<u>JAN 1 8 2008</u>

### A BILL FOR AN ACT

RELATING TO LOANS TO ASSIST AGRICULTURAL AND AQUACULTURAL INDUSTRIES.

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

SECTION 1. The legislature finds that agriculture and
 aquaculture are essential industries for the State and that
 their long term sustainability is vital for the security and
 well being of the State. The development of renewable and
 sustainable energy is essential to the sustainability of these
 industries.

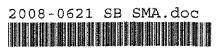
7 Agriculture and aquaculture production areas may have
8 natural resources that are available for the production of on9 site energy production for use on the production facility.
10 However, conventional financing at reasonable rates and terms
11 may not be available for these types of projects.

12 The legislature finds that the State should initiate a loan 13 program to assist the agriculture and aquaculture industries in 14 developing sustainable and renewable energy projects for use on 15 their production sites.

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1	The purpose of this Act is to establish a loan program to
2	financially assist in the development of sustainable energy for
3	the agriculture and aquaculture industries.
4	SECTION 2. The Hawaii Revised Statutes is amended by
5	adding a new chapter to be appropriately designated and to read
6	as follows:
7	"CHAPTER
8	HAWAII FARM RENEWABLE SUSTAINABLE ENERGY LOAN PROGRAM
9	§ -1 Hawaii farm renewable sustainable energy loan
10	program. The purpose of this chapter is to establish the Hawaii
11	farm renewable sustainable energy loan program to be
12	administered by the board of agriculture.
13	<b>§ -2 Definitions.</b> As used in this chapter, the
14	following words and terms have the following meanings unless the
15	context indicates otherwise:
16	"Agriculture" means the propagation, cultivation, or
17	farming of plants and animals in controlled or selected
18	environments for commercial purposes, or authorized stock
19	enhancement purposes.
20	"Aquaculture" means the propagation, cultivation, or
21	farming of aquatic plants and animals in controlled or selected



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1 environments for commercial purposes, or authorized stock enhancement purposes. 2 "Board" means the board of agriculture. 3 4 "Chairperson" means the chairperson of the board of 5 agriculture. "Department" means the department of agriculture. 6 7 "Qualified aquaculturalist" means a person, or associations 8 of persons, actively engaged in aquaculture farming, 9 aquacultural produce processing or aquacultural product 10 development activities. "Qualified farmer" means a person of proven farming ability 11 who undertakes farming activities on land that the person either 12 13 owns or leases and who is presently devoting, has recently 14 devoted, or intends to devote a substantial portion of the 15 person's time or who derives a major portion of the person's net 16 cash income from direct participation in farming activities. 17 "Qualified farmer" includes: 18 (1)Hawaii partnerships controlled by at least seventyfive per cent by persons who would qualify 19 20 individually and would meet the eligibility 21 requirements of chapter 155-10;



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Corporations where at least seventy-five per cent of
 each class of stock issued by the corporation is owned
 by persons who qualify individually and would meet the
 eligibility requirements of chapter 155-10 and where
 seventy-five per cent of the directors are qualified
 farmers;

7 Corporations incorporated in the State primarily for (3)agricultural production purposes, actively engaged in 8 agricultural production for a minimum of two years, 9 and with at least seventy-five per cent of each class 10 of stock owned by persons who are residents of this 11 State or entities that are domiciled in this State; 12 13 (4)Trusts with situs in Hawaii in which the trustee or other individual in control of the operations of the 14 trust would qualify and meet the eligibility 15 -16 requirements of chapter 155; and

17 (5) Any other legal entity recognized by the State that
18 conducts business in the State and that is capable of
19 acquiring, holding, encumbering, transferring, or
20 otherwise administering property, whether real or
21 personal, or tangible or intangible, and which entity
22 is owned and controlled by persons or other entities,



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1	at least seventy-five per cent of which would qualify
2	and would meet the eligibility requirements of chapter
3	155-10.
4	"Renewable sustainable energy projects" mean on-site energy
5	projects that may include but are not limited to photovoltaic
6	energy, hydroelectric, wind power generation, methane
7	generation, biodiesel production, and ethanol production.
8	<b>§ -3 Restriction.</b> Loans provided for by this chapter
9	shall be authorized only if the loans cannot be obtained from
10	the applicant's regular bank in which the applicant maintains
11	the applicant's accounts.
12	§ -4 Powers and duties of the department. The
	<b>§ -4 Powers and duties of the department.</b> The department shall have the necessary powers to carry out the
12	
12 13	department shall have the necessary powers to carry out the
12 13 14	department shall have the necessary powers to carry out the purposes of this chapter including the powers to:
12 13 14 15	<pre>department shall have the necessary powers to carry out the purposes of this chapter including the powers to: (1) Prescribe the qualifications for eligibility of</pre>
12 13 14 15 16	<pre>department shall have the necessary powers to carry out the purposes of this chapter including the powers to: (1) Prescribe the qualifications for eligibility of applicants for loans issued pursuant to this chapter;</pre>
12 13 14 15 16 17	<pre>department shall have the necessary powers to carry out the purposes of this chapter including the powers to: (1) Prescribe the qualifications for eligibility of applicants for loans issued pursuant to this chapter; (2) Establish preferences and priorities in determining</pre>
12 13 14 15 16 17 18	<pre>department shall have the necessary powers to carry out the purposes of this chapter including the powers to: (1) Prescribe the qualifications for eligibility of applicants for loans issued pursuant to this chapter; (2) Establish preferences and priorities in determining eligibility for loans issued pursuant to this chapter</pre>
12 13 14 15 16 17 18 19	<pre>department shall have the necessary powers to carry out the purposes of this chapter including the powers to: (1) Prescribe the qualifications for eligibility of applicants for loans issued pursuant to this chapter; (2) Establish preferences and priorities in determining eligibility for loans issued pursuant to this chapter and their repayment requirements;</pre>

