
A BILL FOR AN ACT

RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION.

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 take a lead
4 role in converting the State's agriculture lands from
5 plantations producing mainly pineapple and sugar for export to
6 more economically viable farms. However, a recent report from
7 the office of the auditor, "Report No. 21-01: Audit of the
8 Agribusiness Development Corporation" found that the corporation
9 has not taken critical steps toward achieving its overarching
10 goals.

11 Specifically, the auditor's report found that:

12 (1) More than twenty-five years ago, the corporation was
13 created to develop an "aggressive and dynamic"
14 agribusiness development program to fill the economic
15 void created by the closure of sugar and pineapple
16 plantations in the State; however, the corporation has
17 done little to fill that void;



- 1 (2) The corporation's land management struggles, including
2 inconsistent, incomplete, and in many cases non-
3 existent recordkeeping; prospective tenants occupying
4 lands without signed written agreements; and
5 persistent criminal activity on its properties, expose
6 the State to unnecessary risk; and
7 (3) The corporation's board of directors provides minimal
8 guidance and oversight to the corporation.

9 The auditor's report found numerous other serious,
10 troubling issues with the corporation, its director, its board,
11 and its operations, including that the corporation continues to
12 misunderstand its purpose; has yet to create the statutorily-
13 required meaningful agribusiness plan, which would help ensure
14 the corporation's work is achieving its statutory purpose and
15 mission; does not conduct market research; has prepared only
16 three annual reports to the governor and legislature since 2012;
17 does not have a centralized filing system; lacks documented
18 general policies and procedures and lacks specific policies and
19 procedures related to the process through which matters are
20 brought to its board of directors; and does not keep an
21 inventory of its land portfolio nor a complete list of its



1 projects. The report also found that the board of directors had
2 little oversight over the executive director, which has enabled
3 the executive director to operate with little to no
4 accountability. Furthermore, even though the board is aware
5 that the corporation is failing to fulfill its statutory
6 obligations, it does not hold the executive director
7 accountable.

8 The legislature finds although the office of the auditor
9 included thirty-three recommendations for the corporation and
10 its board, the results of the audit show that the corporation is
11 incapable of carrying out its basic statutory responsibilities
12 and functions and will be unable to fulfill the recommendations
13 contained in the auditor's report.

14 The purpose of this Act is to:

- 15 (1) Repeal the agribusiness development corporation; and
16 (2) Transfer all lands held by the agribusiness
17 development corporation and all of its staff, except
18 for the executive director, to the department of
19 agriculture.



1 PART II

2 SECTION 2. Chapter 163D, Hawaii Revised Statutes, is
3 repealed.

4 PART III

5 SECTION 3. Section 10-41, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 " (a) The training required by this part shall apply to
8 members of the land use commission, board of land and natural
9 resources, commission on water resource management,
10 environmental council, [~~board of directors of the agribusiness~~
11 ~~development corporation,~~] board of agriculture, legacy land
12 conservation commission, natural area reserves system
13 commission, and Hawaii historic places review board."

14 SECTION 4. Section 84-17, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) The financial disclosure statements of the following
17 persons shall be public records and available for inspection and
18 duplication:

- 19 (1) The governor, the lieutenant governor, the members of
20 the legislature, candidates for and delegates to the
21 constitutional convention, the trustees of the office



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- 1 of Hawaiian affairs, and candidates for state elective
2 offices;
- 3 (2) The directors of the state departments and their
4 deputies, regardless of the titles by which the
5 foregoing persons are designated; provided that with
6 respect to the department of the attorney general, the
7 foregoing shall apply only to the attorney general and
8 the first deputy attorney general;
- 9 (3) The administrative director of the State;
- 10 (4) The president, the vice presidents, the assistant vice
11 presidents, the chancellors, members of the board of
12 regents, and the provosts of the University of Hawaii;
- 13 (5) The members of the board of education and the
14 superintendent, the deputy superintendent, the state
15 librarian, and the deputy state librarian of the
16 department of education;
- 17 (6) The administrative director and the deputy director of
18 the courts;
- 19 (7) The administrator and the assistant administrator of
20 the office of Hawaiian affairs; and



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- 1 (8) The members of the following state boards,
2 commissions, and agencies:
- 3 ~~[(A) The board of directors of the agribusiness~~
4 ~~development corporation established under section~~
5 ~~163D-3;~~
- 6 ~~[(B)]~~ (A) The board of agriculture established under
7 section 26-16;
- 8 ~~[(C)]~~ (B) The state ethics commission established
9 under section 84-21;
- 10 ~~[(D)]~~ (C) The Hawaii community development authority
11 established under section 206E-3;
- 12 ~~[(E)]~~ (D) The Hawaiian homes commission established
13 under the Hawaiian Homes Commission Act of 1920,
14 as amended, and section 26-17;
- 15 ~~[(F)]~~ (E) The board of directors of the Hawaii housing
16 finance and development corporation established
17 under section 201H-3;
- 18 ~~[(G)]~~ (F) The board of land and natural resources
19 established under section 171-4;
- 20 ~~[(H)]~~ (G) The state land use commission established
21 under section 205-1;



