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# 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 issue of large tracts of land becoming available due to the  
5 downsizing of the sugar and pineapple industries.

6 The legislature further finds that Hawaii now faces  
7 different issues in agriculture, mainly sustainable agriculture  
8 and local food production. According to the agribusiness  
9 development corporation's 2019 report to the legislature, the  
10 corporation manages over 22,000 acres of public agricultural  
11 lands with significant potential to shape the State's  
12 agricultural public policy toward the goal of food self-  
13 sufficiency. The lack of affordable agricultural land is cited  
14 as a key impediment to the growth and expansion of local  
15 agriculture.

16 Moreover, the legislature finds that the lands under the  
17 jurisdiction of the agribusiness development corporation



1 experience some of the heaviest and most frequent application of  
2 restricted use pesticides, according to mandatory restricted use  
3 pesticide usage data reported to the department of agriculture.  
4 Pesticides are prone to drift off target and therefore pose a  
5 threat to the public and environmental health of nearby  
6 communities. Industrial agricultural practices that rely  
7 heavily on conventional fertilizers and pesticides deplete soil  
8 health and productivity over time, thus diminishing the  
9 productivity of those lands for potential future tenants.

10 The legislature additionally finds that the agribusiness  
11 development corporation lacks a clear process for decision  
12 making and a system of land management and record keeping.

13 The purpose of this Act is to:

- 14 (1) Establish, as the primary purpose of the agribusiness  
15 development corporation, supporting the achievement of  
16 local food self-sufficiency in a manner that is  
17 economically and environmentally sustainable;
- 18 (2) Ensure the agribusiness development corporation  
19 coordinates and administers programs to reduce  
20 Hawaii's reliance on imported agricultural products,  
21 increases local production of agricultural products



1 for local consumption, reduces the use of pesticides,  
2 and increases access to farmland and related  
3 infrastructure for local farmers and cooperatives;

4 (3) Ensure that the agribusiness development corporation  
5 is managed by board members with knowledge of and  
6 experience in local food production and sustainable  
7 forms of agricultural production; and

8 (4) Ensure transparency and accountability in the conduct  
9 of the agribusiness development corporation.

10 PART II

11 SECTION 2. Chapter 163D, Hawaii Revised Statutes, is  
12 amended by adding three new sections to be appropriately  
13 designated and to read as follows:

14 "§163D- Written policies and procedures; board  
15 oversight; application processes; property management; file and  
16 document management. (a) Within one year of the effective date  
17 of this section, the corporation shall develop written policies  
18 and procedures relating but not limited to:

19 (1) Board oversight. The policies and procedures shall  
20 include, among other things:



- 1           (A) The matters or types of matters that shall be  
2           presented to the board for information,  
3           consideration, or action; and
- 4           (B) Criteria establishing the actions that the  
5           executive director may authorize without the  
6           board's approval, including powers delegated by  
7           the board to the executive director, if any, as  
8           well as the process to periodically review the  
9           delegated authority and the recording of actions  
10           taken by the board, which shall include, among  
11           other things, confirmation of the board's  
12           approvals, approvals with amendments, rejections,  
13           or deferrals;
- 14           (2) Land and other corporation-owned property disposition  
15           application processes. The policies and procedures  
16           shall address, among other things, the internal  
17           processes for evaluating applications for use of  
18           corporation-owned property, including criteria upon  
19           which applications are evaluated. The corporation  
20           shall also maintain checklists to document completion  
21           of each step of the process, receipt of required



- 1           information, and timely communication with the  
2           applicant;
- 3        (3) Property management. The policies and procedures  
4           shall address, among other things, the process:
- 5           (A) To confirm the receipt of all required  
6                documentation and other information, such as  
7                certificates or other evidence of compliance with  
8                federal and state requirements, performance bonds  
9                or other security, certificates, or other  
10              evidence of insurance;
- 11          (B) For inspection of corporate properties, including  
12              the information or types of information that  
13              shall be documented and the frequency of  
14              inspections;
- 15          (C) For enforcement of license, permit, and right-of-  
16              entry terms and conditions, including issuance of  
17              notices of default;
- 18          (D) To evaluate the need for and type of security  
19              measures for a specific parcel; and
- 20          (E) To document completion of required processes or  
21              activities; and



