

JAN 27 2016

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that the State must meet
2 its constitutional mandate of conserving agricultural lands.
3 Article XI, section 3, of the Constitution of the State of
4 Hawaii outlines the State's responsibilities to conserve and
5 protect agricultural lands. It also charges the State with the
6 responsibility of promoting diversified agriculture, increasing
7 agricultural self-sufficiency, and assuring the availability of
8 agriculturally suitable lands.

9 The legislature further finds that the downsizing of
10 Hawaii's agricultural industry over the decades and the closures
11 of large operations have had a significant impact on the State
12 and have resulted in the availability of large tracts of
13 agricultural land for sale. Introduced to the islands in 1813,
14 pineapple grew into one of Hawaii's largest export crops in the
15 early twentieth century after significant Oahu land investments
16 by Del Monte and Hawaiian Pineapple Company, today known as Dole
17 Food Company. Hawaiian Pineapple Company president James Dole



1 purchased the entire island of Lanai for pineapple production in
2 1922, eventually growing acreage there into the world's largest
3 pineapple plantation. Hawaii pineapple production declined in
4 the 1980s as Dole and Del Monte relocated much of their acreage
5 elsewhere in the world, primarily due to high labor and land
6 costs. Dole closed down the entirety of its Lanai pineapple
7 operations in 1992, while Del Monte harvested its final Hawaii
8 crop in 2008. Dole continues to grow pineapple on Oahu;
9 however, it has restructured and decreased production. Hawaii
10 remains the only state where pineapple is grown.

11 Sugar plantations began to close in the 1950s and
12 accelerated in pace in the 1980s and 1990s. United States
13 tariff and quota protections for sugar began declining in the
14 decades after World War II amid broader trade liberalization.
15 Sugar plantation workers began to unionize in the 1930s, which
16 helped build Hawaii's middle class but also made the industry
17 less competitive compared to other countries. Hawaii's land
18 values began to spike as the introduction of passenger jets
19 reduced travel times to Hawaii and launched a tourism boom.
20 Many landowners found they could make more money building hotels
21 and homes than growing sugar cane. The last sugar plantation,



1 the Hawaiian Commercial & Sugar Company, announced its closing
2 in 2016. Today, eighty-five per cent of Hawaii's food is
3 imported.

4 The purpose of this Act is to provide for the acquisition
5 and management of agricultural lands having value to the State
6 by the department of agriculture and the agribusiness
7 development corporation.

8 SECTION 2. The Hawaii Revised Statutes is amended by
9 adding a new chapter to be appropriately designated and to read
10 as follows:

11 "CHAPTER

12 ACQUISITION OF AGRICULTURAL LAND

13 § -1 Purpose. The State has provided for the regulation
14 of agricultural land use and development throughout the State,
15 and has provided for the controlled regulation of land use and
16 development of lands that have natural, environmental,
17 recreational, scenic, or historic value. However, agricultural
18 lands, though protected by law, may in many instances require
19 placement under public ownership and management so that they can
20 benefit all of the people of the State. The purpose of this



1 chapter is to provide for the acquisition and management of
2 agricultural lands having value to the State.

3 § -2 Definitions. As used in this chapter:

4 "Agricultural land" means land lying within an existing or
5 proposed irrigation project and of such location and character
6 as may be profitably employed in the growing of irrigated crops.

7 "Board" means the board of directors of the agribusiness
8 development corporation.

9 "Corporation" means the agribusiness development
10 corporation.

11 "Department" means the department of agriculture.

12 "Land" means the earth, water, and air, above, below, or on
13 the surface, and includes easements and rights in land, and any
14 improvement on land.

15 § -3 Agricultural land acquisition plan. In
16 consultation with the senate president and speaker of the house
17 of representatives, the department shall prepare and, from time
18 to time, revise a plan for the acquisition of agricultural land
19 having value to the State. This plan shall guide the board in
20 acquiring agricultural land in the exercise of its powers under
21 this chapter. In preparing this plan, the department may



1 institute studies relating to the need for agricultural land and
2 shall consider any plan relating to the acquisition of
3 agricultural land that has been prepared by any state or county
4 agency.

