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**A BILL FOR AN ACT**

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1           SECTION 1. Chapter 205, Hawaii Revised Statutes, is  
2 amended by adding to part III a new section to be appropriately  
3 designated and to read as follows:

4           "§205-       Permissible uses on lands designated important  
5 agricultural lands. (a) All lands designated important  
6 agricultural lands shall be restricted to the following  
7 permitted uses:

8           (1) Cultivation of crops, including but not limited  
9           to flowers, vegetables, foliage, fruits, forage,  
10           and timber;

11           (2) Game and fish propagation;

12           (3) Raising of livestock, including but not limited to  
13           poultry, bees, fish, or other animal or aquatic  
14           life that are propagated for economic use;

15           (4) Farm dwellings related to farming and animal  
16           husbandry. "Farm dwelling" as used in this paragraph  
17           means a single-family dwelling located on and used in

1 connection with a farm, including clusters of single-  
2 family farm dwellings permitted within agricultural  
3 parks developed by the State, or where agricultural  
4 activity provides income to the family occupying the  
5 dwelling; provided that the maximum density on land  
6 designated important agricultural land shall be one  
7 farm dwelling per fifty acres and only minimal  
8 infrastructure shall be allowed; provided further that  
9 if a lot designated important agricultural land is  
10 less than fifty acres when designated important  
11 agricultural land, one farm dwelling shall be  
12 permitted on that lot.

13 (5) Agricultural worker housing, provided:

14 (A) The land used for agricultural worker housing  
15 shall not exceed two per cent of the total land  
16 area of the lot;

17 (B) The agricultural worker housing shall be rented  
18 solely to the agricultural workers working on the  
19 lot and their families;

20 (C) The agricultural worker housing shall be built in  
21 cluster fashion; provided that the cluster shall

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1                   not break up contiguous blocks of land designated  
2                   important agricultural land; and

3           (D) Agricultural worker housing shall not be counted  
4                   toward the maximum density of one dwelling unit  
5                   per fifty acres.

6           (6) Public institutions and buildings that are necessary  
7                   for agricultural practices;

8           (7) Public, private, and quasi-public utility lines and  
9                   roadways, transformer stations, communications  
10                  equipment buildings, solid waste transfer stations,  
11                  major water storage tanks, and appurtenant small  
12                  buildings such as booster pumping stations, but not  
13                  including offices or yards for equipment, material,  
14                  vehicle storage, repair or maintenance, treatment  
15                  plants, corporation yards; or other similar  
16                  structures;

17           (8) Retention, restoration, rehabilitation, or  
18                  improvements of sites of historic, scenic, or cultural  
19                  importance;

20           (9) Roadside stands for the sale of agricultural products  
21                  grown on the premises;

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- 1        (10) Buildings and uses, including but not limited to  
2        mills, storage, and processing facilities, maintenance  
3        facilities, and vehicle and equipment storage areas  
4        that are normally considered directly accessory to the  
5        above mentioned uses and are permitted under section  
6        205-2(d);
- 7        (11) Agricultural parks;
- 8        (12) Agricultural tourism, conducted on a working farm, or  
9        a farming operation as defined in section 165-2, for  
10       the enjoyment, education, or involvement of visitors;  
11       provided that the agricultural tourism activity is  
12       accessory and secondary to the principal agricultural  
13       use and does not interfere with surrounding farm  
14       operations; and provided further that this paragraph  
15       shall apply only to a county that has adopted  
16       ordinances regulating agricultural tourism under  
17       section 205-5; or
- 18       (13) Bio-fuels processing facilities, provided that the  
19       majority of the feedstock is grown within the State as  
20       determined by the department of agriculture and after  
21       an initial and non-renewable three-year period  
22       commencing upon final approval to operate such

1 facilities to allow the importation of feedstock and  
2 fuels, and alternative energy generating facilities,  
3 including the appurtenances associated with the  
4 production and transmission of alternative generated  
5 energy; and provided further that such facilities and  
6 appurtenances are compatible with agricultural uses  
7 and cause minimal adverse impact on important  
8 agricultural land.