- 1        (4) File and document management. The policies and
- 2        procedures shall address, among other things:
- 3        (A) The types of documents retained by the
- 4        corporation and organization of those documents;
- 5        (B) Staff responsibility for performing each file and
- 6        document management task;
- 7        (C) Document retention; and
- 8        (D) Reporting of any release of personal information.

9        **§163D- Rules; application process; use of lands and**  
10 **other assets.** Within one year of the effective date of this  
11 section, the corporation shall adopt rules to address, among  
12 other things:

- 13        (1) The application process for the use of the
- 14        corporation's land and other assets, including the
- 15        corporation's process for evaluating applications;
- 16        (2) The corporation's administration and enforcement of
- 17        the terms and conditions of licenses, permits, rights
- 18        of entry, and other conveyance instruments, including
- 19        those relating to inspections, notices of default,
- 20        termination, eviction, and appeal rights;
- 21        (3) Criteria and other procedures to create subsidiaries;



1       (4) Criteria and other procedures to coventure and invest  
2       directly in an agricultural enterprise;

3       (5) Criteria and other procedures to apply and qualify for  
4       allowances and grants;

5       (6) Criteria and other procedures to exercise the  
6       corporation's right of withdrawal from licenses,  
7       permits, and rights of entry; and

8       (7) Criteria and other procedures to apply and qualify for  
9       rent credits.

10       §163D-       Production of agricultural products for local

11 consumption; agricultural principles; soil testing. (a) To

12 increase the production of agricultural products for local

13 consumption within the State, the corporation shall prioritize

14 entering into lease agreements designed to support such local

15 production. The corporation shall, among other things:

16       (1) Aggressively seek to locate potential lessees or  
17       licensees;

18       (2) Disseminate information concerning the availability of  
19       suitable lands; and

20       (3) Enter into leases or licenses of sufficient length,  
21       for land of an appropriate size, and at an appropriate



1           cost to allow lessees and licensees an adequate  
2           opportunity to operate profitable enterprises.

3           (b) The corporation shall:

4           (1) Develop, support, or partner in programs that provide  
5           education, training, and financing, as necessary, to  
6           facilitate the success of its lessees and licensees;  
7           and

8           (2) Ensure that such programs are available to meet the  
9           needs of smaller agricultural enterprises that serve  
10           the local market.

11           (c) The corporation shall ensure that within five years of  
12           the effective date of this section, no less than eighty per cent  
13           of all lands within its inventory are leased or licensed for  
14           agricultural production.

15           (d) The corporation shall ensure that within five years of  
16           the effective date of this section, substantially all production  
17           under at least fifty per cent of all of its leases and licenses  
18           are intended for local consumption and produced in accordance  
19           with the principles of organic farming, Korean natural farming,  
20           or biodynamic farming.





1        As used in this subsection, "Korean natural farming" means  
2 an organic agricultural practice that takes advantage of  
3 indigenous microorganisms, such as bacteria, fungi, nematodes,  
4 and protozoa, to produce fertile soils that yield high output  
5 without the use of herbicides or pesticides.

6        (e) The corporation shall ensure that within five years of  
7 the effective date of this section, at least twenty per cent of  
8 all leases and licenses of its lands are for parcels no greater  
9 than twenty acres.

10       (f) The corporation shall ensure that within five years of  
11 the effective date of this section, the leases and licenses of  
12 at least twenty per cent of all lands within its inventory  
13 prohibit the use of any materials that do not comply with United  
14 States Department of Agriculture National Organic Program  
15 regulations, as set forth in title 7 Code of Federal Regulations  
16 part 205.

