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## A BILL FOR AN ACT

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RELATING TO AGRICULTURE.

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

PART I

SECTION 1. 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 conversion of agriculture into a dynamic growth industry. Within the next decade, ~~[seventy-five thousand]~~ the State can use public agricultural lands to enhance the local economy, provide employment opportunities, decrease reliance on imported agricultural products, and provide more sources of locally grown food for residents. Thousands of acres of agricultural lands and fifty million gallons per day of irrigation water ~~[are expected to be]~~ were released by plantations. The downsizing of the sugar and pineapple industries ~~[will idle]~~ idled and left vacant a valuable inventory of supporting infrastructure including irrigation systems, roads, drainage systems,



1 processing facilities, workshops, and warehouses~~[=]~~ which are  
2 still largely underutilized. The challenge to government and  
3 business is to still conserve and convert the arable lands and  
4 their associated production infrastructure in a timely manner  
5 into new productive uses ~~[that are based upon strategies~~  
6 ~~developed from detailed marketing analysis and monitoring of~~  
7 ~~local, national, and international opportunities. Constantly~~  
8 ~~evolving economies require an aggressive]~~. Aggressive and  
9 dynamic leadership ~~[for the promotion]~~ can play a critically  
10 important role in promoting and ~~[development of]~~ developing  
11 agricultural enterprises, ~~[and centralized leadership to~~  
12 ~~coordinate]~~ coordinating industry development, ~~[provide]~~  
13 providing industry-wide services, ~~[provide]~~ providing marketing  
14 assistance, and ~~[facilitate]~~ facilitating investments and  
15 coventures in viable enterprises.

16 The purpose of this chapter is to create a vehicle and  
17 process to make optimal use of agricultural assets for the  
18 economic, environmental, and social benefit of the people of  
19 Hawaii. This chapter establishes a public corporation to  
20 administer an aggressive and dynamic agribusiness development  
21 program. The purposes of the corporation shall be to support



1 the production of local agricultural products for local  
2 consumption in a manner that is economically and environmentally  
3 sustainable while continuing to develop commercial exports of  
4 locally produced agriculture products. To further these  
5 purposes, the corporation shall coordinate and administer  
6 programs to assist agricultural enterprises to facilitate the  
7 transition of agricultural infrastructure from plantation  
8 operations into other agricultural enterprises, [~~to carry on the~~  
9 ~~marketing analysis to direct agricultural industry evolution,~~  
10 ~~and to provide the leadership for the development, financing,~~  
11 ~~improvement, or enhancement of agricultural enterprises.]~~  
12 increase local production of agricultural products for local  
13 consumption, reduce the State's reliance on imported  
14 agricultural products, and increase access to farmland and  
15 related infrastructure for small local farmers and  
16 cooperatives."

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

20 "'Agriculture" means the production for [~~marketing~~]  
21 consumption within the State and exporting of plant and animal



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

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

14 **"§163D-3 Agribusiness development corporation; board of**  
15 **directors; established.** (a) There is established the  
16 agribusiness development corporation, which shall be a public  
17 body corporate and politic and an instrumentality and agency of  
18 the State. The corporation shall be headed by a board of  
19 directors. The corporation shall be placed within the  
20 department of agriculture for administrative purposes, but the  
21 corporation may later incorporate as a nonprofit corporation if



1 this proves desirable to further its objectives; provided that  
2 such reorganization as a nonprofit corporation shall not  
3 adversely affect the federal tax status of the interest on any  
4 bonds issued to finance any project or project facility.

