

JAN 19 2018

S.B. NO. 2526

A BILL FOR AN ACT

RELATING TO LAND EXCHANGE.

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

1 SECTION 1. The legislature finds that agriculture was the
2 economic mainstay for many of Hawaii's rural communities. This
3 industry, specifically sugar cane and pineapple, had a greater
4 stake in how and where communities grew. Over the past four
5 decades, communities have witnessed the end of the era of
6 Hawaii's plantation heritage: in 1971, the Kahuku sugar mill
7 closed; in 1996, the Waialua sugar mill closed; in 2008, Del
8 Monte fresh produce ended operations; and in 2016, Hawaiian
9 Commercial & Sugar Company ended sugar operations.

10 A recent report released by the department of agriculture,
11 Statewide Agricultural Land Use Baseline 2015, shows a dramatic
12 change in agricultural land over the last thirty-five years as
13 sugar production and pineapple production have downsized.
14 According to the department of agriculture, there are 151,830
15 acres of agricultural land in crop production today compared to
16 350,830 acres in crop production in 1980.



1 It is the State's responsibility under article XI,
2 section 3, of the Hawaii State Constitution to conserve and
3 protect agricultural lands, promote diversified agriculture,
4 increase agricultural self-sufficiency, and assure the
5 availability of agriculturally suitable lands. Hawaii's
6 agricultural production is insufficient to meet the State's food
7 consumption needs, and this over-reliance on imported food
8 creates critical health, safety and security issues for Hawaii,
9 the State's sustainable future, and preparedness in the event of
10 future disaster, emergency, or crisis. The legislature further
11 finds that attempts to stimulate diversified agriculture in the
12 private sector through regulatory controls and land use and
13 zoning restrictions is not sufficient to address the business
14 needs and subsidies necessary to effectively and significantly
15 increase diversified agriculture to the extent necessary to
16 avoid Hawaii's agricultural self-sufficiency crisis. Where
17 feasible, the State must take a more active role in providing
18 assistance and subsidies that promote farming businesses.

19 The legislature further finds that over the past few years,
20 the State has made it a priority to shift toward sustainability
21 in agriculture and decreasing our food imports. Act 55, Session



1 Laws of Hawaii 2013, amends the Hawaii State Planning Act to
2 create a new state policy to promote economically competitive
3 activities that increase Hawaii's agricultural self-sufficiency,
4 including the increased purchase and use of Hawaii-grown food
5 and food products by residents, businesses, and governmental
6 bodies. On September 1, 2016, the governor pledged a commitment
7 for Hawaii to double its food production by 2020. To accomplish
8 that objective, the governor aims to make more land available
9 for agriculture a priority.

10 Large tracts of agricultural land, including those formerly
11 used for pineapple and sugar cane, are now fallow. These lands
12 provide a unique opportunity for the State to fulfill the intent
13 of the Hawaii State Constitution regarding diversified
14 agriculture and agricultural self-sufficiency through
15 acquisition of suitable agricultural land for long-term leases
16 for diversified, bona fide agricultural operations to increase
17 agricultural production.

18 The legislature also finds that the State is facing a
19 crisis in homelessness, affordable housing, workforce housing,
20 and other housing inventory for Hawaii's residents. According
21 to the December 2016 Report to the Hawaii State Legislature in



1 response to Act 127, Session Laws of Hawaii 2016, by the special
2 action team on affordable rental housing, there is an estimated
3 statewide need for approximately 24,551 housing units in the
4 five-year period from 2016 to 2020. There exists a critical
5 shortage of safe, sanitary and affordable housing units, work-
6 force housing and other housing inventory for Hawaii residents
7 and the legislature must act to eliminate or reduce that
8 shortage. State initiatives acknowledging and attempting to
9 mitigate this crisis include:

10 (1) Providing affordable rental and for-sale housing.

