
A BILL FOR AN ACT

RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION.

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

1 SECTION 1. The legislature finds that the State's
2 long-term food security and agricultural resilience depend upon
3 the availability of land and water resources that can support
4 diversified, sustainable agricultural production. When the
5 agribusiness development corporation (corporation) was
6 established in 1994 by Act 264, Session Laws of Hawaii 1994, and
7 codified as chapter 163D, Hawaii Revised Statutes, the
8 legislature envisioned that the State's transition from
9 plantation agriculture would release approximately seventy-five
10 thousand acres of agricultural lands and fifty million gallons
11 of irrigation water per day for reuse by diversified
12 agriculture.

13 However, three decades later, the full potential of these
14 resources has not been realized. The consolidation of
15 agricultural parcels, rehabilitation of irrigation systems, and
16 establishment of modern agricultural infrastructure remain
17 incomplete due to complex land ownership patterns, dormant



1 assets, and inadequate coordination among state agencies. The
2 lack of a clear mechanism for the State to assemble
3 strategically located agricultural lands and critical
4 infrastructure has impeded Hawaii's ability to achieve food
5 self-sufficiency and reduce dependence on imported foods.

6 The legislature further finds that the corporation was
7 created to facilitate the conversion of former plantation lands
8 and water systems to diversified agricultural use, coordinate
9 the development of agricultural infrastructure, and assist local
10 producers in overcoming structural barriers to agricultural
11 growth. Yet, despite its broad authority to acquire and manage
12 lands, the corporation presently lacks explicit statutory
13 authority to acquire lands or easements by condemnation for
14 public agricultural purposes, even in situations where voluntary
15 acquisition is impracticable or contrary to the public interest.

16 The legislature recognizes that the power of eminent domain
17 is an extraordinary authority that must be exercised only for a
18 demonstrable public use, subject to the constitutional
19 guarantees of just compensation and due process, and with full
20 regard for the State's obligations under article XI, section 7,
21 of the Hawaii State Constitution to protect, control, and



1 regulate the use of the State's water resources for the benefit
2 of its people. The legislature further acknowledges that lands
3 and water systems are integral to Native Hawaiian customary and
4 traditional rights, and to the rights of beneficiaries under the
5 Hawaiian Homes Commission Act of 1920, as amended.

6 The legislative intent of the authority established by this
7 Act is not to promote private commercial gain, nor to displace
8 existing public uses of land without compelling justification
9 and legislative review. Rather, the legislature seeks to
10 restore coherence and capacity to the State's agricultural
11 infrastructure policy, enabling the public sector to acquire and
12 manage essential agricultural resources for the long-term
13 benefit of the State's people, environment, and economy.

14 Accordingly, the purpose of this Act is to authorize the
15 agribusiness development corporation to acquire real property or
16 any interest therein, except for certain public lands, by
17 condemnation pursuant to chapter 101, Hawaii Revised Statutes,
18 for the corporation's immediate or future use.

19 SECTION 2. Section 163D-4, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) Except as otherwise limited by this chapter, the
2 corporation may:

3 (1) Sue and be sued;

4 (2) Have a seal and alter the same at its pleasure;

5 (3) Make and alter bylaws for its organization and
6 internal management;

7 (4) Adopt rules under chapter 91 necessary to effectuate
8 this chapter in connection with its projects,
9 operations, and properties;

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

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

1 (7) Acquire by condemnation pursuant to chapter 101 any
2 real property, including fixtures and improvements, or
3 any interest in real property, except public lands as
4 defined in section 171-2, for the purposes of this
5 chapter; provided that the corporation makes a
6 determination that the property is necessary for the
7 corporation's immediate or future use.

8 Notwithstanding any other law to the contrary, any
9 real property acquired by condemnation shall not
10 thereafter be transferred or taken for any other
11 public use without the consent of the corporation;

12 ~~[(7)]~~ (8) By itself, or in partnership with qualified
13 persons, acquire, construct, reconstruct,
14 rehabilitate, improve, alter, or repair any
15 infrastructure or accessory facilities in connection
16 with any project; own, hold, sell, assign, transfer,
17 convey, exchange, lease, or otherwise dispose of, or
18 encumber any project;

19 ~~[(8)]~~ (9) In cooperation with the department of agriculture
20 and biosecurity, pursuant to chapter 167, or otherwise
21 through direct investment or coventure with a



1 professional investor or enterprise or any other
2 person, or otherwise, to acquire, construct, operate,
3 and maintain water facilities for conveying,
4 distributing, and transmitting water for irrigation
5 and agricultural uses at rates or charges determined
6 by the corporation; provided that:

7 (A) This chapter shall not be construed to permit or
8 allow the department of agriculture and
9 biosecurity or [~~any~~] agribusiness development
10 corporation to:

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

16 (ii) Diminish or abridge the traditional and
17 customary rights of ahupua'a tenants who
18 inhabited the Hawaiian Islands [~~prior to~~]
19 before 1778 under sections 1-1 and 7-1; and

20 (iii) Impair, abridge, or terminate the legal
21 rights or interests to water and its uses,



1 whether by lease, easement, or other means,
2 ~~[which]~~ that are possessed or held by
3 organizations whose primary purpose is to
4 benefit people of Hawaiian ancestry; and

5 (B) All usage of water shall be in accordance with
6 chapter 174C and other applicable laws in the
7 State;

8 ~~[(+9)]~~ (10) Receive, examine, and determine the
9 acceptability of applications of qualified persons for
10 allowances or grants for the development of new crops
11 and agricultural products, the expansion of
12 established agricultural enterprises, and the altering
13 of existing agricultural enterprises;

14 ~~[(+10)]~~ (11) Coordinate its activities with any federal or
15 state farm credit programs;

16 ~~[(+11)]~~ (12) Grant options to purchase any project or to
17 renew any lease entered into by it in connection with
18 any of its projects, on the terms and conditions it
19 deems advisable;

20 ~~[(+12)]~~ (13) Provide advisory, consultative, training, and
21 educational services, technical assistance, and advice



1 to any person, partnership, or corporation, either
2 public or private, in order to carry out the purposes
3 of this chapter, and engage the services of
4 consultants on a contractual basis for rendering
5 professional and technical assistance and advice;
6 ~~[(13)]~~ (14) Procure insurance against any loss in connection
7 with its property and other assets and operations in
8 ~~[such]~~ amounts and from ~~[such]~~ insurers as it deems
9 desirable;
10 ~~[(14)]~~ (15) Accept gifts or grants in any form from any
11 public agency or any other source; and
12 ~~[(15)]~~ (16) Do all things necessary or proper to carry out
13 the purposes of this chapter."

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

ADC; Real Property; Condemnation; Eminent Domain; Public Use

Description:

Authorizes the Agribusiness Development Corporation to acquire by condemnation any real property or interest in real property, except public lands, under certain conditions. Prohibits any real property acquired by the Corporation by condemnation from subsequently being transferred or taken for any other public use without the Corporation's consent. Effective 7/1/3000. (HD1)

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