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- 1 ~~[(I)]~~ (H) The legacy land conservation commission
2 established under section 173A-2.4;
- 3 ~~[(J)]~~ (I) The natural area reserves system commission
4 established under section 195-6;
- 5 ~~[(K)]~~ (J) The board of directors of the natural energy
6 laboratory of Hawaii authority established under
7 section 227D-2;
- 8 ~~[(L)]~~ (K) The board of directors of the Hawaii public
9 housing authority established under section
10 356D-3;
- 11 ~~[(M)]~~ (L) The public utilities commission established
12 under section 269-2; and
- 13 ~~[(N)]~~ (M) The commission on water resource management
14 established under section 174C-7."

15 SECTION 5. Section 141-2, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§141-2 Rules.** Subject to chapter 91, the department of
18 agriculture shall adopt, amend, and repeal rules not
19 inconsistent with law, for and concerning:

- 20 (1) The introduction, transportation, and propagation of
21 trees, shrubs, herbs, and other plants;



1 (2) The quarantine, inspection, fumigation, disinfection,
2 destruction, or exclusion, either upon introduction
3 into the State, or at any time or place within the
4 State, of any nursery-stock, tree, shrub, herb, vine,
5 cut-flower, cutting, graft, scion, bud, seed, leaf,
6 root, or rhizome; any nut, fruit, or vegetable; any
7 grain, cereal, or legume in the natural or raw state;
8 any moss, hay, straw, dry-grass, or other forage; any
9 unmanufactured log, limb, or timber; or any other
10 plant growth or plant product unprocessed or in the
11 raw state; any sand, soil, or earth; any live bird,
12 reptile, insect, or other animal, in any stage of
13 development, that is in addition to the so-called
14 domestic animals, which are provided for in section
15 142-2; and any box, barrel, crate, or other containers
16 in which the articles, substances, or objects have
17 been transported or contained, and any packing
18 material used in connection therewith, that is or may
19 be diseased or infested with insects or likely to
20 assist in the transmission or dissemination of any
21 insect or plant disease injurious, harmful, or



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1 detrimental, or likely to become injurious, harmful,
2 or detrimental to the agricultural or horticultural
3 industries or the forests of the State, or that is or
4 may be in itself injurious, harmful, or detrimental to
5 the same; provided that included therein may be rules
6 governing the transportation of any of the articles,
7 substances, or objects enumerated above in this
8 section between different localities on any one of the
9 islands within the State;

- 10 (3) The prohibition of importation into the State, from
11 any or all foreign countries or from other parts of
12 the United States, or the shipment from one island
13 within the State to another island therein, or the
14 transportation from one part or locality of any island
15 to another part or locality of the same island, of any
16 specific article, substance, or object or class of
17 articles, substances, or objects, among those
18 enumerated above in this section, that is diseased or
19 infested with insects or likely to assist in the
20 transmission or dissemination of any insect or plant
21 disease injurious, harmful, or detrimental or likely



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- 1 to be injurious, harmful, or detrimental to the
2 agricultural or horticultural industries, or the
3 forests of the State, or that is or may be in itself
4 injurious, harmful, or detrimental to the same;
- 5 (4) The preparation by cargo carriers of manifests of
6 cargo transported into the State or between islands of
7 the State and the submission of the manifests to the
8 department;
- 9 (5) The establishment, maintenance, and enforcement of
10 compliance agreements with federal or state
11 departments of agriculture authorizing agriculture
12 inspectors from the state of origin in the case of
13 imports to the State, or state agricultural inspectors
14 in the case of state exports, to monitor the growing
15 and packing of plant commodities and any treatment
16 procedures to ensure compliance with quarantine laws,
17 and further authorizing the assessment of fees for
18 conducting inspections required under the compliance
19 agreement; and
- 20 (6) The manner in which agricultural product promotion and
21 research activities may be undertaken, after



1 coordinating with the [~~agribusiness development~~
2 ~~corporation.~~] department of agriculture.

