

---

# A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

SECTION 1. The purpose of this Act is to:

- (1) Transfer the administrative attachment of the agribusiness development corporation from the department of agriculture to the department of business, economic development, and tourism;
- (2) Amend the focus, scope, responsibilities, and powers of the agribusiness development corporation;
- (3) Amend the requirements and responsibilities of the board of directors of the agribusiness development corporation;
- (4) Amend the required contents of the Hawaii agribusiness plan; and
- (5) Appropriate funds.

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

"[~~§~~§163D-1[~~§~~] **Findings and purpose.** The legislature finds that the downsizing of the sugar and pineapple industries [~~is presenting~~] presented an unprecedented opportunity for the



1 conversion of agriculture into a dynamic growth industry.  
2 Within the next decade, [~~seventy-five thousand~~] the State can  
3 use public agricultural lands to enhance the local economy,  
4 provide employment opportunities, decrease reliance on imported  
5 agricultural products, and provide more sources of locally grown  
6 food for residents. Thousands of acres of agricultural lands  
7 and fifty million gallons per day of irrigation water [~~are~~  
8 ~~expected to be~~] were released by plantations. The downsizing of  
9 the sugar and pineapple industries [~~will idle~~] idled and left  
10 vacant a valuable inventory of supporting infrastructure  
11 including irrigation systems, roads, drainage systems,  
12 processing facilities, workshops, and warehouses[~~-~~] that are  
13 still largely underutilized. The challenge to government and  
14 business is to continue to conserve and convert the arable lands  
15 and their associated production infrastructure in a timely  
16 manner into new productive uses [~~that are based upon strategies~~  
17 ~~developed from detailed marketing analysis and monitoring of~~  
18 ~~local, national, and international opportunities.~~ Constantly  
19 ~~evolving economies require an aggressive~~]. Aggressive and  
20 dynamic leadership [~~for the promotion~~] can play a critically  
21 important role in promoting and [~~development of~~] developing



1 agricultural enterprises, [~~and centralized leadership to~~  
2 ~~coordinate~~] coordinating industry development, [~~provide~~  
3 providing industry-wide services, [~~provide~~] providing marketing  
4 assistance, and [~~facilitate~~] facilitating investments and  
5 coventures in viable enterprises.

6       The purpose of this chapter is to create a vehicle and  
7 process to make optimal use of agricultural assets for the  
8 economic, environmental, and social benefit of the people of  
9 Hawaii. This chapter establishes a public corporation to  
10 administer an aggressive and dynamic agribusiness development  
11 program. The purposes of the corporation shall be to support  
12 the production of local agricultural products for local  
13 consumption in a manner that is economically and environmentally  
14 sustainable while continuing to develop commercial exports of  
15 locally produced agricultural products. To further these  
16 purposes, the corporation shall coordinate and administer  
17 programs to assist agricultural enterprises to facilitate the  
18 transition of agricultural infrastructure from plantation  
19 operations into other agricultural enterprises, [~~to carry on the~~  
20 ~~marketing analysis to direct agricultural industry evolution,~~  
21 ~~and to provide the leadership for the development, financing,~~



1 ~~improvement, or enhancement of agricultural enterprises.]~~  
2 increase local production of agricultural products for local  
3 consumption, reduce the State's reliance on imported  
4 agricultural products, and increase access to farmland and  
5 related infrastructure for small local farmers and  
6 cooperatives."

7 SECTION 3. Section 163D-2, Hawaii Revised Statutes, is  
8 amended by amending the definition of "agriculture" to read as  
9 follows:

10 "Agriculture" means the production for ~~marketing]~~  
11 consumption within the State and exporting of plant and animal  
12 life on land and within ponds and other bodies of water for  
13 food, fiber, and raw materials for value-added products, and any  
14 agricultural enterprise or enterprises organized for the  
15 production of agricultural materials or value-added products  
16 based on detailed marketing analysis and strategies to exploit  
17 profitable potentials in local, national, and international  
18 markets, including general farming, cane growing, fruit growing,  
19 flower growing, aquaculture, growing of timber and forest  
20 products, apiary, grazing, dairying, and the production of any



1 form of livestock or poultry, and their appurtenant services and  
2 facilities."

