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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL WATER SYSTEMS.

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

1           SECTION 1. Chapter 163D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§163D-       Agricultural water systems; acquisition. (a)

5           The corporation may acquire or contract to acquire by grant,  
6           purchase, or gift the real, personal, or mixed property  
7           comprising an agricultural water system to provide water for  
8           irrigation of agricultural lands.

9           (b) The owner of an agricultural water system to be  
10           acquired pursuant to subsection (a) shall provide a description  
11           of the system sufficient to identify the property being  
12           acquired, including a map of the land and description of the  
13           metes and bounds and other information required for recording  
14           under chapter 502. Conveyance of agricultural water system  
15           property to the corporation shall be exempt from county  
16           subdivision requirements; provided that no additional lots of  
17           record are created."



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

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

- 5 (1) Sue and be sued;
- 6 (2) Have a seal and alter the same at its pleasure;
- 7 (3) Make and alter bylaws for its organization and  
8 internal management;
- 9 (4) Adopt rules under chapter 91 necessary to effectuate  
10 this chapter in connection with its projects,  
11 operations, and properties;
- 12 (5) Make and execute contracts and all other instruments  
13 necessary or convenient for the exercise of its powers  
14 and functions under this chapter;
- 15 (6) Carry out surveys, research, and investigations into  
16 technological, business, financial, consumer trends,  
17 and other aspects of agricultural production in the  
18 national and international community;
- 19 (7) Acquire or contract to acquire by grant, ~~[or]~~  
20 purchase, or gift any real, personal, or mixed  
21 property or any interest therein for its immediate or  
22 future use for the purposes of this chapter; own,



1 hold, improve, and rehabilitate any real, personal, or  
2 mixed property acquired, and sell, assign, exchange,  
3 transfer, convey, lease, or otherwise dispose of, or  
4 encumber the same;

5 (8) By itself, or in partnership with qualified persons,  
6 acquire, construct, reconstruct, rehabilitate,  
7 improve, alter, or repair any infrastructure or  
8 accessory facilities in connection with any project;  
9 own, hold, sell, assign, transfer, convey, exchange,  
10 lease, or otherwise dispose of, or encumber any  
11 project;

12 (9) In cooperation with the department of agriculture,  
13 pursuant to chapter 167, or otherwise through direct  
14 investment or coventure with a professional investor  
15 or enterprise or any other person, or otherwise, to  
16 acquire, construct, operate, and maintain water  
17 facilities for conveying, distributing, and  
18 transmitting water for irrigation and agricultural  
19 uses at rates or charges determined by the  
20 corporation; provided that:



1 (A) This chapter shall not be construed to permit or  
2 allow the department of agriculture or any  
3 agribusiness development corporation to:

4 (i) Amend or modify rights or entitlements to  
5 water as provided for by article XI, section  
6 7, of the Hawaii Constitution [~~of the State~~  
7 ~~of Hawaii~~], or the Hawaiian Homes Commission  
8 Act, 1920, as amended, and chapter 168;

9 (ii) Diminish or abridge the traditional and  
10 customary rights of ahupua'a tenants who  
11 inhabited the Hawaiian [~~Islands~~] islands  
12 prior to 1778 under sections 1-1 and 7-1;  
13 and

14 (iii) Impair, abridge, or terminate the legal  
15 rights or interests to water and its uses,  
16 whether by lease, easement, or other means,  
17 [~~which~~] that are possessed or held by  
18 organizations whose primary purpose is to  
19 benefit people of Hawaiian ancestry; [~~and~~]

