THE SENATE **TWENTY-FOURTH LEGISLATURE, 2008** STATE OF HAWAII

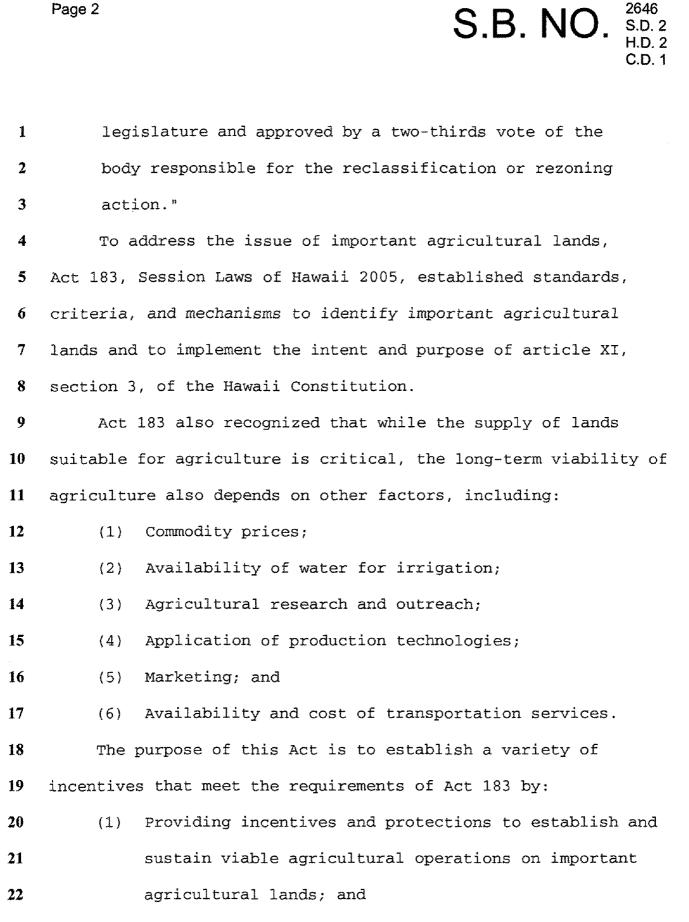
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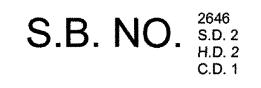
A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1	PART I
2	SECTION 1. In 1978, voters approved article XI, section 3,
3	of the Constitution of the State of Hawaii, which sets out the
4	framework for state policies to promote agriculture and the
5	conservation of productive agricultural lands in the State.
6	Article XI, section 3, reads as follows:
7	"The State shall conserve and protect
8	agricultural lands, promote diversified agriculture,
9	increase agricultural self sufficiency and assure the
10	availability of agriculturally suitable lands. The
11	legislature shall provide standards and criteria to
12	accomplish the foregoing.
13	Lands identified by the State as important
14	agricultural lands needed to fulfill the purposes
15	above shall not be reclassified by the State or
16	rezoned by its political subdivisions without meeting
17	the standards and criteria established by the





3

1	(2)	Providing for the designation of important
2		agricultural lands on public lands by:
3		(A) Requiring the department of agriculture and
4		department of land and natural resources to
5		jointly identify the state-owned lands that
6		should be designated as "important agricultural
7		lands";
8		(B) Transferring management authority over those
9		lands to the department of agriculture; and
10	(3)	Providing for the combined designation of important
11		agricultural land and reclassification to other land
12		use districts by declaratory order of the land use
13		commission.
14		PART II
15	SECT	CON 2. Chapter 205, Hawaii Revised Statutes, is
16	amended by	y adding a new section to part III to be appropriately
17	designated	d and to read as follows:
18	" <u>\$205</u>	5- Important agricultural land; farm dwellings and
19	employee h	ousing. A landowner whose agricultural lands are
20	designated	l as important agricultural lands may develop,
21	construct,	and maintain farm dwellings and employee housing for

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1	farmers,	employees, and their immediate family members on these	
2	lands; provided that:		
3	(1)	The farm dwellings and employee housing units shall be	
4		used exclusively by farmers and their immediate family	
5		members who actively and currently farm on important	
6		agricultural land upon which the dwelling is situated;	
7		provided further that the immediate family members of	
8		a farmer may live in separate dwelling units situated	
9		on the same designated land;	
10	(2)	Employee housing units shall be used exclusively by	
11		employees and their immediate family members who	
12		actively and currently work on important agricultural	
13		land upon which the housing unit is situated; provided	
14		further that the immediate family members of the	
15		employee shall not live in separate housing units and	
16		shall live with the employee;	
17	<u>(3)</u>	The total land area upon which the farm dwellings and	
18		employee housing units and all appurtenances are	
19		situated shall not occupy more than five per cent of	
20		the total important agricultural land area controlled	
21		by the farmer or the employee's employer or fifty	
22		acres, whichever is less;	