9 (b) Uses not expressly permitted in subsection (a) shall  
10 be prohibited, except the uses permitted as provided in section  
11 205-8, and construction of single-family dwellings on lots  
12 existing before June 4, 1976. Any other law to the contrary  
13 notwithstanding, no subdivision of land designated important  
14 agricultural lands shall be approved by a county unless the said  
15 lands within the subdivision shall be made subject to the  
16 restriction on uses as prescribed in this section, to the  
17 condition that the uses shall be in pursuit of an agricultural  
18 activity and to the following:

19 (1) A subdivision resulting in agricultural lots or  
20 parcels not less than ten acres in size for the  
21 purpose of leasing the resulting ten-acre parcels for  
22 agricultural purposes; provided that only one farm

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1 dwelling shall be permitted for every fifty acres and  
2 only basic infrastructure shall be required or  
3 allowed;

4 (2) After land has been designated as important  
5 agricultural lands, it may be subdivided one time only  
6 and:

7 (A) Any permitted farm dwellings shall be built in  
8 cluster fashion; provided that the clustered farm  
9 dwellings, together with a fifty-foot buffer  
10 between the farm dwellings and the remaining  
11 important agricultural land may not exceed one  
12 per cent of the total land area of the land  
13 before subdivision;

14 (B) The configuration and placement of the cluster of  
15 farm dwellings shall not break up contiguous  
16 blocks of important agricultural lands; and

17 (C) The overall density may not exceed one farm  
18 dwelling for each fifty acres of important  
19 agricultural land in the subdivision.

20 Any deed, lease, agreement of sale, mortgage, or other  
21 instrument of conveyance covering any land within the  
22 agricultural subdivision of lands designated important

1 agricultural lands shall expressly contain the restriction on  
2 uses and the conditions contained in this section, which  
3 restrictions and conditions shall be encumbrances running with  
4 the land until such time that the land is no longer designated  
5 as important agricultural lands."

6 SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) This section and any other law to the contrary  
9 notwithstanding, lands designated as important agricultural  
10 lands shall be restricted to the uses permitted in section 205-  
11 \_\_\_\_. Within the agricultural district, all lands [~~with soil~~  
12 ~~classified by the land study bureau's detailed land~~  
13 ~~classification as overall (master) productivity rating class A~~  
14 ~~or B]~~ shall be restricted to the following permitted uses:

- 15 (1) Cultivation of crops, including but not limited to  
16 flowers, vegetables, foliage, fruits, forage, and  
17 timber;
- 18 (2) Game and fish propagation;
- 19 (3) Raising of livestock, including but not limited to  
20 poultry, bees, fish, or other animal or aquatic life  
21 that are propagated for economic or personal use;

- 1           (4) Farm dwellings, employee housing, farm buildings, or  
2           activities or uses related to farming and animal  
3           husbandry. "Farm dwelling", as used in this paragraph,  
4           means a single-family dwelling located on and used in  
5           connection with a farm, including clusters of single-  
6           family farm dwellings permitted within agricultural  
7           parks developed by the State, or where agricultural  
8           activity provides income to the family occupying the  
9           dwelling;
- 10          (5) Public institutions and buildings that are necessary  
11          for agricultural practices;
- 12          (6) Public and private open area types of recreational  
13          uses, including day camps, picnic grounds, parks, and  
14          riding stables, but not including dragstrips,  
15          airports, drive-in theaters, golf courses, golf  
16          driving ranges, country clubs, and overnight camps;
- 17          (7) Public, private, and quasi-public utility lines and  
18          roadways, transformer stations, communications  
19          equipment buildings, solid waste transfer stations,  
20          major water storage tanks, and appurtenant small  
21          buildings such as booster pumping stations, but not  
22          including offices or yards for equipment, material,

1           vehicle storage, repair or maintenance, treatment  
2           plants, corporation yards, or other similar  
3           structures;

4           (8) Retention, restoration, rehabilitation, or improvement  
5           of buildings or sites of historic or scenic interest;

6           (9) Roadside stands for the sale of agricultural products  
7           grown on the premises;

8           (10) Buildings and uses, including but not limited to  
9           mills, storage, and processing facilities, maintenance  
10          facilities, and vehicle and equipment storage areas  
11          that are normally considered directly accessory to the  
12          above mentioned uses and are permitted under section  
13          205-2(d);

14          (11) Agricultural parks;