3 All rules adopted under this section shall have the force
4 and effect of law."

5 SECTION 6. Section 171-2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§171-2 Definition of public lands.** "Public lands" means
8 all lands or interest therein in the State classed as government
9 or crown lands previous to August 15, 1895, or acquired or
10 reserved by the government upon or subsequent to that date by
11 purchase, exchange, escheat, or the exercise of the right of
12 eminent domain, or in any other manner; including lands accreted
13 after May 20, 2003, and not otherwise awarded, submerged lands,
14 and lands beneath tidal waters that are suitable for
15 reclamation, together with reclaimed lands that have been given
16 the status of public lands under this chapter, except:

- 17 (1) Lands designated in section 203 of the Hawaiian Homes
18 Commission Act, 1920, as amended;
- 19 (2) Lands set aside pursuant to law for the use of the
20 United States;
- 21 (3) Lands being used for roads and streets;



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- 1 (4) Lands to which the United States relinquished the
2 absolute fee and ownership under section 91 of the
3 Hawaiian Organic Act prior to the admission of Hawaii
4 as a state of the United States unless subsequently
5 placed under the control of the board of land and
6 natural resources and given the status of public lands
7 in accordance with the state constitution, the
8 Hawaiian Homes Commission Act, 1920, as amended, or
9 other laws;
- 10 (5) Lands to which the University of Hawaii holds title;
- 11 (6) Lands to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title;
- 14 (7) Lands to which the Hawaii community development
15 authority in its corporate capacity holds title;
- 16 (8) Lands set aside by the governor to the Hawaii public
17 housing authority or lands to which the Hawaii public
18 housing authority in its corporate capacity holds
19 title;
- 20 (9) Lands to which the department of agriculture holds
21 title by way of foreclosure, voluntary surrender, or



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- 1 otherwise, to recover moneys loaned or to recover
2 debts otherwise owed the department under chapter 167;
- 3 (10) Lands that are set aside by the governor to the Aloha
4 Tower development corporation; lands leased to the
5 Aloha Tower development corporation by any department
6 or agency of the State; or lands to which the Aloha
7 Tower development corporation holds title in its
8 corporate capacity;
- 9 (11) Lands that [~~are~~] were set aside by the governor to the
10 agribusiness development corporation; lands that were
11 leased to the agribusiness development corporation by
12 any department or agency of the State; or lands to
13 which the agribusiness development corporation in its
14 corporate capacity [~~holds~~] held title[+], but were
15 transferred to the department of agriculture pursuant
16 to Act _____, Session Laws of Hawaii 2021;
- 17 (12) Lands to which the Hawaii technology development
18 corporation in its corporate capacity holds title; and
- 19 (13) Lands to which the department of education holds
20 title;



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1 provided that, except as otherwise limited under federal law and
2 except for state land used as an airport as defined in section
3 262-1, public lands shall include the air rights over any
4 portion of state land upon which a county mass transit project
5 is developed after July 11, 2005."

6 SECTION 7. Section 171-64.7, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) This section applies to all lands or interest therein
9 owned or under the control of state departments and agencies
10 classed as government or crown lands previous to August 15,
11 1895, or acquired or reserved by the government upon or
12 subsequent to that date by purchase, exchange, escheat, or the
13 exercise of the right of eminent domain, or any other manner,
14 including accreted lands not otherwise awarded, submerged lands,
15 and lands beneath tidal waters that are suitable for
16 reclamation, together with reclaimed lands that have been given
17 the status of public lands under this chapter, including:

- 18 (1) Land set aside pursuant to law for the use of the
19 United States;
- 20 (2) Land to which the United States relinquished the
21 absolute fee and ownership under section 91 of the



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1 Organic Act prior to the admission of Hawaii as a
2 state of the United States;
3 (3) Land to which the University of Hawaii holds title;
4 (4) Land to which the Hawaii housing finance and
5 development corporation in its corporate capacity
6 holds title;
7 (5) Land to which the department of agriculture holds
8 title by way of foreclosure, voluntary surrender, or
9 otherwise, to recover moneys loaned or to recover
10 debts otherwise owed the department under chapter 167;
11 (6) Land that is set aside by the governor to the Aloha
12 Tower development corporation; or land to which the
13 Aloha Tower development corporation holds title in its
14 corporate capacity;
15 (7) Land that [~~is~~] was set aside by the governor to the
16 agribusiness development corporation; or land to which
17 the agribusiness development corporation in its
18 corporate capacity [~~holds~~] held title[~~+~~], but was
19 transferred to the department of agriculture pursuant
20 to Act _____, Session Laws of Hawaii 2021;



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- 1 (8) Land to which the Hawaii technology development
2 corporation in its corporate capacity holds title;
3 (9) Land to which the department of education holds title;
4 and
5 (10) Land to which the Hawaii public housing authority in
6 its corporate capacity holds title."