17       (g) The corporation shall ensure that within five years of  
18 the effective date of this section, none of the lands within its  
19 inventory shall be leased or licensed to any agricultural  
20 enterprise that meets the definition of a concentrated animal  
21 feeding operation, as set forth by the United States



1 Environmental Protection Agency in title 40 Code of Federal  
2 Regulations section 122.23.

3 (h) The corporation shall test the soils of all of the  
4 lands it leases or licenses prior to occupancy. All leases or  
5 licenses of lands under the corporation's direct or indirect  
6 control shall contain provisions requiring that before the  
7 expiration of the lease or license or before the lessee or  
8 licensee vacates the leased or licensed property, the lessee or  
9 licensee shall procure the services of an independent third  
10 party to test the soil and remove any contaminants that exceed  
11 the levels that existed at the commencement of the term of the  
12 lease or license."

13 PART III

14 SECTION 3. Section 163D-1, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§163D-1 Findings and purpose.** The legislature finds that  
17 the downsizing of the sugar and pineapple industries presented  
18 an unprecedented opportunity for the conversion of agriculture  
19 into a dynamic growth industry[~~-. Within the next decade, the~~  
20 ~~State can use public agricultural lands to~~] that will enhance  
21 the local economy, provide employment opportunities, decrease



1 reliance on imported agricultural products, and provide more  
2 sources of locally grown food for residents. Thousands of acres  
3 of agricultural lands [~~and fifty million gallons per day of~~  
4 ~~irrigation water were released by plantations. The downsizing~~  
5 ~~of the sugar and pineapple industries idled and left~~] are vacant  
6 [~~a valuable inventory of supporting infrastructure including~~],  
7 and irrigation systems, roads, drainage systems, processing  
8 facilities, workshops, and warehouses [~~that~~] are [~~still largely~~]  
9 underutilized. The challenge to government and business is to  
10 continue to conserve and convert the arable lands and their  
11 associated production infrastructure in a timely manner into new  
12 productive agricultural uses. Aggressive and dynamic leadership  
13 can play a critically important role in promoting and developing  
14 agricultural enterprises, coordinating industry development,  
15 providing industry-wide services, providing marketing  
16 assistance, and facilitating investments and coventures in  
17 viable enterprises.

18       The purpose of this chapter is to create a vehicle and  
19 process to make optimal use of agricultural assets for the  
20 economic, environmental, and social benefit of the people of  
21 Hawaii. This chapter establishes a public corporation to



1 administer an aggressive and dynamic agribusiness development  
2 program. The [~~purposes~~] primary purpose of the corporation  
3 shall be to support the [~~production~~] achievement of local  
4 [~~agricultural products for local consumption~~] food self-  
5 sufficiency in a manner that is economically and environmentally  
6 sustainable [~~while continuing to develop commercial exports of~~  
7 ~~locally produced agricultural products~~]. To further [~~these~~  
8 ~~purposes,~~] this purpose, the corporation shall coordinate and  
9 administer programs to [~~assist agricultural enterprises to~~  
10 ~~facilitate the transition of agricultural infrastructure from~~  
11 ~~plantation operations into other agricultural enterprises,~~]  
12 reduce Hawaii's reliance on imported agricultural products;  
13 increase local production of agricultural products for local  
14 consumption[~~,~~]; reduce the [State's reliance on imported  
15 agricultural products, and] use of pesticides; increase access  
16 to farmland and related infrastructure for small local farmers  
17 and cooperatives[~~,~~]; and provide leadership for the development,  
18 financing, improvement, or enhancement of agricultural  
19 enterprises."