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

5 "§163D-3 Agribusiness development corporation; board of  
6 directors; established. (a) There is established the  
7 agribusiness development corporation, which shall be a public  
8 body corporate and politic and an instrumentality and agency of  
9 the State. The corporation shall be headed by a board of  
10 directors. The corporation shall be placed within the  
11 department of [~~agriculture~~] business, economic development, and  
12 tourism for administrative purposes, but the corporation may  
13 later incorporate as a nonprofit corporation if this proves  
14 desirable to further its objectives; provided that [~~such~~]  
15 reorganization as a nonprofit corporation shall not adversely  
16 affect the federal tax status of the interest on any bonds  
17 issued to finance any project or project facility.

18 (b) The board of directors of the corporation shall  
19 consist of eleven voting members, of whom eight shall be  
20 appointed by the governor. The terms of these eight members  
21 shall be four years; provided that, commencing on July 1, 2005,



1 the governor shall reduce the terms of those initially appointed  
2 so as to provide, as nearly as can be, for the expiration of an  
3 equal number of terms at intervals of one year. The eight  
4 members shall be selected on the basis of their knowledge,  
5 experience, and proven expertise in small and large businesses  
6 within the agricultural industry, agricultural economics,  
7 banking, real estate, finance, promotion, marketing, local food  
8 production, and management. Of these eight members, one shall  
9 be from the city and county of Honolulu, one shall be from the  
10 county of Hawaii, one shall be from the county of Maui, one  
11 shall be from the county of Kauai, and four shall be appointed  
12 at-large. The director of business, economic development, and  
13 tourism; the chairperson of the board of agriculture; and the  
14 chairperson of the board of land and natural resources, or their  
15 designated representatives, shall be ex-officio, voting members  
16 of the board. All members shall continue in office until their  
17 respective successors have been appointed and qualified. The  
18 board shall annually elect its chairperson from among its  
19 members; provided that the chairperson shall not be an ex-  
20 officio member.



1 (c) The members of the board shall serve without  
2 compensation, but shall be reimbursed for actual expenses  
3 incurred in the performance of their duties.

4 (d) The board shall appoint an executive director, who  
5 shall serve at the pleasure of the board and shall be exempt  
6 from chapter 76. The salary of the executive director shall be  
7 set by the board.

8 (e) The board shall develop and document annual goals and  
9 performance measures for the executive director that allow the  
10 board to annually evaluate the executive director's work to  
11 ensure compliance by the corporation with statutory requirements  
12 and achievement of its statutory purposes.

13 (f) The board shall evaluate and document the evaluation  
14 of the executive director's performance annually, or more  
15 frequently upon the request of at least four board members,  
16 based on annual goals, performance measures, and other relevant  
17 criteria.

18 (g) The board shall document the specific authority  
19 delegated to the executive director, including but not limited  
20 to the types of access and use of corporation property that the  
21 executive director may approve without notice to or approval by



1 the board, and the rent credits and other amendments to board-  
2 approved contract terms that the executive director may approve  
3 without notice to or approval by the board.

4        [~~e~~] (h) The board, through its executive director, may  
5 appoint officers, agents, and employees; prescribe their duties  
6 and qualifications; and fix their salaries, without regard to  
7 chapter 76."

8        SECTION 5. Section 163D-4, Hawaii Revised Statutes, is  
9 amended to read as follows:

10        "**§163D-4 Powers; generally.** (a) Except as otherwise  
11 limited by this chapter, the corporation may:

- 12        (1) Sue and be sued;
- 13        (2) Have a seal and alter the same at its pleasure;
- 14        (3) Make and alter bylaws for its organization and  
15                internal management;
- 16        (4) Adopt rules under chapter 91 necessary to effectuate  
17                this chapter in connection with its projects,  
18                operations, and properties;
- 19        (5) Make and execute contracts and all other instruments  
20                necessary or convenient for the exercise of its powers  
21                and functions under this chapter;





1       ~~[(6)]~~   ~~Carry out surveys, research, and investigations into~~  
2           ~~technological, business, financial, consumer trends,~~  
3           ~~and other aspects of agricultural production in the~~  
4           ~~national and international community.~~