11 Act 127, Session Laws of Hawaii 2016, established a
12 goal of developing or vesting the development of at
13 least 22,500 affordable rental housing units ready for
14 occupancy by December 31, 2026, and established the
15 special action team on affordable rental housing to
16 make recommendations on actions to promote the
17 development of at least 22,500 affordable rental
18 housing units to be ready for occupancy between
19 January 1, 2017, and December 31, 2026. The special
20 action team's report to the legislature recommended
21 expanding the public lands available for consideration



1 in meeting housing needs and also explained its ten-
2 year plan and current development of suitability maps
3 to identify state, county, and private parcels of land
4 on each island that may be used for residential units.
5 Also, the 2016 Hawaii housing planning study prepared
6 by SMS for the Hawaii housing finance and development
7 corporation found that a shortage of land available
8 for development was a significant factor limiting the
9 supply of housing;

- 10 (2) Development of state lands around transit-oriented
11 development areas for housing. Act 130, Session Laws
12 of Hawaii 2016, authorized the department of education
13 to use fees collected from transit-oriented
14 development projects to be used for existing schools
15 in the development area to address increases in school
16 populations due to transit-oriented development, and
17 established an interagency council for transit-
18 oriented development. In addition, Act 131, Session
19 Laws of Hawaii 2016, enabled the Hawaii housing
20 finance and development corporation to develop mixed-
21 use developments in partnership with state and county



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1 departments and agencies. The Hawaii interagency
2 council for transit-oriented development's report to
3 the legislature noted that, as one of the largest
4 landowners along the Honolulu rail corridor, the State
5 has a unique opportunity to revitalize neighborhoods,
6 increase affordable housing, and improve accessibility
7 to public facilities and services by applying smart
8 growth and transit-oriented development principles as
9 the construction of the rail transit system
10 progresses; and

- 11 (3) Supporting housing projects through state
12 infrastructure planning and construction. Act 130,
13 Session Laws of Hawaii 2016, requires the Hawaii
14 interagency council for transit-oriented development
15 to identify transit-oriented development projects that
16 lack sufficient infrastructure. In addition, Act 131,
17 Session Laws of Hawaii 2016, includes infrastructure
18 in its mandate to develop mixed-use developments and
19 Act 132, Session Laws of Hawaii 2016, provides grants
20 and loans to state agencies, and loans to the counties
21 and private developers for infrastructure



1 improvements. The Hawaii interagency council for
2 transit-oriented development's report to the
3 legislature also noted the importance of this issue,
4 listing infrastructure as the most pressing concern
5 that needed to be considered as transit-oriented
6 development is pursued statewide.

7 The legislature further finds that lack of suitable,
8 entitled lands for development of appropriate housing is a major
9 contributing factor to the housing crisis, and substantial
10 obstacles and delays in entitling such lands result in
11 discouraging development, lowering housing inventory, and
12 raising housing prices, among other negative effects.

13 Addressing the challenges of Hawaii's agricultural self-
14 sufficiency and housing crises will require courageous and novel
15 legislation which addresses these issues in an expeditious,
16 economical, and flexible manner. The legislature additionally
17 finds that land exchanges, for example, exchanges of state lands
18 for privately owned lands to meet the needs of and mutually
19 benefit both parties, completed in other states have provided
20 public benefit in the areas of conservation, economic growth,
21 ecology, and recreation. Land exchanges thereby present a



1 viable method of addressing the many housing and agricultural
2 issues facing the State. Land exchanges present a win-win
3 situation where the State is able to negotiate a mutually
4 beneficial exchange of developable state lands for housing in
5 exchange for privately owned agricultural lands for farming.

6 The purpose of this Act is to allow the governor to:

7 (1) Negotiate land exchanges consistent with and in
8 furtherance of the foregoing agricultural and housing
9 needs and purposes, in a manner which ideally
10 addresses all needs and purposes; and

11 (2) Submit a report to the legislature of the negotiated
12 land exchanges for final approval.

13 SECTION 2. (a) The governor may negotiate land exchanges
14 in accordance with chapter 171, Hawaii Revised Statutes, for the
15 purpose of acquiring private lands that are suitable for long-
16 term diversified agricultural production by the State or its
17 lessees, in exchange for state lands to be acquired by private
18 parties for development of affordable, workforce, and other
19 housing for Hawaii residents.

20 (b) The governor may coordinate with the agribusiness
21 development corporation, the department of land and natural



1 resources, and any other department or agency of the State that
2 holds title to or an assignment of state land that may be
3 appropriate for exchange under subsection (a).

