that contain protocols and conditions supporting
 17 specialty farm products;

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



- 1 (4) A description of any lease sales or transfers by
- 2 lessees approved by the board of agriculture,
- 3 including:
- 4 (A) A description of the type of farm products
- 5 produced by the transferring lessee and the farm
- 6 products to be produced by the accepting lessee
- 7 on the leased lands; and
- 8 (B) The date and description of the transferring
- 9 lessee's last lease approved by the board."

10 SECTION 6. Section 163D-19, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "[+] §163D-19 [+] **Annual report.** (a) The corporation shall
 13 submit to the governor and the legislature, no later than twenty
 14 days prior to the convening of each regular session, a complete
 15 and detailed report of its plans and activities.

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

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



- 1 (2) The number of lots by island the corporation leased or
2 used that contain protocols and conditions supporting
3 specialty farm products;
- 4 (3) The number of vacant parcels and unoccupied parcels in
5 the leasing process by island, including the parcel
6 size, location, and date the parcel was last occupied
7 by a tenant; and
- 8 (4) A description of any lease sales or transfers approved
9 by the corporation, including:
- 10 (A) A description of the type of farm products
11 produced by the transferring lessee and the farm
12 products to be produced by the accepting lessee
13 on the leased lands; and
- 14 (B) The date and description of the transferring
15 lessee's last lease approved by the corporation."

PART IV

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

19 " [+] §163D-16 [+] Use of public lands; acquisition of state
20 lands. (a) Notwithstanding chapter 171 to the contrary, the



1 governor may transfer lands located within a project area to the
2 corporation for its use.

3 (b) If state lands under the control and management of
4 other public agencies are required by the corporation for its
5 purposes, the agency having the control and management of those
6 required lands, upon request by the corporation and with the
7 approval of the governor, may lease the lands to the corporation
8 upon such terms and conditions as may be agreed to by the
9 parties.

10 (c) Notwithstanding subsection (b) to the contrary, no
11 public lands shall be leased to the corporation if the lease
12 would impair any covenant between the State or any county, or
13 any department or board thereof, and the holders of bonds issued
14 by the State or the county, department, or board.

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

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

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

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

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



1 (D) At least fifty but less than two hundred acres;
2 and

3 (E) At least two hundred acres;

4 (2) Adopting land-use protocols and conditions that
5 support specialty farm products in specified
6 locations, including areas for organic production
7 where protocols and conditions will protect organic
8 farms from pesticide drift by adjacent tenants; and

9 (3) Ensuring diversified agricultural opportunities are
10 available on each island where there is available land
11 to be used or disposed of by the corporation.

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

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

16 "(a) Any provision of this chapter to the contrary
17 notwithstanding, the board may by negotiation, drawing of lot,
18 or public auction, directly dispose of public lands and related
19 facilities set aside and designated for use as agricultural
20 parks, and any other lands and facilities under the jurisdiction
21 of the department pursuant to section 166-3 and notwithstanding



1 chapter 171. Except as provided by subsection (c), dispositions
2 may be by lease and shall be subject to the requirements set
3 forth in rules adopted by the board in conformity with section
4 166-9, and subject also to the following limitations:

- 5 (1) The property shall be disposed of for agricultural or
6 aquacultural purposes only;
- 7 (2) The lessee shall derive the major portion of the
8 lessee's total annual income from the lessee's
9 activities on the premises; provided that this
10 restriction shall not apply if failure to meet the
11 restriction results from mental or physical disability
12 or the loss of a spouse, or if the premises are fully
13 utilized in the production of crops or products for
14 which the disposition was granted;
- 15 (3) The lessee shall comply with all federal and state
16 laws regarding environmental quality control;
- 17 (4) The board shall determine the specific uses for which
18 the disposition is intended; parcel the land into
19 minimum size economic units sufficient for the
20 intended uses; make, or require the lessee to make
21 improvements as are required to achieve the intended



1 uses; set the upset price or lease rent based upon an
 2 appraised evaluation of the property value adjustable
 3 as provided in rules adopted in accordance with
 4 chapter 91 to the specified use of the lot; set the
 5 term of the lease, which shall be not less than
 6 fifteen years nor more than fifty-five years,
 7 including any extension granted for mortgage lending
 8 or guarantee purposes; and establish other terms and
 9 conditions as it may deem necessary, including but not
 10 limited to restrictions against alienation and
 11 provisions for withdrawal by the board;