5 (b) The board of directors of the corporation shall  
6 consist of [~~eleven~~] thirteen voting members, of whom [~~eight~~] ten  
7 shall be appointed by the governor. The terms of these [~~eight~~]  
8 ten members shall be four years; provided that, commencing on  
9 July 1, 2005, the governor shall reduce the terms of those  
10 initially appointed so as to provide, as nearly as can be, for  
11 the expiration of an equal number of terms at intervals of one  
12 year. The [~~eight~~] ten members shall be selected on the basis of  
13 their knowledge, experience, and proven expertise in small and  
14 large businesses within the agricultural industry, agricultural  
15 economics, banking, real estate, finance, promotion, marketing,  
16 and management[-]; provided that at least:

17 (1) Three members shall have substantial experience in  
18 local food production;

19 (2) One member shall have substantial experience in  
20 organic and natural farming practices; and



1       (3) One member shall have demonstrated expertise in Native  
2       Hawaiian traditional and customary agricultural  
3       practices, such as having:

4       (A) A college degree in a relevant field, including  
5       Hawaiian studies, Native Hawaiian traditional and  
6       customary practices, or a related subject area;

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

10       (C) Substantial experience as a Native Hawaiian  
11       traditional and customary practitioner.

12   Of these [~~eight~~] ten members, one shall be from the city and  
13   county of Honolulu, one shall be from the county of Hawaii, one  
14   shall be from the county of Maui, one shall be from the county  
15   of Kauai, and [~~four~~] six shall be appointed at-large. In the  
16   selection of these ten members, the governor shall consult with  
17   government and agricultural community stakeholders. The  
18   director of business, economic development, and tourism; the  
19   chairperson of the board of agriculture; and the chairperson of  
20   the board of land and natural resources, or their designated  
21   representatives, shall be ex-officio, voting members of the



1 board. All members shall continue in office until their  
2 respective successors have been appointed and qualified. The  
3 board shall annually elect its chairperson from among its  
4 members; provided that the chairperson shall not be an ex-  
5 officio member.

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

9 (d) The board shall appoint an executive director, who  
10 shall serve at the pleasure of the board and shall be exempt  
11 from chapter 76. The salary of the executive director shall be  
12 set by the board.

13 (e) The board shall develop and document annual goals and  
14 performance measures for the executive director that allow the  
15 board to annually evaluate the executive director's work to  
16 ensure compliance by the corporation with statutory requirements  
17 and achievement of its statutory purposes.

18 (f) The board shall evaluate and document the evaluation  
19 of the executive director's performance annually, or more  
20 frequently upon the request of at least four board members,



1 based on annual goals, performance measures, and other relevant  
2 criteria.

3 (g) The board shall document the specific authority  
4 delegated to the executive director, including but not limited  
5 to the types of access and use of corporation property for which  
6 the executive director can approve without notice to or approval  
7 by the board, and the rent credits and other amendments to  
8 board-approved contract terms that the executive director may  
9 approve without notice to or approval by the board.

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

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

16 **"§163D-4 Powers; generally.** (a) Except as otherwise  
17 limited by this chapter, the corporation may:

- 18 (1) Sue and be sued;  
19 (2) Have a seal and alter the same at its pleasure;  
20 (3) Make and alter bylaws for its organization and  
21 internal management;





1       (4) Adopt rules under chapter 91 necessary to effectuate  
2       this chapter in connection with its projects,  
3       operations, and properties;

4       (5) Make and execute contracts and all other instruments  
5       necessary or convenient for the exercise of its powers  
6       and functions under this chapter;

7       ~~[(6) Carry out surveys, research, and investigations into~~  
8       ~~technological, business, financial, consumer trends,~~  
9       ~~and other aspects of agricultural production in the~~  
10      ~~national and international community;~~

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

19      ~~+(8)]~~ (7) By itself, or in partnership with qualified  
20      persons, acquire, construct, reconstruct,  
21      rehabilitate, improve, alter, or repair any



1 infrastructure or accessory facilities in connection  
2 with any project; own, hold, sell, assign, transfer,  
3 convey, exchange, lease, or otherwise dispose of, or  
4 encumber any project;

5 ~~[(+9)]~~ (8) In cooperation with the department of  
6 agriculture, pursuant to chapter 167, or otherwise  
7 through direct investment or coventure with a  
8 professional investor or enterprise or any other  
9 person, or otherwise, to acquire, construct, operate,  
10 and maintain water facilities for conveying,  
11 distributing, and transmitting water for irrigation  
12 and agricultural uses at rates or charges determined  
13 by the corporation; provided that:

