HOUSE OF REPRESENTATIVES TWENTY-FOURTH LEGISLATURE, 2008 STATE OF HAWAII

H.B. NO. <sup>2293</sup> H.D. 1 S.D. 2 C.D. 2

# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

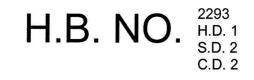
## PART I

SECTION 1. The purpose of this part is to promote fiscal
accountability with regard to agricultural land lease agreements
between the State and lessees by allowing the agribusiness
development corporation to contract with financial institutions
to provide lease management services.

7 SECTION 2. Section 163D-7, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[4]\$163D-7[4] Agricultural projects; agricultural
10 development plans. (a) The corporation may develop and
11 implement agricultural projects where large tracts of
12 agricultural land have been or will be taken out of productive
13 agriculture or where, through detailed analysis, opportunities
14 exist to exploit potential local, national, and international
15 markets.

16 (b) The corporation may initiate and coordinate the 17 preparation of business and agricultural development plans for 18 its projects. The plans shall include a proposal for the 2008-2642 HB2293 CD2 SMA.doc Page 2



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1 organization of the enterprise, a marketing information and 2 strategy, the impact on existing agricultural operations 3 throughout the State, and a recommendation for the construction, 4 reconstruction, rehabilitation, improvement, alteration, or 5 repair of any infrastructure or accessory facilities in 6 connection with any project. 7 (c) The corporation may enter into cooperative agreements

8 with coordinating entrepreneurs or public agencies when the 9 powers, services, and capabilities of the persons or agencies 10 are deemed necessary and appropriate for the development and 11 implementation of the business and agricultural development 12 plans.

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

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



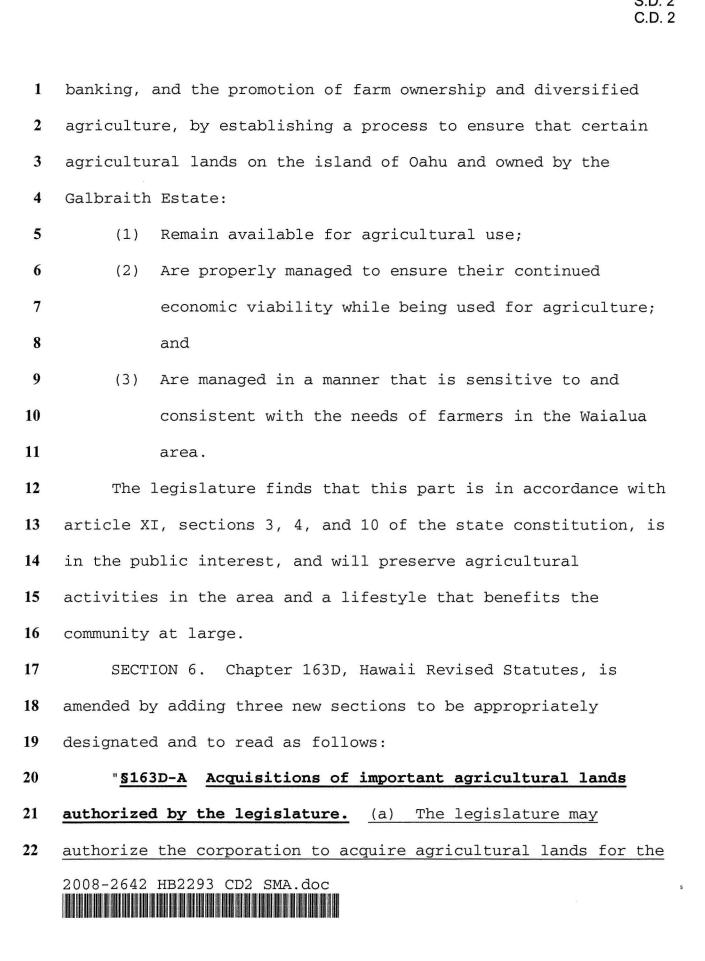
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1	this State to provide lease management services. For the
2	purposes of this subsection, "lease management services"
3	includes the collection of lease rent and any other moneys owed
4	to the corporation related to the lease of agricultural land
5	under the corporation's control.
6	$\left[\frac{d}{d}\right]$ (f) 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	$\left[\frac{(e)}{(e)}\right]$ (g) The corporation may amend the business and
11	agricultural development plans as may be necessary.
12	$\left[\frac{(f)}{(h)}\right]$ 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	PART II
16	SECTION 3. The purpose of this part is to ensure the long-
17	term availability of lands suitable for agricultural activities
18	by authorizing the agribusiness development corporation to lease
19	lands acquired under this Act for up to fifty-five years.
20	SECTION 4. Section 163D-15.6, Hawaii Revised Statutes, is
21	amended to read as follows:





1	"[ <del>[</del> ]§163D-15.6 Commitment and preservation of agricultural
2	<b>leases.</b> [ <b>]</b> ] (a) The agribusiness development corporation shall
3	work toward obtaining commitments from landowners in the leeward
4	and central districts of Oahu that their agricultural leases
5	shall be for a duration of twenty or more years[ $ au$ ] and shall not
6	be amended or revoked [ <del>in order</del> ] to allow for a nonagricultural
7	use of $[such]$ the land $[-]$ ; provided that for lands in central
8	Oahu acquired under Act , Session Laws of Hawaii 2008, the
9	agricultural leases shall be for no more than fifty-five years.
10	(b) To further ensure the preservation of agriculture in
11	the leeward and central districts of Oahu, the agribusiness
12	development corporation shall monitor the agricultural leases of
13	lands [ <del>utilizing</del> ] <u>using</u> the water from the Waiahole water
14	system. In the event of any proposed amendment or revocation of
15	any [ <del>such</del> ] lease, the corporation shall do all things within its
16	powers under [+]this chapter[+] to protect and defend the
17	interests of the agricultural leaseholders to ensure the
18	continuation of agricultural use for those lands."
19	PART III
20	SECTION 5. The purpose of this part is to comply with
21	article XI, sections 3, 4, and 10 of the state constitution,
22	relating to the protection of agricultural lands, public land
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1	protectio	n of agricultural lands, public land banking, or the
2	promotion	of farm ownership and diversified agriculture.
3	(b)	The acquisition shall be authorized by a bill enacted
4	into law a	and shall contain:
5	(1)	A statement of the value of the interest in land as a
6		resource to the State;
7	(2)	A description of the specific parcel of land or
8		agricultural easement proposed to be acquired;
9	(3)	The name of the owner of the property; and
10	(4)	The estimated costs of acquiring the interest in the
11		land.
12	(c)	The landowner shall receive payment for the interest
13	in the lar	nd in a lump sum, through an installment purchase
14	agreement	as determined pursuant to section 163D-B, or from
15	revenues o	derived from the issuance of revenue bonds pursuant to
16	section 10	53D-9.
17	<u>§163</u>	<b>D-B</b> Acquisitions; payment. (a) If the landowner
18	agrees to	the sale of the interest in lands pursuant to section
19	163D-A, th	ne landowner and the corporation shall agree on whether
20	the landow	wner shall receive payment for the interest in a lump
21	sum or the	rough an installment purchase agreement pursuant to
22	section 16	53D-C.



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1	(b) The corporation may make payments from moneys
2	appropriated by the legislature.
3	<pre>§163D-C Installment purchase agreements; interest payment.</pre>
4	(a) The legislature may authorize the corporation to negotiate
5	installment purchase agreements for the acquisition of specific
6	parcels of land for the protection of agricultural lands, public
7	land banking, or the promotion of farm ownership and diversified
8	agriculture. The installment purchase agreements shall be
9	structured pursuant to the requirements of the Internal Revenue
10	Code of 1986, as amended, to defer recognition of capital gain
11	until all of the purchase price is paid. The agreement shall
12	include provisions for the periodic payment of a portion of the
13	purchase price with the remainder of the purchase price paid at
14	the end of the term of the agreement. The legislature shall
15	authorize the purchase of United States Treasury zero coupon
16	bonds for the installment purchase agreement with a maturity
17	date equal to the term of the agreement.
18	(b) The interest rate paid on the installment purchase
19	agreement shall be not less than the interest rate on the zero
20	coupon bonds at the closing of the agreement or eight per cent,
21	whichever is higher.