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

15 (6) Any transferee, assignee, or sublessee of an
 16 agricultural park lease shall first qualify as an
 17 applicant under this chapter. For the purpose of this
 18 paragraph, any transfer, assignment, sale, or other
 19 disposition of any interest, excluding a security
 20 interest, of any legal entity which holds an
 21 agricultural park lease shall be treated as a transfer



1 of the agricultural park lease and shall be subject to
 2 the approval of the board of agriculture upon
 3 reasonable terms and conditions, not inconsistent with
 4 this chapter or rules of the board, which the board
 5 may deem necessary. No transfer shall be approved by
 6 the board if the disposition of the stock, or assets
 7 or other interest of the legal entity would result in
 8 the failure of the entity to qualify for an
 9 agricultural park lease[-]; and

10 (7) The board shall ensure that leased lands are
 11 diversified by:

12 (A) Ensuring the lands are leased in each of the
 13 following ranges:

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

15 (ii) At least ten but less than twenty-five
 16 acres;

17 (iii) At least twenty-five but less than fifty
 18 acres;

19 (iv) At least fifty but less than two hundred
 20 acres; and

21 (v) At least two hundred acres;



1 (B) Adopting protocols and lease conditions that
 2 support specialty farm products in specified
 3 locations, including areas for organic production
 4 where protocols and conditions will protect
 5 organic farms from pesticide drift by adjacent
 6 tenants; and

7 (C) Ensuring diversified leasing opportunities are
 8 available on each island where there are
 9 available leases.

10 The board shall consider the diversity of its leased
 11 lands when approving lease sales or transfers by
 12 lessees to new tenants."

13 SECTION 9. Section 166E-8, Hawaii Revised Statutes, is
 14 amended by amending subsection (b) to read as follows:

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

18 (1) All land and facilities shall be disposed of for
 19 purposes of agricultural or aquacultural activities
 20 only;



- 1 (2) Each lessee shall derive a major portion of the
2 lessee's total annual income earned from the lessee's
3 activities on the premises; provided that this
4 restriction shall not apply if:
- 5 (A) Failure to meet the restriction results from
6 mental or physical disability or the loss of a
7 spouse; or
- 8 (B) The premises are fully used in the production of
9 crops or products for which the disposition was
10 granted;
- 11 (3) The lessee shall comply with all federal and state
12 laws regarding environmental quality control;
- 13 (4) The board shall:
- 14 (A) Determine the specific uses for which the
15 disposition is intended;
- 16 (B) Parcel the land into minimum size economic units
17 sufficient for the intended uses;
- 18 (C) Make, or require the lessee to make, improvements
19 that are required to achieve the intended uses;



- 1 (D) Set the upset price or lease rent based upon an
- 2 appraised evaluation of the property value,
- 3 adjustable to the specified use of the lot;
- 4 (E) Set the term of the lease that shall be not less
- 5 than fifteen years nor more than sixty-five
- 6 years, including any extension granted for
- 7 mortgage lending or guarantee purposes; and
- 8 (F) Establish other terms and conditions it deems
- 9 necessary, including but not limited to
- 10 restrictions against alienation and provisions
- 11 for withdrawal by the board; [and]
- 12 (5) Any transferee, assignee, or sublessee of a non-
- 13 agricultural park lease shall first qualify as an
- 14 applicant under this chapter. For the purpose of this
- 15 paragraph, any transfer, assignment, sale, or other
- 16 disposition of any interest, excluding a security
- 17 interest, by any legal entity that holds a non-
- 18 agricultural park lease shall be treated as a transfer
- 19 of the non-agricultural park lease and shall be
- 20 subject to the approval of the board and to reasonable
- 21 terms and conditions, consistent with this chapter or



1 rules of the board that the board may deem necessary.
2 No transfer shall be approved by the board if the
3 disposition of the stock or assets or other interest
4 of the legal entity would result in the failure of the
5 entity to qualify for a non-agricultural park land
6 lease [-]; and