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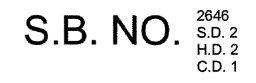
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1	(4)	The farm dwellings and employee housing units shall
2		meet all applicable building code requirements;
3	<u>(5)</u>	Notwithstanding section 205-4.5(a)(12), the landowner
4		shall not plan or develop a residential subdivision on
5		the important agricultural land;
6	(6)	Consideration may be given to the cluster development
7		of farm dwellings and employee housing units to
8		maximize the land area available for agricultural
9		production; and
10	(7)	The plans for farm dwellings and employee housing
11		units shall be supported by agricultural plans that
12		are approved by the department of agriculture."
13		PART III
14	SECT:	ION 3. Tax incentives are a critical component of the
15	long-term	viability of agriculture on important agricultural
16	lands in t	the State. The legislature finds that it is in the
17	public's interest to assist agricultural businesses in	
18	establishing and sustaining viable agricultural operations on	
19	important agricultural lands by providing incentives such as	
20	income ta:	c credits.
21	The p	ourpose of this part is to establish an important

agricultural land qualified agricultural cost tax credit to 22

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1	establish and sustain viable agricultural operations on		
2	important agricultural lands.		
3	SECTION 4. Chapter 235, Hawaii Revised Statutes, is		
4	amended by adding a new section to be appropriately designated		
5	and to read as follows:		
6	"§235- Important agricultural land qualified		
7	agricultural cost tax credit. (a) There shall be allowed to		
8	each taxpayer an important agricultural land qualified		
9	agricultural cost tax credit that may be claimed in taxable		
10	years beginning after the taxable year during which the tax		
11	credit under section 235-110.46 is repealed, exhausted, or		
12	expired. The credit shall be deductible from the taxpayer's net		
13	income tax liability, if any, imposed by this chapter for the		
14	taxable year in which the credit is properly claimed. The tax		
15	credit amount shall be determined as follows:		
16	(1) In the first year in which the credit is claimed,		
17	twenty-five per cent of the lesser of the following:		
18	(A) The qualified agricultural costs incurred by the		
19	taxpayer after July 1, 2008; or		
20	(B) \$625,000;		
21	(2) In the second year in which the credit is claimed,		
22	fifteen per cent of the lesser of the following:		
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1	(A) The qualified agricultural costs incurred by the
2	taxpayer after July 1, 2008; or
3	(B) \$250,000; and
4	(3) In the third year in which the credit is claimed, ten
5	per cent of the lesser of the following:
6	(A) The qualified agricultural costs incurred by the
7	taxpayer after July 1, 2008; or
8	<u>(B)</u> \$125,000.
9	The taxpayer may incur qualified agricultural costs during a
10	taxable year in anticipation of claiming the credit in future
11	taxable years during which the credit is available. The
12	taxpayer may claim the credit in any taxable year after the
13	taxable year during which the taxpayer incurred the qualified
14	agricultural costs upon which the credit is claimed. The
15	taxpayer also may claim the credit in consecutive or
16	inconsecutive taxable years until exhausted.
17	(b) No other credit may be claimed under this chapter for
18	qualified agricultural costs for which a credit is claimed under
19	this section for the taxable year.
20	(c) The amount of the qualified agricultural costs
21	eligible to be claimed under this section shall be reduced by
22	the amount of funds received by the taxpayer during the taxable

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1	year from the irrigation repair and maintenance special fund
2	under section 167-24.
3	(d) The cost upon which the tax credit is computed shall
4	be determined at the entity level. In the case of a
5	partnership, S corporation, estate, trust, or other pass through
6	entity, distribution and share of the credit shall be determined
7	pursuant to section 235-110.7(a).
8	If a deduction is taken under Section 179 (with respect to
9	election to expense depreciable business assets) of the Internal
10	Revenue Code, no tax credit shall be allowed for that portion of
11	the qualified agricultural cost for which a deduction was taken.
12	The basis of eligible property for depreciation or
13	accelerated cost recovery system purposes for state income taxes
14	shall be reduced by the amount of credit allowable and claimed.
15	No deduction shall be allowed for that portion of otherwise
16	deductible qualified agricultural costs on which a credit is
17	claimed under this section.
18	(e) If the credit under this section exceeds the
19	taxpayer's net income tax liability for the taxable year, the
20	excess of the credit over liability shall be refunded to the
21	taxpayer; provided that no refunds or payments on account of the