1 SECTION 4. Section 163D-2, Hawaii Revised Statutes, is  
2 amended by amending the definition of "agriculture" to read as  
3 follows:

4 "Agriculture" means the production for local consumption  
5 within the State and exporting of plant and animal life on land  
6 and within ponds and other bodies of water for food, fiber, and  
7 raw materials for value-added products, and any agricultural  
8 enterprise or enterprises organized for the production of  
9 agricultural materials or value-added products [~~based on~~  
10 ~~detailed marketing analysis and strategies~~] to exploit  
11 profitable potentials in local, national, and international  
12 markets, including general farming, [~~cane growing,~~] fruit  
13 growing, flower growing, aquaculture, growing of timber and  
14 forest products, apiary, grazing, dairying, and the production  
15 of any form of livestock or poultry, and their appurtenant  
16 services and facilities."

17 SECTION 5. Section 163D-3, Hawaii Revised Statutes, is  
18 amended as follows:

19 1. By amending subsections (b) to (e) to read:

20 "(b) The board of directors of the corporation shall  
21 consist of [~~eleven~~] fifteen voting members, of whom eight shall



1 be appointed by the governor[-] pursuant to section 26-34. The  
 2 terms of these eight members shall be four years; provided  
 3 that[~~, commencing on July 1, 2005,~~] the governor shall reduce  
 4 the terms of those [~~initially~~] appointed so as to provide, as  
 5 nearly as can be, for the expiration of an equal number of terms  
 6 at intervals of one year.

7 The eight members shall be selected on the basis of their  
 8 knowledge, experience, and proven expertise in small and large  
 9 businesses within the agricultural industry, agricultural  
 10 economics, banking, real estate, finance, promotion, marketing,  
 11 local food production, [~~and~~] management[-], and native Hawaiian  
 12 traditional and customary practices. Of these eight members[~~r~~  
 13 ~~ene~~]:

- 14 (1) One shall be from the city and county of Honolulu, one  
 15 shall be from the county of Hawaii, one shall be from  
 16 the county of Maui, one shall be from the county of  
 17 Kauai, and four shall be appointed at-large[-];
- 18 (2) At least four shall have substantial experience in  
 19 local food production;
- 20 (3) At least two shall have substantial experience in  
 21 organic and natural farming practices; and



1        (4) At least one shall have demonstrated expertise in  
2        native Hawaiian traditional and customary practices,  
3        as evidenced by:

4        (A) A college degree in a relevant field, such as  
5        Hawaiian studies, native Hawaiian law, native  
6        Hawaiian traditional and customary practices, or  
7        a related subject;

8        (B) Work history that demonstrates an appropriate  
9        level of knowledge in native Hawaiian traditional  
10       and customary practices; or

11       (C) Substantial experience as a native Hawaiian  
12       traditional and customary practitioner.

13       The ~~[director of business, economic development, and~~  
14 ~~tourism; the]~~ chairperson of the board of agriculture~~;~~ ~~and the~~  
15 ~~chairperson of the board of land and natural resources, or~~  
16 ~~their], or the chairperson's designated [representatives,]~~  
17 representative, shall be [ex-officio,] an ex officio, voting  
18 [members] member of the board. Of the remaining voting members,  
19 one member each shall be selected by the chairperson of the  
20 board of trustees of the office of Hawaiian affairs; director of  
21 business, economic development, and tourism; chairperson of the



1 board of land and natural resources; chancellor of the  
2 University of Hawaii West Oahu campus; Hawaii Farm Bureau; and  
3 Hawaii Farmers Union United. All members shall continue in  
4 office until their respective successors have been appointed and  
5 qualified. The board shall annually elect its chairperson from  
6 among its members; provided that the chairperson shall not be an  
7 ~~[ex-officio]~~ ex officio member.

8 (c) The members of the board shall serve without  
9 compensation~~[7]~~ but shall be reimbursed for actual expenses  
10 incurred in the performance of their duties.

11 (d) The board shall appoint an executive director, who  
12 shall serve ~~[at the pleasure of the board and shall]~~ be exempt  
13 from ~~[chapter]~~ chapters 76[-] and 77. The salary of the  
14 executive director shall be set by the board. The executive  
15 director shall serve for a term of five years, unless terminated  
16 by the board before the end of the term, and no individual shall  
17 serve consecutive terms.

