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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL TAX CREDITS.

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

1           SECTION 1. In 1978, voters approved article XI, section 3,  
2 of the Constitution of the State of Hawaii, which sets out the  
3 framework for state policies to promote agriculture and the  
4 conservation of productive agricultural lands in the State.  
5 Article XI, section 3, reads as follows:

6           "The State shall conserve and protect agricultural lands,  
7 promote diversified agriculture, increase agricultural self  
8 sufficiency and assure the availability of agriculturally  
9 suitable lands. The legislature shall provide standards and  
10 criteria to accomplish the foregoing.

11           Lands identified by the State as important agricultural  
12 lands needed to fulfill the purposes above shall not be  
13 reclassified by the State or rezoned by its political  
14 subdivisions without meeting the standards and criteria  
15 established by the legislature and approved by a two-thirds vote  
16 of the body responsible for the reclassification or rezoning  
17 action."



1 To address the issue of important agricultural lands, Act  
2 183, Session Laws of Hawaii 2005 (Act 183), was enacted. Act  
3 183 establishes standards, criteria, and mechanisms to identify  
4 important agricultural lands and implement the intent and  
5 purpose of article XI, section 3, of the Constitution of the  
6 State of Hawaii.

7 Act 183 also recognized that while the supply of lands  
8 suitable for agriculture is critical, the long-term viability of  
9 agriculture also depends on other factors. These factors  
10 include:

- 11 (1) Commodity prices;
- 12 (2) Availability of water for irrigation;
- 13 (3) Agricultural research and outreach;
- 14 (4) Application of production technologies;
- 15 (5) Marketing; and
- 16 (6) Availability and cost of transportation services.

17 Tax incentives are a critical component of the long-term  
18 viability of agriculture on important agricultural lands in the  
19 State. The legislature finds that it is in the public's  
20 interest to assist agricultural businesses that hold a majority  
21 of its lands within important agricultural lands by providing  
22 incentives such as income tax credits.



1           The purpose of this Act is to establish an important  
2 agricultural land agricultural business tax credit to assist  
3 agricultural businesses that own, hold, or use their lands as  
4 important agricultural lands.

5           SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8           "§235-    Important agricultural land agricultural business  
9 tax credit. (a) There shall be allowed to each taxpayer an  
10 income tax credit, which shall be deductible from the taxpayer's  
11 net income tax credit liability, if any, imposed by this chapter  
12 for the taxable year in which the credit is properly claimed.

13 The tax credit shall be claimed as follows:

14           (1) In the year in which the qualified agricultural costs  
15 are incurred, fifty per cent of the qualified  
16 agricultural costs up to a maximum of \_\_\_\_\_ ;

17           (2) In the first year following the year in which the  
18 qualified agricultural costs are incurred, twenty per  
19 cent of the qualified agricultural costs up to a  
20 maximum of \_\_\_\_\_ ;

21           (3) In the second year following the year in which the  
22 qualified agricultural costs are incurred, ten per



1           cent of the qualified agricultural costs up to a  
2           maximum of \_\_\_\_\_ ;

3           (4) In the third year following the year in which the  
4           qualified agricultural costs are incurred, ten per  
5           cent of the qualified agricultural costs up to a  
6           maximum of \_\_\_\_\_ ; and

7           (5) In the fourth year following the year in which the  
8           qualified agricultural costs are incurred, ten per  
9           cent of the qualified agricultural costs up to a  
10           maximum of \_\_\_\_\_ .

11           (b) No other credit may be claimed under this chapter for  
12           the qualified agricultural costs for which a credit is claimed  
13           under this section for the taxable year.

14           (c) The amount of the qualified agricultural costs  
15           eligible to be claimed under this section shall be reduced by  
16           the amount of funds received by an agricultural business during  
17           the taxable year from the irrigation repair and maintenance  
18           special fund under section 167-24.

19           (d) The cost upon which the tax credit is computed shall  
20           be determined at the entity level. In the case of a  
21           partnership, S corporation, estate, trust, or other pass through



1 entity, distribution and share of the credit shall be determined  
2 pursuant to section 235-110.7(a).

3 If deduction is taken under section 179 (with respect to  
4 election to expense depreciable business assets) of the Internal  
5 Revenue Code, no tax credit shall be allowed for that portion of  
6 the qualified agricultural cost for which the deduction is  
7 taken.

8 The basis of eligible property for depreciation or  
9 accelerated cost recovery system purposes for state income taxes  
10 shall be reduced by the amount of credit allowable and claimed.

11 (e) If the tax credit under this section exceeds the  
12 taxpayer's income tax liability, the excess of credit over  
13 liability may be used as a credit against the taxpayer's income  
14 tax liability in subsequent years until exhausted.

15 All claims for a tax credit under this section, including  
16 amended claims, shall be filed on or before the end of the  
17 twelfth month following the close of the taxable year for which  
18 the credit is claimed. Failure to comply with the foregoing  
19 provision shall constitute a waiver of the right to claim the  
20 credit.