5 § -4 Authority to acquire and convey; easement required
6 and exemption. (a) In consultation with the senate president
7 and speaker of the house of representatives, the board may
8 acquire, by purchase, gift, or the exercise of the power of
9 eminent domain as authorized by chapter 101, any agricultural
10 land having value to the State. Such acquisition is hereby
11 declared to be for a public use.

12 (b) The board may, subject to chapter 171, in consultation
13 with the senate president and speaker of the house of
14 representatives, and with the approval of the governor, sell,
15 lease, or otherwise convey any agricultural land having value to
16 the State subject to terms and conditions that it deems
17 appropriate and that will ensure that the transferee shall not
18 use the agricultural land in a manner that is inconsistent with
19 the purposes for which it was acquired by the board. The terms
20 and conditions shall run with the land and shall be binding on
21 the transferee's heirs, successors, and assigns. The board may



1 seek enforcement of the terms and conditions in any court of
2 appropriate jurisdiction.

3 (c) The board, in consultation with the senate president
4 and the speaker of the house of representatives, shall require
5 as a condition of the receipt of funds that state and county
6 agencies receiving funds under this chapter provide an
7 agricultural easement or deed restriction or covenant to the
8 department; the department of land and natural resources; the
9 corporation; an appropriate agricultural organization; or a
10 county, state, or federal agricultural agency, that shall run
11 with the land and be recorded with the land to ensure the long-
12 term protection of agricultural land and preserve the interests
13 of the State. The board shall require as a condition of the
14 receipt of funds that it be an owner of an agricultural
15 easement.

16 (d) The board or an appropriate agricultural organization
17 or county, state, or federal agency required to be provided an
18 easement pursuant to this section may grant an exemption for any
19 easement required pursuant to this section.

20 § -5 Appraisal of agricultural land. (a)

21 Notwithstanding section 171-30, the appraisal of agricultural



1 land having value to the State and acquired by the State under
2 this chapter may be performed as follows:

3 (1) The board may review, approve, and accept any existing
4 appraisal prepared on behalf of a nonprofit
5 organization if:

6 (A) The appraisal was completed within one year
7 before the decision by the board to approve the
8 acquisition of agricultural land; and

9 (B) The board finds that the appraisal was performed
10 according to applicable and accepted professional
11 standards for agricultural land appraisal; or

12 (2) The board may contract for an independent appraisal
13 from no more than three disinterested appraisers who
14 shall follow applicable and accepted professional
15 standards for agricultural land appraisal.

16 The board shall submit the appraisal to the attorney general for
17 review and approval before it acquires the agricultural land
18 having value to the State.

19 (b) No agricultural land shall be purchased for a sum
20 greater than the highest value fixed by any appraisal accepted



1 or performed under subsection (a); provided that this limitation
2 shall not apply to any acquisition that is made by condemnation.

3 (c) After the agricultural land having value to the State
4 has been acquired or the State abandons the acquisition, the
5 appraisal reports shall be made available for inspection and
6 copying by the public.

7 (d) Anything contained in this section notwithstanding, no
8 appraisal shall be required under this section in the event that
9 any interest in agricultural land having value to the State is
10 donated to the State.

11 § -6 Agricultural land acquisition fund. (a) An
12 agricultural land acquisition fund, hereinafter called "fund",
13 is hereby established.

14 (b) The proceeds from the sale of any general obligation
15 bonds authorized and issued for purposes of this chapter shall
16 be deposited in or credited to the fund.

17 (c) Any net proceeds or revenue from the operation,
18 management, sale, lease, or other disposition of agricultural
19 land or the improvements on the agricultural land acquired or
20 constructed by the board under the provisions of this chapter
21 shall also be deposited in or credited to the fund.



1 (d) Moneys from any other private or public source may be
2 deposited in or credited to the fund; provided that mandates,
3 regulations, or conditions on these funds do not conflict with
4 the use of the fund under this chapter. Moneys received as a
5 deposit or private contribution shall be deposited, used, and
6 accounted for in accordance with the conditions established by
7 the agency or person making the contribution.

8 (e) The fund shall be administered and managed by the
9 department.