18 (e) The board shall develop and document annual goals and  
19 performance measures for the executive director that allow the  
20 board to annually evaluate the executive director's ~~[work]~~  
21 performance to ensure compliance by the corporation with





1 statutory requirements and achievement of its statutory  
2 purposes[-], among other matters."

3 2. By amending subsection (h) to read:

4 "(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~~] chapters 76[-] and 77."

8 SECTION 6. 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) Acquire or contract to acquire by grant or purchase  
2           any real, personal, or mixed property or any interest  
3           therein for its immediate or future use for the  
4           purposes of this chapter; own, hold, improve, and  
5           rehabilitate any real, personal, or mixed property  
6           acquired, and sell, assign, exchange, transfer,  
7           convey, lease, or otherwise dispose of, or encumber  
8           the same;
- 9           (7) By itself, or in partnership with qualified persons,  
10          acquire, construct, reconstruct, rehabilitate,  
11          improve, alter, or repair any infrastructure or  
12          accessory facilities in connection with any project;  
13          own, hold, sell, assign, transfer, convey, exchange,  
14          lease, or otherwise dispose of, or encumber any  
15          project;
- 16          (8) In cooperation with the department of agriculture,  
17          pursuant to chapter 167, or otherwise through direct  
18          investment or coventure with a professional investor  
19          or enterprise or any other person, or otherwise, to  
20          acquire, construct, operate, and maintain water  
21          facilities for conveying, distributing, and



1 transmitting water for irrigation and agricultural  
2 uses at rates or charges determined by the  
3 corporation; provided that:

4 (A) This chapter shall not be construed to permit or  
5 allow the department of agriculture or any  
6 agribusiness development corporation to:

7 (i) Amend or modify rights or entitlements to  
8 water as provided for by article XI, section  
9 7, of the Constitution of the State of  
10 Hawaii, or the Hawaiian Homes Commission  
11 Act, 1920, as amended, and chapter 168;

12 (ii) Diminish or abridge the traditional and  
13 customary rights of ahupua'a tenants who  
14 inhabited the Hawaiian Islands prior to 1778  
15 under sections 1-1 and 7-1; and

16 (iii) Impair, abridge, or terminate the legal  
17 rights or interests to water and its uses,  
18 whether by lease, easement, or other means,  
19 which are possessed or held by organizations  
20 whose primary purpose is to benefit people  
21 of Hawaiian ancestry; and



- 1 (B) All usage of water shall be in accordance with
- 2 chapter 174C and other applicable laws in the
- 3 State;
- 4 (9) Receive, examine, and determine the acceptability of
- 5 applications of qualified persons for allowances or
- 6 grants for the development of new crops and
- 7 agricultural products, the expansion of established
- 8 agricultural enterprises, and the altering of existing
- 9 agricultural enterprises;
- 10 (10) Coordinate its activities with any federal or state
- 11 farm credit programs;
- 12 (11) Grant options to purchase any project or to renew any
- 13 lease entered into by it in connection with any of its
- 14 projects, on the terms and conditions it deems
- 15 advisable;
- 16 (12) Provide advisory, consultative, training, and
- 17 educational services, technical assistance, and advice
- 18 to any person, partnership, or corporation, either
- 19 public or private, in order to carry out the purposes
- 20 of this chapter, and engage the services of



- 1 consultants on a contractual basis for rendering  
 2 professional and technical assistance and advice;
- 3 (13) Procure insurance against any loss in connection with  
 4 its property and other assets and operations in such  
 5 amounts and from such insurers as it deems desirable;
- 6 (14) Accept gifts or grants in any form from any public  
 7 agency or any other source~~[7]~~ that promotes the  
 8 purposes of this chapter; provided that any private  
 9 gifts or grants shall first be approved by the board  
 10 and shall be promptly disclosed to the public; and
- 11 (15) Do all things necessary or proper to carry out the  
 12 purposes of this chapter.
- 13 (b) The corporation shall ~~[develop7]~~ promote[7] and  
 14 assist[7 and market agricultural products] in the development of  
 15 crops for local markets and local consumption[7] within the  
 16 State as a first priority and [shall promote and assist in  
 17 commercial] for export [of agricultural products.] as a second  
 18 priority."