4 (c) It is the intent of this Act that the exchanges
5 negotiated pursuant to this Act will result in exchanges which
6 address both the State's agricultural and housing crises by:

7 (1) Obtaining large tracts of suitable agricultural lands
8 for the State to lease to farmers for diversified
9 agriculture; and

10 (2) Providing to private parties suitable urban lands for
11 expeditious development of affordable housing,
12 workforce housing, and other housing inventory for
13 Hawaii residents, and mixed use commercial and
14 accessory uses within areas designated for transit-
15 oriented development and other appropriate urbanized
16 areas.

17 (d) To facilitate successful negotiation of land
18 exchanges, including the enhancement of optimal agricultural
19 lands acquired by the State in exchange for urbanized lands and
20 the expedient consummation of exchanges, the governor shall be
21 authorized to, pursuant to subsection (e)(3), reclassify and



1 rezone lands intended for exchange under this Act and transfer
2 such state lands, authorized by paragraph (1), to private
3 parties for development of housing and other mixed-uses within
4 the state urban land use district with appropriate county
5 residential or mixed-use zoning, subject to the following:

6 (1) The lands shall be within a one-half-mile radius of
7 any rail station approved by the Federal
8 Transportation Administration within the city and
9 county of Honolulu; and

10 (2) Any development on the lands to be transferred to
11 private parties shall be in compliance with all state
12 and county laws, rules, and regulations regarding
13 health and safety and building permit requirements for
14 housing or mixed-use developments on private lands,
15 and not subject to laws, rules, and regulations
16 applicable to state lands.

17 (e) To promote exchanges which address the objectives of
18 the State in acquiring more lands for diversified agriculture
19 and encouraging private parties to develop more affordable,
20 workforce, and other housing:



- 1 (1) Appraisals shall be performed, in compliance with
2 section 171-50, of state lands for purposes of
3 exchange with the urban, residential, or mixed-use
4 land; provided that appraisals shall reflect any land-
5 use and zoning classifications adopted pursuant to
6 this Act;
- 7 (2) The development of housing on private lands as
8 contemplated by this Act shall be subject to chapters
9 6E and 343, Hawaii Revised Statutes, as applicable to
10 private housing on private lands; notwithstanding the
11 prior state ownership of the land or the use of state
12 or county housing assistance programs;
- 13 (3) The governor may, as necessary to facilitate and
14 effect the purposes of this Act, submit notifications
15 and supporting information to:
- 16 (A) The land use commission; and
17 (B) The planning director of the appropriate county
18 for any necessary rezoning of land;
- 19 provided that such reclassification and rezoning shall
20 be adopted within thirty days of receipt of the
21 governor's notification;



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1 (4) Private development of housing or mixed-uses on
2 private lands, as contemplated by this Act, shall be
3 exempt from all applicable state and county
4 procurement requirements, impact fees, and other
5 exactions;

6 (5) The governor and all related state and county agencies
7 are authorized and directed to take such further
8 actions as may be necessary to facilitate and effect
9 the purposes of this Act; and

10 (6) Consummation of any exchange pursuant to this Act
11 shall be subject to the requirements of section 3.

12 SECTION 3. The governor shall submit a report to the
13 legislature no later than twenty days prior to the convening of
14 the regular session of 2019 on:

15 (1) The feasibility of any land exchanges of agricultural
16 parcels of high interest to the State in exchange for
17 urbanized lands for appropriate private development
18 negotiated by the governor as contemplated by this
19 Act, a list of lands suitable for such an exchange,
20 and a description and the market value of the parcels;
21 and



1 (2) Any appropriations, proposed legislation, or
2 administrative action necessary to accomplish the
3 goals of this Act.

4 After receipt of the governor's report, the legislature, if
5 not in session, may convene in special session pursuant to
6 article III, section 8 of the Hawaii State Constitution to act
7 on land exchanges proposed pursuant to this Act.

8 SECTION 4. This Act shall take effect upon its approval.

9
INTRODUCED BY: 



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Report Title:

Land Exchange; Diversified Agricultural Production

Description:

Allows the governor to negotiate land exchanges to acquire lands that are suitable for long-term diversified agricultural production. Requires a report to the legislature.

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