10 (f) The acquisition of interests or rights in agricultural
11 land having value to the State for the preservation of
12 agricultural production shall constitute a public purpose for
13 which public funds may be expended or advanced.

14 (g) The fund shall be used for:

15 (1) The acquisition of interests or rights in agricultural
16 land having value to the State, whether in fee title
17 or through the establishment of permanent agricultural
18 easements;

19 (2) The payment of any debt service on state financial
20 instruments relating to the acquisition of interests



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1 or rights in agricultural land having value to the
2 State;

3 (3) Annual administration costs for the fund, not to
4 exceed five per cent of annual fund revenues of the
5 previous year; and

6 (4) Costs related to the operation, maintenance, and
7 management of lands acquired by way of this fund that
8 are necessary to protect, maintain, or restore
9 resources at risk on agricultural lands, or that
10 provide for greater public access and enjoyment of
11 agricultural lands; provided that the costs related to
12 the operation, maintenance, and management of lands
13 acquired by way of this fund do not exceed five per
14 cent of annual fund revenues of the previous year.

15 (h) Based on applications from state agencies, counties,
16 and nonprofit agricultural organizations, the department, in
17 consultation with the senate president and speaker of the house
18 of representatives, shall recommend to the board specific
19 parcels of agricultural land to be acquired. The board shall
20 review the selections and approve or reject the selections
21 according to the availability of moneys in the fund. To be



1 eligible for grants from the fund, state and county agencies and
2 nonprofit agricultural organizations shall submit applications
3 to the department that contain:

- 4 (1) Contact information for the project;
- 5 (2) A description of the project;
- 6 (3) The request for funding;
- 7 (4) Cost estimates for acquisition of the interest in the
8 agricultural land;
- 9 (5) Location and characteristics of the agricultural land;
- 10 (6) The project's public benefits, including but not
11 limited to where public access may be practicable or
12 not practicable and why;
- 13 (7) Results of the applicant's consultation with the staff
14 of the department and the corporation regarding the
15 maximization of public benefits of the project, where
16 practicable; and
- 17 (8) Other similar, related, or relevant information as
18 determined by the department.

19 (i) For applications approved by the board, the board may
20 acquire agricultural land having value to the State, pursuant to
21 section -4, or the board may award grants from the fund to



1 the qualifying state or county agencies or nonprofit
2 agricultural organizations for the preservation of the real
3 property. Where the recipient of a grant is a county agency or
4 nonprofit agricultural organization, the board shall require
5 additional matching funds of at least twenty-five per cent of
6 the total project costs. Matching funds may be in the form of:

- 7 (1) Direct moneys;
- 8 (2) A combination of public and private funds;
- 9 (3) Land value donation;
- 10 (4) In-kind contributions; or
- 11 (5) Any combination of the above.

12 (j) Evidence of the matching funds in subsection (i) shall
13 be made available by the qualifying entities prior to
14 distribution of the fund grant.

- 15 (k) The board shall:
 - 16 (1) Track amounts disbursed from the fund;
 - 17 (2) Prepare and submit an annual report to the governor
18 and the legislature at least twenty days prior to the
19 convening of each regular session. The annual report
20 shall include:



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- 1 (A) A summary of all interests or rights in
- 2 agricultural land acquired during the preceding
- 3 fiscal year;
- 4 (B) A summary of what value each newly acquired
- 5 agricultural land has as a resource to the State;
- 6 (C) Proposals for future agricultural land
- 7 acquisitions, including a summary of the
- 8 agricultural value that the agricultural land may
- 9 possess;
- 10 (D) A financial report for the preceding fiscal year;
- 11 and
- 12 (E) Objectives and budget projections for the
- 13 following fiscal year; and
- 14 (3) Make copies of the annual report available to the
- 15 public.

16 § -7 Acquisition of agricultural land; annual program.

17 The board shall prepare an annual program for the purchase or
18 acquisition by eminent domain of agricultural land having value
19 to the State.

20 § -8 Administration and management of acquired
21 agricultural land. The department shall, subject to chapter



1 171, administer, maintain, and manage any agricultural land
2 acquired under the provisions of this chapter, may charge such
3 fees for the use of any agricultural land as it considers to be
4 reasonable, and may construct on agricultural land any
5 improvement which it deems to be necessary to carry out the
6 purposes of this chapter. The department may adopt and from
7 time to time amend regulations implementing the provisions of
8 this chapter.