14 (A) This chapter shall not be construed to permit or  
15 allow the department of agriculture or any  
16 agribusiness development corporation to:

17 (i) Amend or modify rights or entitlements to  
18 water as provided for by article XI, section  
19 7, of the Constitution of the State of  
20 Hawaii, or the Hawaiian Homes Commission  
21 Act, 1920, as amended, and chapter 168;



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1                   (ii) Diminish or abridge the traditional and  
2                   customary rights of ahupua'a tenants who  
3                   inhabited the Hawaiian Islands prior to 1778  
4                   under sections 1-1 and 7-1; and  
5                   (iii) Impair, abridge, or terminate the legal  
6                   rights or interests to water and its uses,  
7                   whether by lease, easement, or other means,  
8                   which are possessed or held by organizations  
9                   whose primary purpose is to benefit people  
10                  of Hawaiian ancestry; and  
11                  (B) All usage of water shall be in accordance with  
12                  chapter [†]174C[†] and other applicable laws in  
13                  the State;  
14       ~~[(10) Assist agricultural enterprises by conducting detailed~~  
15       ~~marketing analysis and developing marketing and~~  
16       ~~promotional strategies to strengthen the position of~~  
17       ~~those enterprises and to better exploit local,~~  
18       ~~national, and international markets;~~  
19       ~~[(11) Carry out specialized programs designed to develop new~~  
20       ~~markets for Hawaii agricultural products;~~



1       ~~+(12)+~~ (9)   Receive, examine, and determine the acceptability  
2                   of applications of qualified persons for allowances or  
3                   grants for the development of new crops and  
4                   agricultural products, the expansion of established  
5                   agricultural enterprises, and the altering of existing  
6                   agricultural enterprises;

7       ~~+(13)+~~ (10)   Coordinate its activities with any federal or  
8                   state farm credit programs;

9       ~~+(14)+~~ (11)   Grant options to purchase any project or to  
10                  renew any lease entered into by it in connection with  
11                  any of its projects, on the terms and conditions it  
12                  deems advisable;

13       ~~+(15)+~~ (12)   Provide advisory, consultative, training, and  
14                  educational services, technical assistance, and advice  
15                  to any person, partnership, or corporation, either  
16                  public or private, in order to carry out the purposes  
17                  of this chapter, and engage the services of  
18                  consultants on a contractual basis for rendering  
19                  professional and technical assistance and advice;

20       ~~+(16)+~~ (13)   Procure insurance against any loss in connection  
21                  with its property and other assets and operations in



1           such amounts and from such insurers as it deems  
2           desirable;

3       ~~[(17)]~~ (14)   Accept gifts or grants in any form from any  
4           public agency or any other source; and

5       ~~[(18)]~~ (15)   Do all things necessary or proper to carry out  
6           the purposes of this chapter.

7           (b)   The corporation shall develop, promote, assist, and  
8   market agricultural products for local markets and local  
9   consumption, and shall promote and assist in commercial export  
10 ~~[crops and other crops for local markets.]~~ agricultural  
11 products."

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

14       "~~{}~~**\$163D-5**~~}~~   **Hawaii agribusiness plan.**   (a)   The  
15 corporation shall prepare and post on its website the Hawaii  
16 agribusiness plan which shall define and establish goals,  
17 objectives, policies, and priority guidelines for its  
18 agribusiness development strategy.   The plan shall include but  
19 not be limited to:

20           (1)   An inventory of agricultural lands with suitable  
21           adequate water resources that are or will become



1           available [~~due to the downsizing of the sugar and~~  
2           ~~pineapple industries that~~] and can be used to meet  
3           present and future agricultural production needs;  
4           provided that the inventory of agricultural lands  
5           under this paragraph shall be agricultural lands  
6           within the purview of the corporation;

