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# A BILL FOR AN ACT

RELATING TO LOANS FOR AGRICULTURAL AND AQUACULTURE PURPOSES.

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

1           SECTION 1. Section 155-14, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) There is created a special fund to be known as the  
4 agricultural loan revolving fund, from which moneys shall be  
5 loaned by the department of agriculture under this chapter[-]  
6 and chapter 219. [~~The department, by its board of agriculture,~~  
7 ~~may transfer moneys from the agricultural loan revolving fund to~~  
8 ~~the aquaculture loan revolving fund, from which moneys shall be~~  
9 ~~disbursed by the department pursuant to chapter 219, and may~~  
10 ~~transfer moneys from that revolving fund to the agricultural~~  
11 ~~loan revolving fund for disbursement pursuant to this chapter,~~  
12 ~~provided that:~~

13           ~~(1) The amount of moneys transferred shall not exceed~~  
14           ~~\$1,000,000 for each revolving fund within the calendar~~  
15           ~~year; and~~

16           ~~(2) Twenty days prior to the convening of each regular~~  
17           ~~session of the legislature, the department shall~~  
18           ~~report to the legislature all transfers that were made~~



1           ~~between the agricultural loan revolving fund and the~~  
2           ~~aquaculture loan revolving fund during the preceding~~  
3           ~~calendar year and the balance of each revolving fund~~  
4           ~~as of December 31 of each year.] "~~

5           SECTION 2. Section 219-2, Hawaii Revised Statutes, is  
6 amended as follows:

7           1. By adding two new definitions to be appropriately  
8 inserted and to read:

9           "New aquaculturist program" means a new aquaculture loan  
10 program for qualified new aquaculturists, including persons or  
11 associations of persons who are:

12           (1) Displaced from employment in an aquaculture production  
13 enterprise;

14           (2) Persons by reason of experience, training, or  
15 education who are likely to successfully operate an  
16 aquaculture enterprise; or

17           (3) Persons or associations of persons actively engaged in  
18 a new aquaculture operation for less than two years.

19           "Private lender" includes banks, savings and loan  
20 associations, credit unions, mortgage companies, and other  
21 qualified companies whose business includes the making of loans  
22 in the State."



1           2. By amending the definitions of "aquaculture",  
2 "cooperative", and "qualified aquaculturist" to read:

3           "Aquaculture" means the propagation, cultivation, or  
4 farming of aquatic plants and animals in controlled or selected  
5 environments for commercial purposes, or authorized stock  
6 enhancement purposes.

7           "Cooperative" means a nonprofit association of  
8 [+]aquaculturists[+] organized under chapter 421.

9           "Qualified aquaculturist" means a person, or association of  
10 persons, actively engaged in aquaculture farming, aquacultural  
11 produce processing, or aquacultural product development  
12 activities[-] for a minimum of two years."

13           SECTION 3. Section 219-4, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "~~§219-4 Funds; application of payments. (a) [There is~~  
16 ~~established a special fund to be known as the aquaculture loan~~  
17 ~~revolving fund from which moneys shall be loaned by the~~  
18 ~~department of agriculture under this chapter. The department,~~  
19 ~~by its board of agriculture, may transfer moneys from the~~  
20 ~~aquaculture loan revolving fund to the agricultural loan~~  
21 ~~revolving fund, from which moneys shall be disbursed by the~~  
22 ~~department pursuant to chapter 155, and may transfer moneys from~~



1 ~~that revolving fund to the aquaculture loan revolving fund for~~  
2 ~~disbursement pursuant to this chapter, provided that:~~

3 ~~(1) The amount of moneys transferred shall not exceed~~  
4 ~~\$1,000,000 for each revolving fund within the calendar~~  
5 ~~year; and~~

6 ~~(2) Twenty days prior to the convening of each regular~~  
7 ~~session of the legislature, the department shall~~  
8 ~~report to the legislature all transfers that were made~~  
9 ~~between the aquaculture loan revolving fund and the~~  
10 ~~agricultural loan revolving fund during the preceding~~  
11 ~~calendar year and the balance of each revolving fund~~  
12 ~~as of December 31 of each year.] Loans approved by~~

13 the department under this chapter and chapter 155 shall be  
14 funded from the agricultural loan revolving fund established  
15 under section 155-14.

16 (b) All interests and fees collected by the department  
17 shall be deposited in [a] the agricultural loan reserve fund to  
18 the extent needed to carry on the operations of [~~this program,~~  
19 ~~any moneys surplus to these needs shall be transferred to the~~  
20 ~~aquaculture loan revolving fund at the discretion of the~~  
21 ~~department.] the programs. All payments received on account of~~



1 principal shall be [~~credited to~~] paid into the agricultural loan  
2 revolving fund."