7 (6) The board shall ensure that leased lands are
8 diversified by:

9 (A) Ensuring the lands are leased in each of the
10 following ranges:

- 11 (i) At least one but less than ten acres;
- 12 (ii) At least ten but less than twenty-five
13 acres;
- 14 (iii) At least twenty-five but less than fifty
15 acres;
- 16 (iv) At least fifty but less than two hundred
17 acres; and
- 18 (v) At least two hundred acres;

19 (B) Adopting protocols and lease conditions that
20 support specialty farm products in specified
21 locations, including areas for organic production



1 where protocols and conditions will protect
2 organic farms from pesticide drift by adjacent
3 tenants; and

4 (C) Ensuring diversified leasing opportunities are
5 available on each island where there are
6 available leases.

7 The board shall consider the diversity of its leased
8 lands when approving lease sales or transfers by
9 lessees to new tenants."

10 PART V

11 SECTION 10. Section 163D-15.6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§163D-15.6 Commitment and preservation of agricultural**
14 **leases.** (a) The [~~agribusiness development~~] corporation shall
15 work toward obtaining commitments from landowners in the leeward
16 and central districts of Oahu that their agricultural leases
17 shall be for a duration of twenty or more years and shall not be
18 amended or revoked to allow for a nonagricultural use of the
19 land; provided that for lands in central Oahu acquired under Act
20 234, Session Laws of Hawaii 2008, the agricultural leases shall
21 be for no more than fifty-five years.



1 (b) To further ensure the preservation of agriculture in
 2 the leeward and central districts of Oahu, the [~~agribusiness~~
 3 ~~development~~] corporation shall monitor the agricultural leases
 4 of lands using the water from the Waiahole water system. In the
 5 event of any proposed amendment or revocation of any lease, the
 6 corporation shall do all things within its powers under this
 7 chapter to protect and defend the interests of the agricultural
 8 leaseholders to ensure the continuation of agricultural use for
 9 those lands.

10 (c) Beginning on January 1, 2016, the corporation shall
 11 lease each year a minimum of fifty per cent of lands managed by
 12 the corporation to operations that support local food production
 13 and whose primary business is local food production. This
 14 subsection shall apply to all licenses and lease renewals."

15 SECTION 11. Section 166-11, Hawaii Revised Statutes, is
 16 amended by amending subsection (b) to read as follows:

17 "(b) The land eligible for lease negotiations under this
 18 section are limited to those lands:

19 (1) Zoned and used for agricultural purposes;

1 (2) Set aside by governor's executive order to the
2 department of agriculture for agricultural uses only;
3 [and]

4 (3) Not needed by any state or county agency for any other
5 public purpose[-]; and

6 (4) Beginning January 1, 2016, leased so that, each year,
7 at least fifty per cent of the land is used by
8 operations whose primary business is the production of
9 food for local consumption in Hawaii. This paragraph
10 shall apply to all licenses and lease renewals."

11 SECTION 12. Section 166E-11, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Lands eligible for lease negotiations under this
14 section are limited to lands that are:

15 (1) Zoned and used for agricultural purposes;

16 (2) Set aside for agricultural uses only, by the governor
17 through an executive order to the department; [and]

18 (3) Not needed by any state or county agency for any other
19 public purpose[-]; and

20 (4) Beginning January 1, 2016, leased so that, each year,
21 at least fifty per cent of the land is used by



1 operations whose primary business is the production of
2 food for local consumption in Hawaii. This paragraph
3 shall apply to all licenses and lease renewals."

4 PART VI

5 SECTION 13. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 14. This Act shall take effect upon its approval.



Report Title:

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

Description:

Part II: Amends the primary mission of the agribusiness development corporation to be local food production. Part III: Requires the DOA and the ADC to submit annual reports regarding land dispositions to the legislature and to post a copy of the reports on the Internet. Part IV: Requires that lands managed by the DOA and the ADC are disposed of in a variety of sizes and to diversified tenants to support a diversified agricultural economy. Part V: Requires the DOA and ADC to lease each year at least fifty per cent of land managed by the DOA and ADC, respectively, to operations whose primary business is local food production, beginning 1/1/2016. (SD1)

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

