

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.

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

~~[[~~§163D-7~~]]~~ **Agricultural projects; agricultural development plans.**

(a) The corporation may develop and implement agricultural projects where large tracts of agricultural land have been or will be taken out of productive agriculture or where, through detailed analysis, opportunities exist to exploit potential local, national, and international markets.

(b) The corporation may initiate and coordinate the preparation of business and agricultural development plans for its projects. The plans shall include a proposal for the organization of the enterprise, a marketing information and strategy, the impact on existing agricultural operations throughout the State, and a recommendation for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any infrastructure or accessory facilities in connection with any project.

(c) The corporation may enter into cooperative agreements with coordinating entrepreneurs or public agencies when the powers, services, and capabilities of the persons or agencies are deemed necessary and appropriate for the development and implementation of the business and agricultural development plans.

(d) The corporation may purchase, accept, and maintain permanent conservation easements, or transfer these easements to a qualified land trust in accordance with the federal Natural Resources Conservation Service farm and ranch lands protection 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 this State to provide lease management services. For the purposes of this subsection, "lease management services" includes the collection of lease rent and any other moneys owed to the corporation related to the lease of agricultural land under the corporation's control.

~~(d)~~ (f) The agricultural planning activities of the corporation shall be coordinated with the county planning departments and the county land use plans, policies, and ordinances.

~~(e)~~ (g) The corporation may amend the business and agricultural development plans as may be necessary.

~~(d)~~ (h) Any undertaking by the corporation pursuant to this chapter shall be with the express written consent of the landowner or landowners directly affected."

PART II

SECTION 3. The purpose of this part is to ensure the long-term availability of lands suitable for agricultural activities by authorizing the agribusiness development corporation to lease lands acquired under this Act for up to fifty-five years.

SECTION 4. Section 163D-15.6, Hawaii Revised Statutes, is amended to read as follows:

“[§]163D-15.6 Commitment and preservation of agricultural leases.[§]”

(a) The agribusiness development corporation shall work toward obtaining commitments from landowners in the leeward and central districts of Oahu that their agricultural leases shall be for a duration of twenty or more years^[5] and shall not be amended or revoked [~~in order~~] to allow for a nonagricultural use of [~~such~~] the land^[7]; provided that for lands in central Oahu acquired under Act¹, Session Laws of Hawaii 2008, the agricultural leases shall be for no more than fifty-five years.

(b) To further ensure the preservation of agriculture in the leeward and central districts of Oahu, the agribusiness development corporation shall monitor the agricultural leases of lands [~~utilizing~~] using the water from the Waiahole water system. In the event of any proposed amendment or revocation of any [~~such~~] lease, the corporation shall do all things within its powers under ~~[F]this chapter[§]~~ to protect and defend the interests of the agricultural leaseholders to ensure the continuation of agricultural use for those lands.”

PART III

SECTION 5. The purpose of this part is to comply with article XI, sections 3, 4, and 10 of the state constitution, relating to the protection of agricultural lands, public land banking, and the promotion of farm ownership and diversified agriculture, by establishing a process to ensure that certain agricultural lands on the island of Oahu and owned by the Galbraith Estate:

- (1) Remain available for agricultural use;
- (2) Are properly managed to ensure their continued economic viability while being used for agriculture; and
- (3) Are managed in a manner that is sensitive to and consistent with the needs of farmers in the Waialua area.

The legislature finds that this part is in accordance with article XI, sections 3, 4, and 10 of the state constitution, is in the public interest, and will preserve agricultural activities in the area and a lifestyle that benefits the community at large.

SECTION 6. Chapter 163D, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“§163D-A Acquisitions of important agricultural lands authorized by the legislature. (a) The legislature may authorize the corporation to acquire agricultural lands for the protection of agricultural lands, public land banking, or the promotion of farm ownership and diversified agriculture.

(b) The acquisition shall be authorized by a bill enacted into law and shall contain:

- (1) A statement of the value of the interest in land as a resource to the State;
- (2) A description of the specific parcel of land or agricultural easement proposed to be acquired;
- (3) The name of the owner of the property; and

(4) The estimated costs of acquiring the interest in the land.

(c) The landowner shall receive payment for the interest in the land in a lump sum, through an installment purchase agreement as determined pursuant to section 163D-B, or from revenues derived from the issuance of revenue bonds pursuant to section 163D-9.

§163D-B Acquisitions; payment. (a) If the landowner agrees to the sale of the interest in lands pursuant to section 163D-A, the landowner and the corporation shall agree on whether the landowner shall receive payment for the interest in a lump sum or through an installment purchase agreement pursuant to section 163D-C.

(b) The corporation may make payments from moneys appropriated by the legislature.

§163D-C Installment purchase agreements; interest payment. (a) The legislature may authorize the corporation to negotiate installment purchase agreements for the acquisition of specific parcels of land for the protection of agricultural lands, public land banking, or the promotion of farm ownership and diversified agriculture. The installment purchase agreements shall be structured pursuant to the requirements of the Internal Revenue Code of 1986, as amended, to defer recognition of capital gain until all of the purchase price is paid. The agreement shall include provisions for the periodic payment of a portion of the purchase price with the remainder of the purchase price paid at the end of the term of the agreement. The legislature shall authorize the purchase of United States Treasury zero coupon bonds for the installment purchase agreement with a maturity date equal to the term of the agreement.

(b) The interest rate paid on the installment purchase agreement shall be not less than the interest rate on the zero coupon bonds at the closing of the agreement or eight per cent, whichever is higher.

(c) The corporation shall make semi-annual interest payments on the outstanding balance of the installment purchase agreement purchase price.”

PART IV

SECTION 7. Section 163D-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The corporation, with the approval of the governor, may issue, from time to time, revenue bonds in amounts not exceeding the total amount of bonds authorized to be issued by the legislature for the purpose of constructing, acquiring, remodeling, furnishing, and equipping any project facility, including the acquisition of the site thereof[-]; acquiring agricultural lands through purchase to sustain and preserve viable agricultural enterprises within a contiguous geographic area; or acquiring agricultural lands for the protection of agricultural lands, public land banking, or the promotion of farm ownership and diversified agriculture.”

PART V

SECTION 8. (a) Pursuant to section 163D-A, Hawaii Revised Statutes, the agribusiness development corporation is authorized to acquire certain agricultural lands located on the island of Oahu and owned by the Galbraith Estate (Land Court Application 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, 7-1-001:22, 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.

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

- (1) The president of the senate;
- (2) The speaker of the house of representatives;
- (3) The department of agriculture; and
- (4) Other relevant partners.

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

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

SECTION 11. In codifying this Act, the revisor of statutes shall insert the appropriate number of this Act in section 4 and 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.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

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

(Became law on July 8, 2008, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

Notes

1. Act 234.

2. Edited pursuant to HRS §23G-16.5.