3 SECTION 4. Section 219-5, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) The department shall have the necessary powers to  
6 carry out the purposes of this chapter, including the following:

- 7 (1) Prescribe the qualifications for eligibility of  
8 applicants for loans;
- 9 (2) Establish preferences and priorities in determining  
10 eligibility for loans and loan repayment requirements;
- 11 (3) Establish the conditions, consistent with the purpose  
12 of this chapter, for the granting or for the  
13 continuance of a grant of a loan;
- 14 (4) Provide for inspection at reasonable hours of the  
15 plant facilities, books, and records of an enterprise  
16 that has applied for or has been granted a loan and  
17 require the submission of progress and final reports;
- 18 (5) Make loans for aquacultural products development, such  
19 as financing of plant construction, conversion,  
20 expansion, the acquisition of land for expansion, the  
21 acquisition of equipment, machinery, supplies, or



- 1 materials or for the supplying of working capital,  
2 consistent with section 219-6;
- 3 (6) Secure loans by duly recorded first mortgages upon the  
4 following property within the State:
- 5 (A) Fee simple farm land;
- 6 (B) Leaseholds of farm land where the lease has an  
7 unexpired term at least two years longer than the  
8 term of the loan;
- 9 (C) Aquaculture products;
- 10 (D) Other chattels;
- 11 (E) A second mortgage when any prior mortgage does  
12 not contain provisions that might jeopardize the  
13 security position of the department or the  
14 borrower's ability to repay; and
- 15 (F) Written agreements, such as assignments of  
16 income;
- 17 (7) Administer the Hawaii [~~aquaculture~~] agricultural loan  
18 revolving fund and deposit into the fund all moneys  
19 received on account of principal;
- 20 (8) Include in its budget for subsequent fiscal periods  
21 amounts necessary to effectuate the purposes of this  
22 chapter;



- 1 (9) Insure loans made to qualified aquaculturists by  
2 private lenders under sections 219-7 and 219-8;  
3 provided that at no time shall the aggregate amount of  
4 the State's liability, contingent or otherwise, on  
5 these loans exceed \$1,000,000;
- 6 (10) Participate in loans made to qualified aquaculturists  
7 by private lenders under section 219-8;
- 8 (11) Make direct loans to qualified aquaculturists as  
9 provided under section 219-9;
- 10 (12) Establish interest rates chargeable by the State for  
11 direct loans and by private lenders for insured and  
12 participation loans; and
- 13 (13) Maintain a proper reserve in the [~~aquaculture~~]  
14 agricultural loan revolving fund to guarantee payment  
15 of loans insured under sections 219-7 and 219-8."

16 SECTION 5. Section 219-6, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§219-6 Loan; limitation and terms. Loans made under this  
19 chapter shall be for the purposes and in accordance with the  
20 terms specified in classes "A", "B", "C", [~~and~~] "D", and "E" in  
21 [~~paragraph~~] paragraphs (1), (2), (3), [~~and~~] (4), and (5)



1 following and shall be made only to applicants who meet the  
2 eligibility requirements specified therein:

3 (1) Class A: Aquaculture farm ownership and improvement  
4 loans. To provide for:

5 (A) The purchase or improvement of aquaculture farm  
6 land and waters;

7 (B) The purchase, construction, or improvement of  
8 adequate aquaculture farm dwellings, and other  
9 essential aquaculture farm facilities; and

10 (C) The liquidation of indebtedness incurred for any  
11 of the foregoing purposes.

12 Such loans shall be for an amount not to exceed  
13 [~~\$400,000~~] \$800,000 and for a term not to exceed forty  
14 years. To be eligible the applicant shall:

15 (i) Derive, or present an acceptable plan to  
16 derive, a major portion of the applicant's  
17 income from and devote, or intend to devote,  
18 most of the applicant's time to aquaculture  
19 farming operations; and

20 (ii) Have or be able to obtain the operating  
21 capital, including fishstock and equipment,



1                   needed to successfully operate the  
2                   applicant's aquaculture farm;

3       (2) Class B: Aquaculture operating loans. To carry on  
4       and improve an aquaculture operation, including:

5           (A) The purchase of aquaculture equipment and  
6           fishstock;

7           (B) The payment of production and marketing expenses  
8           including materials, labor, and services;

9           (C) The payment of living expenses; and

10          (D) The liquidation of indebtedness incurred for any  
11          of the foregoing purposes.