15          (12) Plantation community subdivisions, which as used in  
16          this paragraph means a subdivision or cluster of  
17          employee housing, community buildings, and acreage  
18          established on land currently or formerly owned,  
19          leased, or operated by a sugar or pineapple plantation  
20          and in residential use by employees or former  
21          employees of the plantation; provided that the

1 employees or former employees shall have a property  
2 interest in the land;

3 [+](13)[+] Agricultural tourism conducted on a working  
4 farm, or a farming operation as defined in section  
5 165-2, for the enjoyment, education, or involvement of  
6 visitors; provided that the agricultural tourism  
7 activity is accessory and secondary to the principal  
8 agricultural use and does not interfere with  
9 surrounding farm operations; and provided further that  
10 this paragraph shall apply only to a county that has  
11 adopted ordinances regulating agricultural tourism  
12 under section 205-5; or

13 [+](14)[+] [~~wind~~] Bio-fuels processing facilities, provided  
14 that the majority of the feedstock is grown within the  
15 state as determined by the department of agriculture  
16 and after an initial and non-renewable three-year  
17 period commencing upon final approval to operate such  
18 facilities to allow the importation of feedstock and  
19 fuels, and alternative energy generating facilities,  
20 including the appurtenances associated with the  
21 production and transmission of [~~wind~~] alternative  
22 generated energy; provided that such facilities and

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1            appurtenances are compatible with agriculture uses and  
2            cause minimum adverse impact on agricultural land."

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

5            SECTION 4. This Act shall take effect upon its approval.

6  
7            INTRODUCED BY:           Calvin K. Boy            
8

BY REQUEST

JAN 22 2007

JUSTIFICATION SHEET

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS.

PURPOSE: This bill amends chapter 205, Hawaii Revised Statutes, to clarify the restrictions on permissible uses of important agricultural lands ("IAL"), including limitations on subdivisions, placement of farm dwellings on IAL, limits on the number of farm dwellings and the percentage of IAL that can be used for farm dwellings, and the addition of bio-fuels processing facilities as a permissible use on agricultural lands and IAL. Use shall be permitted provided that the majority of the feedstock is grown in the State, as determined by the department of agriculture, after an initial and non-renewable three-year period commencing upon final approval to operate such facilities during which time the permitted facility will be allowed to import feedstock and fuels.

MEANS: Add a new section to chapter 205 and amend section 205-4.5(a), Hawaii Revised Statutes.

JUSTIFICATION: The IAL Act (Act 183, SLH 2005) amended chapter 205, HRS, by establishing methodologies, standards, and criteria to identify, designate and reclassify IAL, and by providing incentives to encourage the establishment of viable uses on IAL. It is reasonable to conclude that the unstated intent of Act 183 is to support the establishment and expansion of commercial-scale agricultural activity on IAL. This conclusion is based on the anticipated cost of IAL incentives and the expectation of a return on investment from IAL-based agricultural activities that will be demonstrably greater than any return from rural-residential areas. Act 183 did not provide guidance for potential amendments to

chapter 205 with regards to minimum lot size for subdivisions of IAL, permitted and accessory uses and activities on IAL, particularly agricultural worker housing, and providing other critical definitions, conditions, and relationships that apply to IAL and non-IAL agricultural lands. Amendments to Chapter 205 in these areas are necessary for the IAL incentives to have the maximum opportunity to encourage agricultural development.

The identification and designation of IAL pursuant to chapter 205, HRS, will likely capture most agricultural land with Land Study Bureau overall productivity ratings of "A" and "B." Therefore, the segregation and differential treatment of the State Agricultural District according to Land Study Bureau ratings in section 205-4.5 is no longer necessary. Furthermore, this measure anticipates the redefinition of the State Rural District and subsequent reclassification of areas in the Agricultural District with widespread rural-residential uses.

The addition of bio-fuels processing facilities as a permissible use on IAL and non-IAL agricultural lands is proposed with the understanding that the acquisition, preparation, cultivation, and harvesting of feedstock for bio-fuels facilities will take some time, therefore a three-year, non-renewable period will be allowed each facility to import feedstock and fuels.

Impact on the public: Maximizes the potential for viable uses of IAL, thereby strengthening and increasing the diversity of Hawaii's economy.

Impact on the department and other agencies: Provides guidance to counties on permitted uses on IAL.

GENERAL FUND:

None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: This bill affects the Land Use Commission  
and the counties.

EFFECTIVE DATE: Upon approval.