9 § -9 Development of acquired agricultural land. On the
10 agricultural land acquired under this chapter, the department
11 may undertake any development that is consistent with the land
12 use law and all other laws applicable to the land and
13 development.

14 For purposes of this section, "development" includes:

- 15 (1) Any building;
- 16 (2) Any material change in use, intensity of use, or
17 appearance of any structure or land; or
- 18 (3) The division of land into two or more parcels.

19 § -10 Grants to state agencies, counties, and nonprofit
20 agricultural organizations. After consultation with the senate
21 president and speaker of the house of representatives, and



1 subject to the approval of the governor, the board may make
2 grants to state agencies, counties, and nonprofit agricultural
3 organizations from available funds for the purchase or
4 acquisition of interests or rights in agricultural land having
5 value to the State, whether in fee title or through the purchase
6 of permanent agricultural easements, and approved for purchase
7 or acquisition by the board, or for the operation, maintenance,
8 and management of lands acquired under this chapter that are
9 necessary to protect, maintain, or restore resources at risk on
10 agricultural lands, or that provide for greater public access
11 and enjoyment of agricultural lands. Any land so acquired by
12 any state agency or county may be sold, leased, or otherwise
13 disposed of, subject to chapter 171, with the prior written
14 approval of the board. Any land acquired by any nonprofit
15 agricultural organization under this chapter may be sold,
16 leased, or otherwise disposed of with the prior written approval
17 of the board. Any permanent agricultural easement established
18 under this section that includes partnership with a federal
19 program may be transferred only as provided by rules of the
20 federal program.



1 § -11 Proceeds of sale, lease, or other disposition.
2 Whenever any agricultural land is sold by any state agency,
3 county, or nonprofit agricultural organization, that portion of
4 the net proceeds (sale price less actual expenses of sale) of
5 the sale equal to the proportion that the grant by the State
6 bears to the original cost of the agricultural land or other
7 property shall be paid to the State. In the event any
8 agricultural land or other property is leased, rented, or
9 otherwise disposed of, that portion of the rental or proceeds
10 equal to the proportion that the grant by the State bears to the
11 original cost of the agricultural land or other property shall
12 be paid to the State. Any proceeds received by the State
13 pursuant to this section that were originally paid out of the
14 fund pursuant to section -10 shall be redeposited in or
15 credited to the fund.

16 § -12 General powers. In carrying out its functions
17 under this chapter, the board may do all things necessary,
18 useful, and convenient in connection with the acquisition of
19 agricultural lands having value to the State, subject to all
20 applicable laws, and may provide any necessary assistance to any
21 county in the acquisition of agricultural land having value to



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1 the State. The authority to acquire agricultural land which is
 2 conferred by this chapter is in addition and supplemental to any
 3 authority to acquire agricultural land which is conferred on the
 4 board by any other chapter.

5 § -13 Federal and other grants. The board and any
 6 county may comply with any condition, regulation, restriction,
 7 or requirement imposed by the United States or any other
 8 governmental agency, or by any person in any program providing
 9 grants or other funds for the acquisition of agricultural land
 10 having value to the State."

11 SECTION 3. This Act shall take effect upon its approval.

12

INTRODUCED BY:

Francis Gish
Marine R. Jones

Donna Williams
Michelle Sudani
Jin
Cherene Krishnan
[Signature]
D.C. Fort-Ligon



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Report Title:

Department of Agriculture; Agribusiness Development Corporation;
Agricultural Land Acquisition Fund; Agricultural Land;
Acquisition; Land Management

Description:

Requires the department of agriculture, in consultation with the senate president and speaker of the house of representatives, to prepare and revise a plan for the acquisition of agricultural land having value to the State. Authorizes the board of directors of the agribusiness development corporation, in consultation with the senate president and speaker of the house of representatives, to acquire agricultural land having value to the State. Establishes an agricultural land acquisition fund. Requires the department of agriculture to manage the agricultural lands acquired.

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