5       ~~+(7)]~~   (6)   Acquire or contract to acquire by grant or  
6           purchase any real, personal, or mixed property or any  
7           interest therein for its immediate or future use for  
8           the purposes of this chapter; own, hold, improve, and  
9           rehabilitate any real, personal, or mixed property  
10          acquired, and sell, assign, exchange, transfer,  
11          convey, lease, or otherwise dispose of, or encumber  
12          the same;

13       ~~[(8)]~~   (7)   By itself, or in partnership with qualified  
14           persons, acquire, construct, reconstruct,  
15           rehabilitate, improve, alter, or repair any  
16           infrastructure or accessory facilities in connection  
17           with any project; own, hold, sell, assign, transfer,  
18           convey, exchange, lease, or otherwise dispose of, or  
19           encumber any project;

20       ~~[(9)]~~   (8)   In cooperation with the department of  
21           agriculture, pursuant to chapter 167, or otherwise



1 through direct investment or coventure with a  
2 professional investor or enterprise or any other  
3 person, or otherwise, to acquire, construct, operate,  
4 and maintain water facilities for conveying,  
5 distributing, and transmitting water for irrigation  
6 and agricultural uses at rates or charges determined  
7 by the corporation; provided that:

8 (A) This chapter shall not be construed to permit or  
9 allow the department of agriculture or any  
10 agribusiness development corporation to:

11 (i) Amend or modify rights or entitlements to  
12 water as provided for by article XI, section  
13 7, of the Constitution of the State of  
14 Hawaii, or the Hawaiian Homes Commission  
15 Act, 1920, as amended, and chapter 168;

16 (ii) Diminish or abridge the traditional and  
17 customary rights of ahupua'a tenants who  
18 inhabited the Hawaiian Islands prior to 1778  
19 under sections 1-1 and 7-1; and

20 (iii) Impair, abridge, or terminate the legal  
21 rights or interests to water and its uses,



1                   whether by lease, easement, or other means,  
2                   which are possessed or held by organizations  
3                   whose primary purpose is to benefit people  
4                   of Hawaiian ancestry; and

5           (B) All usage of water shall be in accordance with  
6           chapter [H]174C[H] and other applicable laws in  
7           the State;

8   ~~[(10) Assist agricultural enterprises by conducting detailed~~  
9   ~~marketing analysis and developing marketing and~~  
10 ~~promotional strategies to strengthen the position of~~  
11 ~~those enterprises and to better exploit local,~~  
12 ~~national, and international markets;~~

13 ~~[(11) Carry out specialized programs designed to develop new~~  
14 ~~markets for Hawaii agricultural products;~~

15 ~~[(12)]~~ (9) Receive, examine, and determine the acceptability  
16 of applications of qualified persons for allowances  
17 or grants for the development of new crops and  
18 agricultural products, the expansion of established  
19 agricultural enterprises, and the altering of existing  
20 agricultural enterprises;



1       ~~[(13)]~~ (10)   Coordinate its activities with any federal or  
2                   state farm credit programs;

3       ~~[(14)]~~ (11)   Grant options to purchase any project or to  
4                   renew any lease entered into by it in connection with  
5                   any of its projects, on the terms and conditions it  
6                   deems advisable;

7       ~~[(15)]~~ (12)   Provide advisory, consultative, training, and  
8                   educational services, technical assistance, and advice  
9                   to any person, partnership, or corporation, either  
10                  public or private, in order to carry out the purposes  
11                  of this chapter, and engage the services of  
12                  consultants on a contractual basis for rendering  
13                  professional and technical assistance and advice;

14       ~~[(16)]~~ (13)   Procure insurance against any loss in connection  
15                   with its property and other assets and operations in  
16                   such amounts and from such insurers as it deems  
17                   desirable;

18       ~~[(17)]~~ (14)   Accept gifts or grants in any form from any  
19                   public agency or any other source; and

20       ~~[(18)]~~ (15)   Do all things necessary or proper to carry out  
21                   the purposes of this chapter.



1 (b) The corporation shall develop, promote, assist, and  
2 market agricultural products for local consumption, and shall  
3 promote and assist in commercial export [~~crops and other crops~~  
4 ~~for local markets.~~] of agricultural products."