7           (2) An inventory of available agricultural infrastructure  
8           ~~[that will be abandoned by sugar and pineapple~~  
9           ~~industries]~~ such as irrigation systems, drainage  
10          systems, processing facilities, and other accessory  
11          facilities[+] that are controlled by the corporation;

12          ~~[-(3)- An analysis of imported agricultural products and the~~  
13          ~~potential for increasing local production to replace~~  
14          ~~imported products in a manner that complements~~  
15          ~~existing local producers and increases Hawaii's~~  
16          ~~agricultural self-sufficiency;~~

17          ~~-(4)- Alternatives in the establishment of sound financial~~  
18          ~~programs to promote the development of diversified~~  
19          ~~agriculture;~~



1       ~~(5) Feasible strategies for the promotion, marketing, and~~  
2           ~~distribution of Hawaii agricultural products in local,~~  
3           ~~national, and international markets;~~

4       ~~(6) Programs to promote and facilitate the absorbing of~~  
5           ~~displaced agricultural workers into alternative~~  
6           ~~agricultural enterprises;~~

7       ~~(7) Strategies to insure the provision of adequate air and~~  
8           ~~surface transportation services and supporting~~  
9           ~~facilities to support the agricultural industry in~~  
10          ~~meeting local, national, and international market~~  
11          ~~needs;~~

12       ~~(8) Proposals to improve the gathering of data and the~~  
13           ~~timely presentation of information on market demands~~  
14           ~~and trends that can be used to plan future harvests~~  
15           ~~and production; and]~~

16       (3) An analysis and plan for how lands within the purview  
17           of the corporation can be used to increase local  
18           agricultural production to replace imported products  
19           in a manner that complements existing local producers  
20           and increases Hawaii's agricultural self-sufficiency;  
21           and



[+9] (4) Strategies for federal ~~[and]~~, state  
~~[legislative]~~, county, and community stakeholder  
actions that will promote the development and  
enhancement of Hawaii's agricultural industries.

(b) The Hawaii agribusiness plan goals shall have specific one-year, five-year, and ten-year objectives and measurable outcomes. The objectives and outcomes shall include annual performance goals and measures that the corporation shall be evaluated on annually.

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

[(b)] (d) The corporation shall [revise] update the Hawaii agribusiness plan [~~from time to time~~] no later than July 1, 2024, and every five years thereafter, and shall incorporate the plan in its annual report to the governor and the legislature as provided in section 163D-19."

## PART II

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2022-2023 for a





1 consultant to assist the agribusiness development corporation in  
2 preparing and finalizing the Hawaii agribusiness plan under  
3 section 163D-5, Hawaii Revised Statutes, including the  
4 facilitation of community stakeholder involvement.

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

7 SECTION 7. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$ or so  
9 much thereof as may be necessary for fiscal year 2022-2023 for  
10 one full-time equivalent (1.0 FTE) permanent accountant position  
11 to provide accounting and other fiscal support services to the  
12 agribusiness development corporation.

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

15 SECTION 8. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$500,000 or so much  
17 thereof as may be necessary for fiscal year 2022-2023 for  
18 security guard services to address trespassing, abandonment of  
19 vehicles on agribusiness development corporation land, and other  
20 security issues on vacant land of the agribusiness development  
21 corporation; provided that once agribusiness development



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1 corporation land is leased, security costs for the property  
2 shall be funded by agricultural cooperative association dues of  
3 property tenants.

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

6 PART III

7 SECTION 9. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 10. This Act shall take effect upon its approval;  
10 provided that part II of this Act shall take effect on July 1,  
11 2022.

12

INTRODUCED BY:

*Neil A. Deloitte*

JAN 26 2022



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**Report Title:**

ADC; Board of Directors; Powers; Plan; Appropriation

**Description:**

Amends the focus, scope, and management of the agribusiness development corporation (ADC). Appropriates funds to ADC for a consultant for planning, an accountant, and for security on ADC property.

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

