



GOV. MSG. NO. 1039

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 10, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB837 SD2 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB837 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO AGRICULTURE.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

P R O C L A M A T I O N

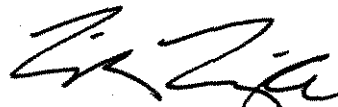
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 837, entitled "A Bill for an Act Relating to Agriculture," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 837 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 837 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 25th
day of June, 2007.



LINDA LINGLE
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 837

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 837, entitled "A Bill Relating to Agriculture."

This bill authorizes the agribusiness development corporation to purchase agricultural lands in the Kunia and Ewa areas of Oahu for the preservation of agricultural lands in the Kunia and Ewa areas and allows the agribusiness development corporation to enter into land lease agreements and contract with financial institutions to provide lease management services.

This bill is objectionable because it proposes to pay the full asking price advertised by a large private landowner and includes lands within the City's Urban Growth Boundary scheduled for development under the Ewa Development Plan adopted in 1997 by the City and County of Honolulu, pursuant to Ordinance 97-49.

The General Fund appropriation contained in this bill coincidentally matches the sales price of two parcels of property offered by a large private corporation. Should the State wish to retain lands in agriculture for the public good, it is more appropriate to use eminent domain laws and purchase said property at market value, rather than the full asking price.

The inclusion of Ewa lands within the Urban Growth Boundary is unacceptable because the Attorney General has opined that the Governor cannot legally make a guarantee that the funds within this bill would not be considered for purchase of

STATEMENT OF OBJECTIONS
SENATE BILL NO. 837
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properties located in Ewa. Thus, if the State acquired lands or attempted to acquire lands in Ewa to keep the lands in agriculture, it may expose the State to unnecessary and avoidable litigation.

Further, it should be noted that the agribusiness development corporation already has statutory authority to purchase and lease lands under Hawaii Revised Statutes §163D-4. The State owns a 150 acre parcel of land planned for future use as the Royal Kunia Agricultural Park. The park will be under the oversight of the Department of Agriculture's Agricultural Resource Management Division as part of this Administration's program to preserve agricultural land in the area.

As noted in my July 5, 2007 communications to Speaker Say and President Hanabusa, the defect of this bill can be easily remedied by statutorily authorizing the use of eminent domain proceedings as provided for in Chapter 101-14 of the Hawaii Revised Statutes. I have asked the Legislature to make this amendment, which only the Legislature can do. Further, enacting this amendment would establish an important precedent of using eminent domain powers for the preservation of agricultural property. If the Legislature makes the necessary corrections to this bill, I have stated my willingness to sign this measure.

For the foregoing reasons, I am returning Senate Bill No. 837 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 **PART I**

2 SECTION 1. The purpose of this part is to promote fiscal
3 accountability with regard to agricultural land lease agreements
4 between the State and lessees by allowing the agribusiness
5 development corporation to contract with financial institutions
6 to provide lease management services.

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

9 " **[+]§163D-7[+]** **Agricultural projects; agricultural**
10 **development plans.** (a) The corporation may develop and
11 implement agricultural projects where large tracts of
12 agricultural land have been or will be taken out of productive
13 agriculture or where, through detailed analysis, opportunities
14 exist to exploit potential local, national, and international
15 markets.

16 (b) The corporation may initiate and coordinate the
17 preparation of business and agricultural development plans for



1 its projects. The plans shall include a proposal for the
2 organization of the enterprise, a marketing information and
3 strategy, the impact on existing agricultural operations
4 throughout the State, and a recommendation for the construction,
5 reconstruction, rehabilitation, improvement, alteration, or
6 repair of any infrastructure or accessory facilities in
7 connection with any project.

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

14 (d) The corporation may purchase, accept, and maintain
15 permanent conservation easements, or transfer these easements to
16 a qualified land trust in accordance with the federal Natural
17 Resources Conservation Service farm and ranch lands protection
18 program.

19 (e) Notwithstanding any provision of this chapter to the
20 contrary, when leasing corporation-controlled agricultural land,
21 the corporation may contract with a financial institution
22 chartered under chapter 412 or a federal financial institution,



1 as defined under section 412:1-109, that transacts business in
2 this State to provide lease management services. For the
3 purposes of this subsection, "lease management services"
4 includes the collection of lease rent and any other moneys owed
5 to the corporation related to the lease of agricultural land
6 under the corporation's control.

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

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

13 [~~f~~] (h) Any undertaking by the corporation pursuant to
14 this chapter shall be with the express written consent of the
15 landowner or landowners directly affected."

16 **PART II**

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

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



1 "[+]§163D-15.6 Commitment and preservation of agricultural
2 leases. [+] (a) The agribusiness development corporation shall
3 work toward obtaining commitments from landowners in the leeward
4 and central districts of Oahu that their agricultural leases
5 shall be for a duration of twenty or more years[-] and shall not
6 be amended or revoked [~~in order~~] to allow for a nonagricultural
7 use of [~~such~~] the land[-]; provided that for lands in central
8 Oahu acquired under Act , Session Laws of Hawaii 2007, the
9 agricultural leases shall be for no more than fifty-five years.

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

19 **PART III**

20 SECTION 5. The purpose of this part is to comply with
21 article XI, sections 3 and 10 of the state constitution,
22 relating to the protection of agricultural lands and the



1 promotion of farm ownership and diversified agriculture, by
2 establishing a process to ensure that certain lands in the Kunia
3 and Ewa areas on Oahu:

- 4 (1) Remain available for agricultural use;
- 5 (2) Are properly managed to ensure continued economic
6 viability while used for agriculture; and
- 7 (3) Are managed in a manner that is sensitive to and
8 consistent with the needs of farmers in the Kunia and
9 Ewa area.

10 The legislature finds that this Act is in accordance with
11 article XI, sections 3 and 10 of the state constitution, is in
12 the public interest, and will preserve agricultural activities
13 in the area and a lifestyle that benefits the Kunia and Ewa
14 communities and the community at large.

15 SECTION 6. (a) The agribusiness development corporation
16 may purchase privately-owned agricultural lands located in the
17 Kunia and Ewa areas of Oahu.

18 (b) The agribusiness development corporation may purchase
19 the lands with moneys appropriated under section 8 of this Act.

20 (c) The agribusiness development corporation shall submit
21 to the legislature a progress report on its actions to obtain



1 the Kunia and Ewa agricultural lands no later than twenty days
2 prior to the convening of the 2008 regular session.

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

5 "(a) The corporation, with the approval of the governor,
6 may issue, from time to time, revenue bonds in amounts not
7 exceeding the total amount of bonds authorized to be issued by
8 the legislature for the purpose of constructing, acquiring,
9 remodeling, furnishing, and equipping any project facility,
10 including the acquisition of the site thereof[+], or acquiring
11 agricultural lands through purchase to sustain and preserve
12 viable agricultural enterprises within a contiguous geographic
13 area."

14 SECTION 8. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$9,200,000, or so
16 much thereof as may be necessary for fiscal year 2007-2008, for
17 purchasing agricultural lands owned by private entities in Kunia
18 and Ewa on the island of Oahu.

19 The sum appropriated shall be expended by the agribusiness
20 development corporation for the purposes of this Act.

21 **PART IV**



1 SECTION 9. In codifying this Act, the revisor of statutes
2 shall insert the appropriate number of this Act in section 4.

3 SECTION 10. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 11. This Act shall take effect on July 1, 2007.