5 SECTION 6. Section 163D-5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[~~f~~]**§163D-5**[~~f~~] **Hawaii agribusiness plan.** (a) The  
8 corporation shall prepare and post on its website the Hawaii  
9 agribusiness plan, which shall define and establish goals,  
10 objectives, policies, and priority guidelines for its  
11 agribusiness development strategy. The plan shall include but  
12 not be limited to:

- 13 (1) An inventory of agricultural lands with suitable  
14 adequate water resources that are or will become  
15 available [~~due to the downsizing of the sugar and~~  
16 ~~pineapple industries that~~]; provided that the  
17 inventory of agricultural lands under this paragraph  
18 shall be agricultural lands within the purview of the  
19 corporation that can be used to meet present and  
20 future agricultural production needs;



1       (2)   An inventory of available agricultural infrastructure  
2       ~~[that will be abandoned by sugar and pineapple~~  
3       ~~industries]~~, such as irrigation systems, drainage  
4       systems, processing facilities, and other accessory  
5       facilities[;

6       ~~(3)   An analysis of imported agricultural products and the~~  
7       ~~potential for increasing local production to replace~~  
8       ~~imported products in a manner that complements~~  
9       ~~existing local producers and increases Hawaii's~~  
10      ~~agricultural self sufficiency;~~

11      ~~(4)   Alternatives in the establishment of sound financial~~  
12      ~~programs to promote the development of diversified~~  
13      ~~agriculture;~~

14      ~~(5)   Feasible strategies for the promotion, marketing, and~~  
15      ~~distribution of Hawaii agricultural products in local,~~  
16      ~~national, and international markets;~~

17      ~~(6)   Programs to promote and facilitate the absorbing of~~  
18      ~~displaced agricultural workers into alternative~~  
19      ~~agricultural enterprises;~~

20      ~~(7)   Strategies to insure the provision of adequate air and~~  
21      ~~surface transportation services and supporting~~



1 ~~facilities to support the agricultural industry in~~  
2 ~~meeting local, national, and international market~~  
3 ~~needs;~~

4 ~~(8) Proposals to improve the gathering of data and the~~  
5 ~~timely presentation of information on market demands~~  
6 ~~and trends that can be used to plan future harvests~~  
7 ~~and production;], that are controlled by the~~  
8 ~~corporation; and~~

9 ~~[(9)]~~ (3) Strategies for federal [and], state  
10 [legislative], county, and community stakeholder  
11 actions that will promote the development and  
12 enhancement of Hawaii's agricultural industries.

13 (b) The Hawaii agribusiness plan goals shall have specific  
14 one-year, five-year, and ten-year objectives and measurable  
15 outcomes that prioritize local food production from the  
16 corporation's leases or licenses. The objectives and outcomes  
17 shall include annual performance goals and measures that the  
18 corporation shall be evaluated on annually.

19 (c) The Hawaii agribusiness plan shall also include  
20 metrics, timeframes, and budget expectations as part of the  
21 corporation's agribusiness development strategy.



1        ~~[(b)]~~ (d) The corporation shall ~~[revise]~~ update the Hawaii  
2        agribusiness plan ~~[from time to time]~~ no later than July 1,  
3        2023, and every five years thereafter, and shall incorporate the  
4        plan in its annual report to the governor and the legislature as  
5        provided in section 163D-19."

6        SECTION 7. Section 163D-8.5, Hawaii Revised Statutes, is  
7        repealed.

8        ~~["~~§163D-8.5 Approval of projects, plans, and programs.~~~~  
9        ~~All agricultural projects, agricultural development plans, and~~  
10       ~~project facility programs developed by the corporation must be~~  
11       ~~approved by the board of agriculture before implementation."]~~

12       SECTION 8. There is appropriated out of the general  
13       revenues of the State of Hawaii the sum of \$100,000 or so much  
14       thereof as may be necessary for fiscal year 2022-2023 for a  
15       consultant to assist the agribusiness development corporation in  
16       preparing and finalizing the Hawaii agribusiness plan under  
17       section 163D-5, Hawaii Revised Statutes, including the  
18       facilitation of community stakeholder involvement.

19       The sum appropriated shall be expended by the agribusiness  
20       development corporation for the purposes of this Act.