12       Such loans shall be for an amount not to exceed  
13       [~~\$400,000~~] \$800,000 and for a term not to exceed ten  
14       years. To be eligible, an applicant shall derive or  
15       present an acceptable plan to derive a major portion  
16       of the applicant's income from and devote, or intend  
17       to devote, most of the applicant's time to aquaculture  
18       operations;

19       (3) Class C: Aquaculture cooperative and corporation  
20       loans. To provide credit to aquaculturists'  
21       cooperative associations and corporations engaged in



1 marketing, purchasing, and processing, and providing  
2 farm business services, including:

3 (A) Facility loans to purchase or improve land,  
4 building, and equipment for an amount not to  
5 exceed \$500,000 and a term not to exceed twenty  
6 years; and

7 (B) Operating loans to finance inventories of  
8 supplies, warehousing, and shipping commodities,  
9 extension of consumer credit to justified farmer-  
10 members, and other normal operating expenses for  
11 an amount not to exceed \$300,000 and a term not  
12 to exceed seven years.

13 To be eligible, a cooperative or corporation shall  
14 have at least seventy-five per cent of its board of  
15 directors and seventy-five per cent of its membership  
16 as shareholders who meet the eligibility requirements  
17 prescribed by the board and who devote most of their  
18 time to aquaculture operations; [~~and~~]

19 (4) Class D: Emergency loans. To provide relief and  
20 rehabilitation to qualified aquaculturists without  
21 limit as to purpose:



- 1 (A) In areas stricken by extraordinary rainstorms,
- 2 windstorms, droughts, tidal waves, earthquakes,
- 3 volcanic eruptions, and other natural
- 4 catastrophes;
- 5 (B) On farms stricken by aquatic diseases;
- 6 (C) On farms seriously affected by prolonged shipping
- 7 and dock strikes;
- 8 (D) During economic emergencies such as those caused
- 9 by overproduction and excessive imports; and
- 10 (E) During other emergencies as determined by the
- 11 board.

12 The maximum amounts and period for the loans shall be  
 13 determined by the board; provided that the board shall  
 14 require that any settlement or moneys received by  
 15 qualified aquaculturists as a result of an emergency  
 16 declared under this section shall be first applied to  
 17 the repayment of an emergency loan made under this  
 18 chapter [-]; and

19 (5) Class E: Loans for new aquaculturists shall provide  
 20 for costs of a new aquaculture enterprise for  
 21 qualified new aquaculturists:



- 1           (A) Initial loans made under this class shall be for  
2           purposes and in accordance with the terms  
3           specified in class "A" or "B" only. The loans  
4           shall be made for an amount not to exceed  
5           \$100,000 or eighty-five per cent of the cost of  
6           the project, whichever is less;
- 7           (B) Any subsequent loan shall be made from class "A",  
8           "B", or "D", respectively, depending on the  
9           purpose for which the loan funds are used; and
- 10          (C) Borrowers shall comply with special term loan  
11          agreements as may be required by the department  
12          and shall take special training courses as the  
13          department deems necessary."

14           SECTION 6. Section 219-9, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16           "(a) The department of agriculture may make loans directly  
17 to qualified aquaculturists who are unable to obtain sufficient  
18 funds at reasonable rates from private lenders either  
19 independently or under section 219-7 or 219-8. Loans made under  
20 this section shall be authorized only if loans cannot be  
21 obtained from [~~the relevant farm credit lender and~~] two [~~other~~]



1 private lenders[-], which may be deemed for the purposes of this  
2 subsection to include any of the following:

- 3       (1) Private lenders;
- 4       (2) Members of the farm credit system; or
- 5       (3) The United States Department of Agriculture; provided  
6           that the board of agriculture may waive this  
7           requirement for emergency loans."

8       SECTION 7. On July 1, 2007, the director of finance shall  
9 transfer all unexpended and unencumbered balances remaining in  
10 the aquaculture loan revolving fund established in section  
11 219-4, Hawaii revised Statutes, as of June 30, 2007 to the  
12 credit of the agricultural loan revolving fund established by  
13 section 155-14, Hawaii Revised Statutes.

14       SECTION 8. On July 1, 2007, the director of finance shall  
15 transfer all unexpended and unencumbered balances remaining in  
16 the aquaculture loan reserve fund in section 219-4, Hawaii  
17 Revised Statutes, as of June 30, 2007, to the credit of the  
18 agricultural loan revolving fund established by section 155-14,  
19 Hawaii Revised Statutes.

20       SECTION 9. The director of finance shall increase the  
21 budget expenditure ceiling of the agricultural loan revolving  
22 fund by the amount of the budget expenditure ceiling of the



1 aquaculture loan revolving fund; however, in no event shall the  
2 increase be more than the current combined budget expenditure  
3 ceiling for both funds.

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

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



**Report Title:**

Agricultural and Aquaculture Loan Limits

**Description:**

Increases aquaculture loan limits for Class A & B loans to \$800,000. Makes credit denial requirements identical to the agricultural loan program by eliminating the one loan denial. Creates a "new aquaculturist program". Transfers and incorporates aquaculture funds into the agriculture funds and combines the aquaculture fund expenditure ceiling with the agriculture fund expenditure ceiling. (SD1)