7 SECTION 8. Section 173A-4, Hawaii Revised Statutes, is
8 amended by amending subsections (c) and (d) to read as follows:

9 "(c) The board, in consultation with the senate president
10 and the speaker of the house of representatives, shall require
11 as a condition of the receipt of funds that state and county
12 agencies receiving funds under this chapter provide a
13 conservation easement under chapter 198, or an agricultural
14 easement or deed restriction or covenant to the department of
15 land and natural resources; the department of agriculture; [~~the~~
16 ~~agribusiness development corporation;~~] an appropriate land
17 conservation organization; or a county, state, or federal
18 natural resource conservation agency, that shall run with the
19 land and be recorded with the land to ensure the long-term
20 protection of land having value as a resource to the State and
21 preserve the interests of the State. The board shall require as



1 a condition of the receipt of funds that it be an owner of a
2 conservation easement.

3 (d) The board, in consultation with the senate president
4 and the speaker of the house of representatives, shall require
5 as a condition of the receipt of funds that nonprofit land
6 conservation organizations receiving funds under this chapter
7 provide a conservation easement under chapter 198, or an
8 agricultural easement or deed restriction or covenant to the
9 department of land and natural resources; the department of
10 agriculture; [~~the agribusiness development corporation;~~] an
11 appropriate land conservation agency; or an appropriate county,
12 state, or federal natural resource conservation agency, that
13 shall run with the land and be recorded with the land to ensure
14 the long-term protection of land having value as a resource to
15 the State and preserve the interests of the State. The board
16 shall require as a condition of the receipt of funds that it be
17 an owner of a conservation easement."

18 SECTION 9. Section 173A-5, Hawaii Revised Statutes, is
19 amended by amending subsection (i) to read as follows:

20 "(i) Based on applications from state agencies, counties,
21 and nonprofit land conservation organizations, the department,



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1 in consultation with the senate president and speaker of the
2 house of representatives, shall recommend to the board specific
3 parcels of land to be acquired, restricted with conservation
4 easements, or preserved in similar fashion. The board shall
5 review the selections and approve or reject the selections
6 according to the availability of moneys in the fund. To be
7 eligible for grants from the fund, state and county agencies and
8 nonprofit land conservation organizations shall submit
9 applications to the department that contain:

- 10 (1) Contact information for the project;
- 11 (2) A description of the project;
- 12 (3) The request for funding;
- 13 (4) Cost estimates for acquisition of the interest in the
14 land;
- 15 (5) Location and characteristics of the land;
- 16 (6) The project's public benefits, including but not
17 limited to where public access may be practicable or
18 not practicable and why;
- 19 (7) Results of the applicant's consultation with the staff
20 of the department[7] and the department of
21 agriculture [~~7~~ and the ~~agribusiness development~~



1 agribusiness development corporation in its corporate capacity
2 holds title are transferred to the department of agriculture.

3 SECTION 12. All rights, powers, functions, and duties of
4 the agribusiness development corporation are transferred to the
5 department of agriculture.

6 Except for the executive director, all employees who occupy
7 civil service positions and whose functions are transferred to
8 the department of agriculture by this Act shall retain their
9 civil service status, whether permanent or temporary. Employees
10 shall be transferred without loss of salary, seniority (except
11 as prescribed by applicable collective bargaining agreements),
12 retention points, prior service credit, any vacation and sick
13 leave credits previously earned, and other rights, benefits, and
14 privileges, in accordance with state personnel laws and this
15 Act; provided that the employees possess the minimum
16 qualifications and public employment requirements for the class
17 or position to which transferred or appointed, as applicable;
18 provided further that subsequent changes in status may be made
19 pursuant to applicable civil service and compensation laws.

20 Any employee who, prior to this Act, is exempt from civil
21 service and is transferred as a consequence of this Act may



1 retain the employee's exempt status, but shall not be appointed
2 to a civil service position as a consequence of this Act. An
3 exempt employee who is transferred by this Act shall not suffer
4 any loss of prior service credit, vacation or sick leave credits
5 previously earned, or other employee benefits or privileges as a
6 consequence of this Act; provided that the employees possess
7 legal and public employment requirements for the position to
8 which transferred or appointed, as applicable; provided further
9 that subsequent changes in status may be made pursuant to
10 applicable employment and compensation laws. The chairperson of
11 the board of agriculture may prescribe the duties and
12 qualifications of these employees and fix their salaries without
13 regard to chapter 76, Hawaii Revised Statutes.

14 SECTION 13. All appropriations, records, equipment,
15 machines, files, supplies, contracts, books, papers, documents,
16 maps, and other personal property heretofore made, used,
17 acquired, or held by the agribusiness development corporation
18 relating to the functions transferred to the department of
19 agriculture shall be transferred with the functions to which
20 they relate.



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PART V

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

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

SECTION 16. This Act shall take effect on July 1, 2021.

INTRODUCED BY:

Amy Perno
JAN 27 2021



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Report Title:

Agribusiness Development Corporation; Department of Agriculture;
Repeal

Description:

Dissolves the agribusiness development corporation and transfers all lands and staff, except for the executive director, to the department of agriculture.

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