1       SECTION 9. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$90,000 or so much  
3 thereof as may be necessary for fiscal year 2022-2023 for one  
4 full-time equivalent (1.0 FTE) permanent accountant V position  
5 to provide accounting and other fiscal support services to the  
6 agribusiness development corporation.

7       The sum appropriated shall be expended by the agribusiness  
8 development corporation for the purposes of this Act.

9       SECTION 10. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$500,000 or so much  
11 thereof as may be necessary for fiscal year 2022-2023 for  
12 security guard services to address trespassing, abandonment of  
13 vehicles on agribusiness development corporation land, and other  
14 security issues on vacant land of the agribusiness development  
15 corporation; provided that once agribusiness development  
16 corporation land is leased, security costs for the property  
17 shall be funded by agricultural cooperative association dues of  
18 property tenants.

19       The sum appropriated shall be expended by the agribusiness  
20 development corporation for the purposes of this Act.



1       SECTION 11. All rights, powers, functions, and duties of  
2 the department of agriculture relating to the agribusiness  
3 development corporation are transferred to the department of  
4 business, economic development, and tourism.

5       SECTION 12. All appropriations, records, equipment,  
6 machines, files, supplies, contracts, books, papers, documents,  
7 maps, and other personal property heretofore made, used,  
8 acquired, or held by the department of agriculture relating to  
9 the functions transferred to the department of business,  
10 economic development, and tourism shall be transferred with the  
11 functions to which they relate.

12       SECTION 13. All employees who occupy civil service  
13 positions and whose functions are transferred to the department  
14 of business, economic development, and tourism by this Act shall  
15 retain their civil service status, whether permanent or  
16 temporary. Employees shall be transferred without loss of  
17 salary, seniority (except as prescribed by applicable collective  
18 bargaining agreements), retention points, prior service credit,  
19 any vacation and sick leave credits previously earned, and other  
20 rights, benefits, and privileges, in accordance with state  
21 personnel laws and this Act; provided that the employees possess



1 the minimum qualifications and public employment requirements  
2 for the class or position to which transferred or appointed, as  
3 applicable; provided further that subsequent changes in status  
4 may be made pursuant to applicable civil service and  
5 compensation laws.

6 Any employee who, prior to this Act, is exempt from civil  
7 service and is transferred as a consequence of this Act may  
8 retain the employee's exempt status, but shall not be appointed  
9 to a civil service position as a consequence of this Act. An  
10 exempt employee who is transferred by this Act shall not suffer  
11 any loss of prior service credit, vacation or sick leave credits  
12 previously earned, or other employee benefits or privileges as a  
13 consequence of this Act; provided that the employees possess  
14 legal and public employment requirements for the position to  
15 which transferred or appointed, as applicable; provided further  
16 that subsequent changes in status may be made pursuant to  
17 applicable employment and compensation laws.

18 SECTION 14. All rules, policies, procedures, guidelines,  
19 and other material adopted or developed by the department of  
20 agriculture to implement provisions of the Hawaii Revised  
21 Statutes that are reenacted or made applicable to the department



1 of business, economic development, and tourism by this Act shall  
2 remain in full force and effect until amended or repealed by the  
3 department of business, economic development, and tourism  
4 pursuant to chapter 91, Hawaii Revised Statutes. In the  
5 interim, every reference to the department of agriculture, board  
6 of agriculture, or chairperson of the board of agriculture in  
7 those rules, policies, procedures, guidelines, and other  
8 material is amended to refer to the department of business,  
9 economic development, and tourism or director of business,  
10 economic development, and tourism, as appropriate.

11 SECTION 15. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 16. This Act shall take effect on July 1, 2022.



**Report Title:**

Department of Agriculture; Department of Business, Economic Development, and Tourism; Agribusiness Development Corporation; Transfer; Appropriations

**Description:**

Amends the focus, scope, responsibilities, and powers of the Agribusiness Development Corporation (ADC). Amends the definition of the term "agriculture" as the term relates to the ADC. Transfers the administrative attachment of the ADC from the Department of Agriculture to the Department of Business, Economic Development, and Tourism. Amends the requirements and responsibilities of the board of directors of the ADC. Amends the required contents of the Hawaii agribusiness plan. Appropriates moneys. (CD1)

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