19 SECTION 7. Section 163D-5, Hawaii Revised Statutes, is  
 20 amended by amending subsection (a) to read as follows:



1           "(a) The corporation shall prepare and post on its website  
2 the Hawaii agribusiness plan, which shall [~~define and establish~~  
3 specifically describe the corporation's strategy for  
4 implementing the goals [~~, objectives, policies, and priority~~  
5 ~~guidelines for its agribusiness development strategy.~~] and  
6 priorities of this chapter during the ensuing five years. As  
7 part of the preparation of the plan, the corporation shall  
8 engage with and seek input from stakeholders with experience in  
9 local food production, food systems planning, and organic and  
10 natural farming practices. The plan shall include but not be  
11 limited to:

12           (1) An inventory of agricultural lands with suitable  
13 adequate water resources that are or will become  
14 available; provided that the inventory of agricultural  
15 lands under this paragraph shall be agricultural lands  
16 within the purview of the corporation that can be used  
17 to meet present and future agricultural production  
18 needs;

19           (2) An inventory of available agricultural infrastructure,  
20 such as irrigation systems, drainage systems,



1 processing facilities, and other accessory facilities,  
 2 that are controlled by the corporation; and  
 3 (3) Strategies for federal, state, county, and community  
 4 stakeholder actions that will promote the development  
 5 and enhancement of Hawaii's agricultural industries."

6 SECTION 8. Section 163D-6, Hawaii Revised Statutes, is  
 7 amended to read as follows:

8 **"§163D-6 Subsidiaries; establishment.** (a) The  
 9 corporation may exercise its powers through one or more  
 10 subsidiary corporations. The corporation, by resolution, may  
 11 direct any of its members, officers, or employees to organize a  
 12 subsidiary corporation pursuant to either chapter 414 or chapter  
 13 414D; provided that the organization of a subsidiary corporation  
 14 shall not adversely affect the federal tax status of the  
 15 interest on any bonds issued to finance any project or project  
 16 facility. The resolution shall prescribe the purposes for which  
 17 the subsidiary corporation is established. The subsidiary  
 18 corporation shall remain a subsidiary of the corporation as long  
 19 as more than one-half of its voting shares are owned or held by  
 20 the corporation, or a majority of its directors are designated  
 21 by the corporation; provided that the corporation shall not



1 convey or otherwise dispose of any subsidiary corporation or  
2 surrender the right to designate a majority of the directors of  
3 any subsidiary corporation if the sale or surrender has an  
4 adverse affect on the federal tax status of the interest on any  
5 bonds issued to finance any project or project facility. The  
6 subsidiary corporation may be operated, maintained, and enhanced  
7 at the full discretion of the corporation or its designee.

8 ~~[(b) If the corporation acquires the assets of a private~~  
9 ~~or other corporation, then, notwithstanding any law to the~~  
10 ~~contrary:~~

11 ~~(1) Neither the corporation nor any subsidiary corporation~~  
12 ~~vested with the assets shall be subject to chapter 91~~  
13 ~~with respect to the assets;~~

14 ~~(2) Employees retained to operate the assets shall not be~~  
15 ~~subject to chapter 76;~~

16 ~~(3) Assets constituting real property interest shall not~~  
17 ~~be subject to chapter 171;~~

18 ~~(4) No investment, loan, or use of funds by the~~  
19 ~~corporation or a subsidiary corporation vested with~~  
20 ~~the assets shall be subject to chapter 42F or 103; and~~