20 and



- 1 (B) All usage of water shall be in accordance with  
2 chapter [+]174C[+] and other applicable laws in  
3 the [~~State,~~] state;
- 4 (10) Assist agricultural enterprises by conducting detailed  
5 marketing analysis and developing marketing and  
6 promotional strategies to strengthen the position of  
7 those enterprises and to better exploit local,  
8 national, and international markets;
- 9 (11) Carry out specialized programs designed to develop new  
10 markets for Hawaii agricultural products;
- 11 (12) Receive, examine, and determine the acceptability of  
12 applications of qualified persons for allowances or  
13 grants for the development of new crops and  
14 agricultural products, the expansion of established  
15 agricultural enterprises, and the altering of existing  
16 agricultural enterprises;
- 17 (13) Coordinate its activities with any federal or state  
18 farm credit programs;
- 19 (14) Grant options to purchase any project or to renew any  
20 lease entered into by it in connection with any of its  
21 projects, on the terms and conditions it deems  
22 advisable;



1 (15) Provide advisory, consultative, training, and  
2 educational services, technical assistance, and advice  
3 to any person, partnership, or corporation, either  
4 public or private, [~~in order~~] to carry out the  
5 purposes of this chapter, and engage the services of  
6 consultants on a contractual basis for rendering  
7 professional and technical assistance and advice;

8 (16) Procure insurance against any loss in connection with  
9 its property and other assets and operations in [~~such~~]  
10 amounts and from [~~such~~] insurers as it deems  
11 desirable;

12 (17) Accept gifts or grants in any form from any public  
13 agency or any other source; and

14 (18) Do all things necessary or proper to carry out the  
15 purposes of this chapter."

16 SECTION 3. Section 484-3, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) Unless the method of disposition is adopted for the  
19 purpose of evasion of this chapter, or unless the subdivider  
20 files in writing with the director that this chapter shall apply  
21 to the subdivider's subdivision, this chapter shall not apply to  
22 offers or dispositions of an interest in land:



- 1           (1) By a purchaser of subdivided lands for the purchaser's
- 2           own account in a single or isolated transaction;
- 3           (2) If fewer than twenty separate lots, parcels, units, or
- 4           interests in subdivided lands are offered by a person
- 5           in a period of twelve months;
- 6           (3) Where the division of lands is a leasehold
- 7           agricultural lot within state agricultural districts
- 8           on which no dwelling structures are constructed as
- 9           provided in section 205-4.5(f);
- 10          (4) Where real, personal, or mixed property comprising an
- 11          agricultural water system providing water for
- 12          irrigation of agricultural lands is to be conveyed to
- 13          the agribusiness development corporation;
- 14          ~~(4)~~ (5) On which there is a residential, commercial, or
- 15          industrial building, or as to which there is a legal
- 16          obligation on the part of the seller to construct a
- 17          building on the land within two years from the date of
- 18          disposition; provided that the obligation to construct
- 19          shall not be, directly or indirectly, transferred to
- 20          or otherwise imposed upon the purchaser;
- 21          ~~(5)~~ (6) To persons who are engaged in, and are duly
- 22          licensed to engage in, the business of construction of



1 buildings for resale, or to persons who acquire an  
2 interest in subdivided lands for the purpose of  
3 engaging, and do engage in, and are duly licensed to  
4 engage in, the business of construction of buildings  
5 for resale;

6 ~~[(6)]~~ (7) Pursuant to court order;

7 ~~[(7)]~~ (8) By any government or government agency;

8 ~~[(8)]~~ (9) As cemetery lots or interests;

9 ~~[(9)]~~ (10) Registered as a condominium property regime  
10 pursuant to chapter 514A or 514B; or

11 ~~[(10)]~~ (11) Registered as a time share plan pursuant to  
12 chapter 514E."

13 SECTION 4. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon its approval.



H.B. NO. 975  
H.D. 1  
S.D. 1  
C.D. 1

**Report Title:**

Agricultural Water Systems; ADC

**Description:**

Authorizes the Agribusiness Development Corporation to acquire agricultural water systems to provide water for irrigation of agricultural lands. Exempts agricultural water systems from the subdivision requirements of county ordinances, provided that no additional lots are created. Provides conveyance requirements for the property owner. (HB975 CD1)