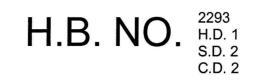


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1	(c) The corporation shall make semi-annual interest
2	payments on the outstanding balance of the installment purchase
3	agreement purchase price."
4	PART IV
5	SECTION 7. Section 163D-9, Hawaii Revised Statutes, is
6	amended by amending subsection (a) to read as follows:
7	"(a) The corporation, with the approval of the governor,
8	may issue, from time to time, revenue bonds in amounts not
9	exceeding the total amount of bonds authorized to be issued by
10	the legislature for the purpose of constructing, acquiring,
11	remodeling, furnishing, and equipping any project facility,
12	including the acquisition of the site thereof[-]; acquiring
13	agricultural lands through purchase to sustain and preserve
14	viable agricultural enterprises within a contiguous geographic
15	area; or acquiring agricultural lands for the protection of
16	agricultural lands, public land banking, or the promotion of
17	farm ownership and diversified agriculture."
18	PART V
19	SECTION 8. (a) Pursuant to section 163D-A, Hawaii Revised
20	Statutes, the agribusiness development corporation is authorized
21	to acquire certain agricultural lands located on the island of
22	Oahu and owned by the Galbraith Estate (Land Court Application
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262), tax map keys 6-5-002:10, 6-5-002:25, 6-5-002:26,
 7-1-001:01, 7-1-001:02, 7-1-001:03, 7-1-001:05, 7-1-001:06,
 7-1-001:07, 7-1-001:08, 7-1-001:12, 7-1-001:13, 7-1-001:17,
 7-1-001:20, 7-1-001:21, 7-1-001:022, 7-1-001:23, 7-1-001:24,
 7-1-001:25, 7-1-001:26, 7-1-001:27, 7-1-001:29, 7-1-001:32, and
 any other lands owned by the Galbraith Estate.

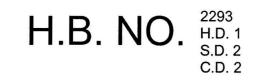
7 The legislature finds that the lands identified in (b) subsection (a) contain soil qualities and growing conditions 8 9 that support agricultural production of food, fiber, or fuel and 10 energy producing crops and have sufficient quantities of water 11 to support viable agricultural production and to meet the 12 requirements for the protection of agricultural lands, public 13 land banking, or the promotion of farm ownership and diversified 14 agriculture.

(c) The agribusiness development corporation shall work with a negotiating team to review and make recommendations regarding any potential transactions. The negotiating team shall consist of a representative appointed by each of the following persons or entities:

- 20 (1) The president of the senate;
- 21 (2) The speaker of the house of representatives;
- 22 (3) The department of agriculture; and

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(4) Other relevant partners.

2 SECTION 9. If an agreement to acquire the property identified in section 8 of this Act is not reached within a 3 4 reasonable time as determined by the department of land and natural resources, the department of land and natural resources 5 6 shall exercise its power of eminent domain to acquire the 7 property. For purposes of this Act, condemnation of the 8 property shall not be subject to legislative disapproval; 9 provided that the cost of acquiring the lands described in this 10 Act does not exceed the amount of funds appropriated or 11 authorized pursuant to section 10 of this Act and the 12 Supplemental Appropriations Act of 2008.

SECTION 10. Any moneys made available by appropriation 13 14 through the Supplemental Appropriations Act of 2008, whether 15 through general funds, revenues derived from the issuance of general obligation bonds, or other sources shall be expended to 16 17 the extent necessary by the agribusiness development corporation 18 for the purpose of purchasing agricultural lands located on the 19 island of Oahu and owned by the Galbraith Estate (Land Court 20 Application 262).

21 SECTION 11. In codifying this Act, the revisor of statutes
22 shall insert the appropriate number of this Act in section 4 and
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in codifying the new sections in section 6 of this Act, the
 revisor of statutes shall substitute appropriate section numbers
 for the letters used in designating the new sections in this
 Act.

5 SECTION 12. Statutory material to be repealed is bracketed6 and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect on July 1, 2008.



### Report Title:

Galbraith Estate; Agricultural Lands; Agribusiness

#### Description:

Establishes various provisions and mechanisms to allow the Agribusiness Development Corporation to acquire agricultural lands. Authorizes ADC to acquire specific agricultural lands located on Oahu and owned by the Galbraith Estate. (CD2)