1       ~~(5) Neither the corporation nor a subsidiary corporation~~  
2           ~~vested with the assets shall constitute a public~~  
3           ~~utility or be subject to the jurisdiction of the~~  
4           ~~public utilities commission under chapter 269.~~

5       ~~(e)]~~ (b) The corporation may transfer to any subsidiary  
6 corporation any moneys, any real, personal, or mixed property,  
7 or any project, in order to carry out the purposes of this  
8 chapter. Each subsidiary corporation shall have all the powers  
9 of the corporation."

10       SECTION 9. Section 163D-7, Hawaii Revised Statutes, is  
11 amended to read as follows:

12       "**§163D-7 Agricultural projects; agricultural development**

13 **plans.** (a) The corporation may develop and implement  
14 agricultural projects where large tracts of agricultural land  
15 have been or will be taken out of productive agriculture or  
16 where, through detailed analysis, opportunities exist to exploit  
17 potential local, national, and international markets.

18       (b) The corporation may initiate and coordinate the  
19 preparation of business and agricultural development plans for  
20 its projects. The plans shall include a proposal for the  
21 organization of the enterprise, a marketing information and



1 strategy, the impact on existing agricultural operations  
 2 throughout the State, and a recommendation for the construction,  
 3 reconstruction, rehabilitation, improvement, alteration, or  
 4 repair of any infrastructure or accessory facilities in  
 5 connection with any project.

6 (c) The corporation may enter into cooperative agreements  
 7 with coordinating entrepreneurs or public agencies when the  
 8 powers, services, and capabilities of the persons or agencies  
 9 are deemed necessary and appropriate for the development and  
 10 implementation of the business and agricultural development  
 11 plans.

12 ~~[(d) The corporation may purchase, accept, and maintain~~  
 13 ~~permanent conservation easements, or transfer these easements to~~  
 14 ~~a qualified land trust in accordance with the federal Natural~~  
 15 ~~Resources Conservation Service farm and ranch lands protection~~  
 16 ~~program.~~

17 ~~(e) Notwithstanding any provision of this chapter to the~~  
 18 ~~contrary, when leasing corporation-controlled agricultural land,~~  
 19 ~~the corporation may contract with a financial institution~~  
 20 ~~chartered under chapter 412 or a federal financial institution,~~  
 21 ~~as defined under section 412:1-109, that transacts business in~~



1 ~~this State to provide lease management services. For the~~  
 2 ~~purposes of this subsection, "lease management services"~~  
 3 ~~includes the collection of lease rent and any other moneys owed~~  
 4 ~~to the corporation related to the lease of agricultural land~~  
 5 ~~under the corporation's control.~~

6 ~~(f)]~~ (d) The agricultural planning activities of the  
 7 corporation shall be coordinated with the county planning  
 8 departments and the county land use plans, policies, and  
 9 ordinances.

10 ~~(g)]~~ (e) The corporation may amend the business and  
 11 agricultural development plans as may be necessary.

12 ~~(h)]~~ (f) Any undertaking by the corporation pursuant to  
 13 this chapter shall be with the express written consent of the  
 14 landowner or landowners directly affected."

15 SECTION 10. Section 163D-8, Hawaii Revised Statutes, is  
 16 amended by amending subsections (a) to (d) to read as follows:

17 "(a) The corporation may ~~[develop a project to]~~ identify  
 18 necessary project facilities within a project area.

19 (b) ~~[Unless and except as otherwise provided by law,~~  
 20 ~~whenever]~~ Whenever the corporation undertakes, or causes to be  
 21 undertaken, any project facility as part of a project, the cost



1 of providing the project facilities shall be assessed against  
2 the real property in the project area specially benefiting from  
3 the project facilities. Subject to the express written consent  
4 of the landowners directly affected, the corporation shall  
5 determine the properties that will benefit from the project  
6 facilities to be undertaken and may establish assessment areas  
7 that include the properties specially benefiting from the  
8 project facilities. The corporation may issue and sell bonds in  
9 such amounts as may be authorized by the legislature to provide  
10 funds to finance the project facilities. The corporation shall  
11 fix the assessments against the real property specially  
12 benefited.

