

ACT 279

S.B. NO. 739

A Bill for an Act Relating to Land Exchange.

Be It Enacted by the Legislature of the State of Hawaii:

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

A report released by the department of agriculture, Statewide Agricultural Land Use Baseline 2015, and updated in 2020, shows a dramatic change in agricultural land over forty years as sugar production and pineapple production have downsized. According to the department of agriculture, there were 120,630 acres of agricultural land in crop production in 2020 compared to 350,830 acres in crop production in 1980.

Article XI, section 3, of the Hawaii State Constitution, directs the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands. The State's agricultural production is insufficient to meet the State's food consumption needs. This over-reliance on imported food creates critical health, safety, and security issues for the State and threatens the State's sustainable future and preparedness for future disasters, emergencies, and crises. The legislature further finds that attempts to stimulate diversified agriculture in the private sector through regulatory controls and land use and zoning restrictions are not sufficient to address the business needs and subsidies necessary to effectively and significantly increase diversified agriculture to the extent necessary to avoid Hawaii's agricultural self-sufficiency crisis. Where feasible, the State must take a more active role in providing assistance and subsidies that promote farming businesses.

The legislature further finds that over the years, the State has prioritized a shift toward sustainability in agriculture and decreasing our food imports. Act 55, Session Laws of Hawaii 2013, amends the Hawaii State Planning Act to promote economically competitive activities that increase Hawaii's agricultural self-sufficiency, including the increased purchase and use of Hawaii-grown

food and food products by residents, businesses, and governmental bodies. On September 1, 2016, Governor Ige pledged a commitment for Hawaii to double its food production by 2020. To accomplish that objective, the governor prioritized making more land available for agriculture.

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

The legislature also finds that the State continues to face a crisis in homelessness, affordable housing, workforce housing, and other housing inventory for the State's residents. According to the December 2016 Report to the Hawaii State Legislature in response to Act 127, Session Laws of Hawaii 2016, by the special action team on affordable rental housing, approximately 24,551 housing units were needed statewide in the five-year period from 2016 to 2020. Hawaii faces a critical shortage of safe, sanitary, and affordable housing units; work-force housing; and other housing inventory for Hawaii residents and the legislature must act to eliminate or reduce that shortage. State initiatives acknowledging and attempting to mitigate this crisis include:

- (1) Providing affordable rental and for-sale housing. Act 127, Session Laws of Hawaii 2016, as amended by Act 96, Session Laws of Hawaii 2017, establishes a goal of developing or vesting the development of at least 22,500 affordable rental housing units ready for occupancy by December 31, 2026, and establishes the special action team on affordable rental housing to make recommendations on actions to promote the development of at least 22,500 affordable rental housing units to be ready for occupancy between January 1, 2017, and December 31, 2026. The special action team's report to the legislature recommended expanding the public lands available for consideration to meet housing needs and also explained its ten-year plan and current development of suitability maps to identify state, county, and private parcels of land on each island that may be used for residential units. Additionally, the 2016 Hawaii housing planning study prepared by SMS for the Hawaii housing finance and development corporation found that a shortage of land available for development was a significant factor limiting the supply of housing;
- (2) Development of state lands around transit-oriented development areas for housing. Act 130, Session Laws of Hawaii 2016, authorizes the department of education to use fees collected from transit-oriented development projects to be used for existing schools in the development area to address increases in school populations due to transit-oriented development, and establishes an interagency council for transit-oriented development. In addition, Act 131, Session Laws of Hawaii 2016, enables the Hawaii housing finance and development corporation to develop mixed-use developments in partnership with state and county departments and agencies. The Hawaii interagency council for transit-oriented development's report to the legislature noted that, as one of the largest landowners along the Honolulu

rail corridor, the State has a unique opportunity to revitalize neighborhoods, increase affordable housing, and improve accessibility to public facilities and services by applying smart growth and transit-oriented development principles as the construction of the rail transit system progresses; and

- (3) Supporting housing projects through state infrastructure planning and construction. Act 130, Session Laws of Hawaii 2016, requires the Hawaii interagency council for transit-oriented development to identify transit-oriented development projects that lack sufficient infrastructure. In addition, Act 131, Session Laws of Hawaii 2016, includes infrastructure in its mandate to develop mixed-use developments and Act 132, Session Laws of Hawaii 2016, provides grants and loans to state agencies, and loans to the counties and private developers for infrastructure improvements. The Hawaii interagency council for transit-oriented development's report to the legislature also noted the importance of this issue, listing infrastructure as the most pressing concern that needed to be considered as transit-oriented development is pursued statewide.

The legislature further finds that lack of suitable, entitled lands for development of appropriate housing is a major contributing factor to the housing crisis, and substantial obstacles and delays in entitling such lands discourage development, lower housing inventory, and raise housing prices, among other negative effects.