21 (f) The director of taxation shall prepare any forms that  
22 may be necessary to claim a credit under this section. The



1 director may also require the taxpayer to furnish information to  
2 ascertain the validity of the claim for credit made under this  
3 section and may adopt rules necessary to effectuate the purposes  
4 of this section pursuant to chapter 91.

5 (g) The department of agriculture, in consultation with  
6 the department of taxation, shall determine the types of  
7 information that is necessary on an annual basis to enable a  
8 quantitative and qualitative assessment of the outcomes of the  
9 tax credit to be determined. Every taxpayer, no later than the  
10 last day of the taxable year following the close of the  
11 taxpayer's taxable year in which qualified costs were expended,  
12 shall submit a written statement to and certified by the  
13 department of agriculture.

14 Any taxpayer failing to submit information to the  
15 department of agriculture in the manner prescribed by the  
16 department of agriculture prior to the last day of the taxable  
17 year following the close of the taxpayer's taxable year in which  
18 qualified costs were incurred shall not be eligible to receive  
19 the tax credit, and any credit already claimed for that taxable  
20 year shall be recaptured in total. The amount of the recaptured  
21 tax credit shall be added to the taxpayer's tax liability for  
22 the taxable year in which the recapture occurs.



1        Notwithstanding any law to the contrary, a statement  
2        submitted under this subsection shall be a public document.

3        (h) On an annual basis, the department of agriculture, in  
4        consultation with the department of taxation, shall submit a  
5        report to the legislature no later than twenty days prior to the  
6        convening of each regular session, evaluating the effectiveness  
7        of the tax credit. The report shall include but not be limited  
8        to findings and recommendations to improve the effectiveness of  
9        the tax credit to further encourage the development of  
10       agricultural businesses that own, hold, or use important  
11       agricultural lands.

12       (i) The tax credit allowed under this section shall be  
13       available for taxable years beginning after December 31, 2006.

14       (j) As used in this section:

15       "Agricultural business" means any taxpayer with a  
16       commercial agricultural, silvicultural, or aquacultural facility  
17       or operation, including:

18       (1) The care and production of livestock and livestock  
19       products, poultry and poultry products, apiary  
20       products, and plant and animal production for nonfood  
21       uses;



1       (2) The planting, cultivating, harvesting, and processing  
2       of crops; and

3       (3) The farming or ranching of any plant or animal species  
4       in a controlled salt, brackish, or freshwater  
5       environment;

6       provided that it maintains its principal place of business in  
7       the State and more than fifty per cent of the land the  
8       agricultural business owns, leases, or uses, excluding land  
9       classified as conservation land, is important agricultural land.

10       "Important agricultural lands" means lands identified and  
11       designated as important agricultural lands pursuant to chapter  
12       205, part III.

13       "Net income tax liability" means income tax liability  
14       reduced by all other credits allowed under this chapter.

15       "Qualified agricultural costs" means expenditures for:

16       (1) The plans, design, engineering, construction,  
17       renovation, repair, maintenance, and equipment for:

18       (A) Roads or utilities serving lands in the State  
19       used by an agricultural business for agricultural  
20       purposes;

21       (B) Agricultural processing facilities in the State  
22       that process crops or livestock from an



1           agricultural business, including facilities that  
2           treat, wash, handle, or package agricultural  
3           products;

4           (C) Water wells, reservoirs, dams, water storage  
5           facilities, water pipelines, ditches, or  
6           irrigation systems in the State for which the  
7           majority of the lands serviced by its water are  
8           important agricultural lands; and

9           (D) Agricultural housing in the State specifically  
10           for laborers of an agricultural business;

11           (2) Feasibility studies, regulatory processing, and legal  
12           and accounting services related to the items under  
13           paragraph (1); and

14           (3) Equipment used to cultivate, grow, harvest, or process  
15           agricultural products by an agricultural business."

16           SECTION 3. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$           or so  
18 much thereof as may be necessary for fiscal year 2007-2008 and  
19 the same sum or so much thereof as may be necessary for fiscal  
20 year 2008-2009 to the department of taxation for the costs to  
21 administer the important agricultural land agricultural business  
22 tax credit.



1           The sums appropriated shall be expended by the department  
2 of taxation for the purposes of this Act.

3           SECTION 4. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$                    or so  
5 much thereof as may be necessary for fiscal year 2007-2008 and  
6 the same sum or so much thereof as may be necessary for fiscal  
7 year 2008-2009 to the department of agriculture for the costs to  
8 administer the important agricultural land agricultural business  
9 tax credit.

10           The sums appropriated shall be expended by the department  
11 of agriculture for the purposes of this Act.

12           SECTION 5. New statutory material is underscored.

13           SECTION 6. This Act shall take effect upon its approval;  
14 provided that sections 3 and 4 shall take effect on July 1,  
15 2007.



**Report Title:**

Important Agricultural Land Agricultural Business Tax Credit

**Description:**

Establishes the important agricultural land agricultural business tax credit. (SD3)