13 (c) ~~[Unless and except as otherwise provided by law, the]~~  
14 The corporation may adopt rules pursuant to chapter 91 to  
15 establish the method of undertaking and financing project  
16 facilities in a project area.

17 (d) ~~[Unless and except as otherwise provided by law,~~  
18 ~~bonds]~~ Bonds issued to provide funds to finance project  
19 facilities shall be secured solely by the real properties  
20 benefited or improved and the assessments thereon, or by the  
21 revenues derived from the project for which the bonds were



1 issued, including reserve accounts and earnings thereon,  
2 insurance proceeds, and other revenues, or any combination  
3 thereof. The bonds may be additionally secured by the pledge or  
4 assignment of loans and other agreements or any note or other  
5 undertaking, obligation, or property held by the corporation.  
6 The bonds shall be issued according to and subject to the rules  
7 adopted pursuant to this section. Any other law to the contrary  
8 notwithstanding, in assessing real property for project  
9 facilities, the corporation shall assess the real property  
10 within a project area according to the special benefits  
11 conferred upon the real property by the project facilities.  
12 These methods may include assessment on a frontage basis or  
13 according to the area of real property within a project area, or  
14 any other assessment method that assesses the real property  
15 according to the special benefit conferred, or any combination  
16 thereof. No such assessment levies against real property  
17 specially benefited under this chapter shall constitute a tax on  
18 real property within the meaning of any law."

19 SECTION 11. Section 163D-9, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:



1           "(a) The corporation, with the approval of the governor,  
2 may issue, from time to time, revenue bonds in amounts not  
3 exceeding the total amount of bonds authorized to be issued by  
4 the legislature for the purpose of constructing, acquiring,  
5 remodeling, furnishing, and equipping any project facility,  
6 including the acquisition of the site thereof[~~; acquiring~~  
7 ~~agricultural lands through purchase to sustain and preserve~~  
8 ~~viable agricultural enterprises within a contiguous geographic~~  
9 ~~area; or acquiring agricultural lands for the protection of~~  
10 ~~agricultural lands, public land banking, or the promotion of~~  
11 ~~farm ownership and diversified agriculture]."~~

12           SECTION 12. Section 163D-15.6, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) The agribusiness development corporation shall work  
15 toward obtaining commitments from landowners [~~in the leeward and~~  
16 ~~central districts of Oahu]~~ that their agricultural leases shall  
17 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 SECTION 13. Section 163D-19, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§163D-19 Annual report.** (a) The corporation shall  
4 submit to the governor and the legislature, no later than twenty  
5 days prior to the convening of each regular session, a complete  
6 and detailed report of its plans and activities. The  
7 corporation shall also post the report on its website no later  
8 than twenty days prior to the convening of each regular session.

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,~~]  
12 licensed, by size and island;

13 (2) The number of lots the corporation leased or [~~used,~~]  
14 licensed, by island, that contain protocols and  
15 conditions supporting 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 or license sales or  
21 transfers approved by the [~~corporation,~~] department of



1 business, economic development, and tourism,

2 including:

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

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

9 SECTION 14. This Act does not affect rights and duties  
10 that matured, penalties that were incurred, and proceedings that  
11 were begun before its effective date.

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

14 SECTION 16. This Act shall take effect upon its approval.

15

INTRODUCED BY:



JAN 19 2023





# H.B. NO. 255

**Report Title:**

Agribusiness Development Corporation; Restructuring

**Description:**

Amends various powers and priorities of the agribusiness development corporation, including several of its processes, membership of its board of directors, term of its executive director, and the scope of its work.

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