Addressing the challenges of the State's agricultural self-sufficiency and housing crises will require courageous and novel legislation that addresses these issues in an expeditious, economical, and flexible manner. The legislature additionally finds that land exchanges completed in other states, such as exchanges of state lands for privately owned lands to meet the needs of and mutually benefit both parties, have provided public benefit in the areas of conservation, economic growth, ecology, and recreation. Land exchanges thereby present a viable method of addressing the many housing and agricultural issues facing the State. Land exchanges present a win-win situation where the State is able to negotiate a mutually beneficial exchange of developable state lands for housing for privately owned agricultural lands for farming.

The purpose of this Act is to:

- (1) Allow the governor, subject to approval by the board of land and natural resources, to negotiate land exchanges consistent with and in furtherance of the State's agricultural and housing needs and purposes, in a manner that ideally addresses all needs and purposes; and
- (2) Require the governor to submit a report to the legislature of the negotiated land exchanges for final approval.

SECTION 2. (a) Subject to approval by the board of land and natural resources, the governor may negotiate land exchanges in accordance with chapter 171, Hawaii Revised Statutes, for the purpose of acquiring private lands that are suitable for long-term diversified agricultural production by the State or its lessees, in exchange for state lands to be acquired by private parties for development of affordable housing, workforce housing, and other housing inventory for Hawaii residents.

(b) The governor may coordinate with the agribusiness development corporation, the department of land and natural resources, and any other de-

partment or agency of the State that holds title to or an assignment of state land that may be appropriate for exchange under subsection (a); provided that lands undergoing the development entitlement process and on which substantial state funds have been expended shall not be considered priority lands for an exchange under subsection (a).

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

- (1) Obtaining large tracts of suitable agricultural lands for the State to lease to farmers for diversified agriculture; and
- (2) Providing private parties with suitable urban lands for the expeditious development of affordable housing, workforce housing, and other housing inventory for Hawaii residents, and mixed use commercial and accessory uses within areas designated for transit-oriented development and other appropriate urbanized areas.

(d) To facilitate successful negotiation of land exchanges, including the enhancement of optimal agricultural lands acquired by the State in exchange for urbanized lands and the expedient consummation of exchanges, the governor may, pursuant to subsection (e)(3), reclassify and rezone lands intended for exchange under this Act and transfer such state lands, authorized by subsection (a), to private parties for development of housing and other mixed uses within the state urban land use district with appropriate county residential or mixed-use zoning, subject to the following:

- (1) The lands shall be within a one-half-mile radius of any rail station approved by the Federal Transportation Administration within the city and county of Honolulu;
- (2) Any development on the lands to be transferred to private parties shall comply with all state and county laws, rules, and regulations regarding health and safety and building permit requirements for housing or mixed-use developments on private lands, and after transfer shall not be subject to laws, rules, and regulations applicable to state lands except as required by this Act; and
- (3) Any lands received from private parties as part of a land exchange pursuant to subsection (a) shall assume the ceded or public land trust character of the state lands for which the lands were exchanged.

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

- (1) Appraisals shall be performed, in compliance with section 171-50, of state lands for purposes of exchange with the urban, residential, or mixed-use land; provided that appraisals shall reflect any land-use reclassification and rezoning adopted pursuant to this Act;
- (2) The development of housing on private lands as contemplated by this Act shall be subject to chapters 6E and 343, Hawaii Revised Statutes, as applicable to private housing on private lands, notwithstanding the prior state ownership of the land or the use of state or county housing assistance programs;
- (3) The governor, as necessary to facilitate and effect the purposes of this Act, may submit notifications and supporting information to:
 - (A) The land use commission for any necessary reclassification of land; and

- (B) The planning director of the appropriate county for any necessary rezoning of land; provided that the reclassification and rezoning shall be adopted within thirty days of receipt of the governor's notification;
- (4) Private development of housing or mixed uses on private lands, as contemplated by this Act, shall be exempt from all applicable state and county procurement requirements, impact fees, and other exactions;
 - (5) The governor and all related state and county agencies shall take such further actions as may be necessary to facilitate and effect the purposes of this Act;
 - (6) Consummation of any exchange pursuant to this Act shall be subject to the requirements of section 3 of this Act; and
 - (7) Any state land transferred to a private party pursuant to this Act shall include a restrictive covenant or reversionary interest in the deed in favor of the State that requires the land to be used for the development of affordable housing, workforce housing, or other housing inventory.

SECTION 3. The governor shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2026 on:

- (1) The feasibility of any land exchanges of agricultural parcels of high interest to the State in exchange for urbanized lands for appropriate private development negotiated by the governor as contemplated by this Act, a list of lands suitable for such an exchange, and a description and the market value of the parcels; and
- (2) Any appropriations, proposed legislation, or administrative action necessary to accomplish the goals of this Act.

After receipt of the governor's report, the legislature, if not in session, may convene in special session pursuant to article III, section 10 of the Hawaii State Constitution to act on land exchanges proposed pursuant to this Act.

SECTION 4. This Act shall take effect on July 1, 2025.

(Approved July 2, 2025.)