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1	(4)	Provide for inspection at reasonable hours of the
2		plant facilities, books, and records of an applicant
3		for a loan under this chapter or a farmer who has been
4		granted a loan which requires the submission of
5		progress and final reports;
6	(5)	Make loans for sustainable renewable energy projects,
7		such as plant construction, conversion, expansion, or
8		the acquisition of land for expansion, the acquisition
9		of equipment, machinery, supplies, or materials, or
10		for working capital;
11	(6)	Secure loans by duly recorded first mortgages or other
12		appropriate instruments upon the following property
13		within the State:
14		(A) Fee simple farm land;
15		(B) Leaseholds of farm land where the lease has an
16		unexpired term of at least two years longer than
17		the term of the loan;
18		(C) Agriculture products, aquaculture products, or
19		power generation revenue sold to the local
20		utility;
21		(D) Other chattels;



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1		(E) A junior mortgage when any prior mortgage does
2		not contain provisions that might jeopardize the
3		security position of the department or the
4		borrower's ability to repay; and
5		(F) Written agreements, such as an assignment of
6		income;
7	(7)	Administer the Hawaii farm renewable sustainable
8		energy loan fund and deposit into the fund all moneys
9		received on account of principal;
10	(8)	Include in its budget for subsequent fiscal periods
11		amounts necessary to effectuate the purposes of this
12		chapter;
13	(9)	Make loans consistent with this chapter to qualified
14		farmers or qualified aquaculturists;
15	(10)	Approve loans, where the requested loan amount, plus
16		any principal balance on existing loans to the
17		applicant, does not exceed \$75,000 of state funds;
18		provided that all loans shall be approved by the
19		chairperson; and
20	(11)	Adopt rules pursuant to chapter 91 to effectuate this
21		chapter.

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1	<b>§ -5 Loan limitations and terms.</b> (a) Renewable
2	sustainable energy project loans shall provide for:
3	(1) The purchase, construction, or improvement of
4	essential farm buildings related to sustainable
5	renewable energy projects;
6	(2) The improvement of land as may be required by the
7	projects;
8	(3) The purchase of equipment and payment of project
9	expenses including materials, labor, and services; and
10	(4) The liquidation of indebtedness for any of the
11	foregoing purposes.
12	(b) Loans issued pursuant to this chapter shall be for a
13	term not to exceed forty years, provided that loans shall not
14	exceed \$1,500,000 or eighty-five per cent of the project cost,
15	whichever amount is less. The interest charged on these loans
16	shall be fixed at five per cent per year. No loans shall be
17	made for any type of power plant generation projects.
18	§ -6 Hawaii farm renewable sustainable energy loan fund,
19	established; application of payments. (a) There is established
20	a special fund to be known as the Hawaii farm renewable
21	sustainable energy loan fund from which moneys shall be loaned
22	by the department under this chapter.



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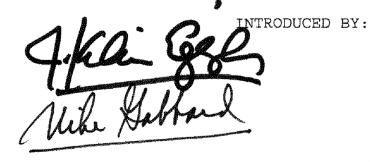
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1 All interest and fees collected by the department (b) shall be deposited in a reserve fund to the extent needed to 2 3 carry on the operation of this program; any moneys surplus to 4 those needs shall be transferred to the Hawaii farm renewable sustainable energy loan fund at the discretion of the 5 6 department. All payments received on account of principal shall 7 be credited to the Hawaii farm renewable sustainable energy loan 8 fund." 9 SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ 10 or so much thereof as may be necessary for fiscal year 2008-2009 for 11 12 establishing the Hawaii farm renewable sustainable energy loan

13 fund.

14 The sum appropriated shall be expended by the department of 15 agriculture for the purposes of this Act.

16 SECTION 4. This Act shall take effect on July 1, 2008.





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#### Report Title:

Hawaii Farm Renewable Sustainable Energy Loan Program

#### Description:

Establishes the Hawaii farm renewable sustainable energy loan program to provide financial assistance for the development of sustainable energy by farmers and aquaculturists.



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