1	credits a	allowed by this section shall be made for amounts less	
2	than \$1.		
3	All claims for a tax credit under this section, including		
4	amended o	claims, shall be filed on or before the end of the	
5	twelfth month following the close of the taxable year for which		
6	the credit is claimed. Failure to comply with the foregoing		
7	provision shall constitute a waiver of the right to claim the		
8	<u>credit.</u>		
9	<u>(f)</u>	The director of taxation:	
10	(1)	Shall prepare any forms that may be necessary to claim	
11		a credit under this section;	
12	(2)	May require the taxpayer to furnish information to	
13		ascertain the validity of the claim for credit made	
14		under this section; and	
15	(3)	May adopt rules pursuant to chapter 91 to effectuate	
16		this section.	
17	<u>(g)</u>	The department of agriculture shall:	
18	(1)	Maintain records of the total amount of qualified	
19		agricultural costs for each taxpayer claiming a	
20		<pre>credit;</pre>	
21	(2)	Verify the amount of the qualified agricultural costs	
22		claimed;	



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1	(3) Total all qualified agricultural costs claimed; and		
2	(4) Certify the total amount of the tax credit for each		
3	taxable year.		
4	Upon each determination, the department of agriculture		
5	shall issue a certificate to the taxpayer verifying the		
6	qualifying agricultural costs and the credit amount certified		
7	for each taxable year. For a taxable year, the department of		
8	agriculture may certify a credit for a taxpayer who could have		
9	claimed the credit in a previous taxable year, but chose not to		
10	because the maximum annual credit amount under subsection (h)		
11	was reached in that taxable year.		
12	The taxpayer shall file the certificate with the taxpayer's		
13	tax return with the department of taxation. Notwithstanding the		
14	department of agriculture's certification authority under this		
14 15	department of agriculture's certification authority under this section, the director of taxation may audit and adjust		
15	section, the director of taxation may audit and adjust		
15 16	section, the director of taxation may audit and adjust certification to conform to the facts.		
15 16 17	section, the director of taxation may audit and adjust certification to conform to the facts. Notwithstanding any other law to the contrary, the		
15 16 17 18	section, the director of taxation may audit and adjust certification to conform to the facts. Notwithstanding any other law to the contrary, the information required by this subsection shall be available for		
15 16 17 18 19	<pre>section, the director of taxation may audit and adjust certification to conform to the facts. Notwithstanding any other law to the contrary, the information required by this subsection shall be available for public inspection and dissemination under chapter 92F.</pre>		

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1	notify the department of taxation. In no instance shall the
2	department of agriculture certify a total amount of credits
3	exceeding \$7,500,000 per taxable year. To comply with this
4	restriction, the department of agriculture shall certify credits
5	on a first come, first served basis.
6	The department of taxation shall not allow the aggregate
7	amount of credits claimed to exceed that amount per taxable
8	year.
9	(i) The department of agriculture, in consultation with
10	the department of taxation, shall annually determine the
11	information necessary to provide a quantitative and qualitative
12	assessment of the outcomes of the tax credit.
13	Every taxpayer, no later than the last day of the taxable
14	year following the close of the taxpayer's taxable year in which
15	the credit is claimed, shall submit a certified written
16	statement to the department of agriculture. Failure to provide
17	the information shall result in ineligibility and a recapture of
18	any credit already claimed for that taxable year. The amount of
19	the recaptured tax credit shall be added to the taxpayer's tax
20	liability for the taxable year in which the recapture occurs.
21	Notwithstanding any law to the contrary, a statement
22	submitted under this subsection shall be a public document.

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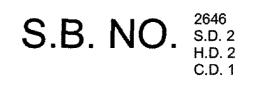
1	<u>(j)</u>	The department of agriculture, in consultation with
2	the depar	tment of taxation, shall annually submit a report
3	<u>evaluatir</u>	ng the effectiveness of the tax credit. The report
4	shall inc	lude but not be limited to findings and recommendations
5	to improv	re the effectiveness of the tax credit to further
6	encourage	the development of agricultural businesses.
7	<u>(k)</u>	As used in this section:
8	"Agr	icultural business" means any person with a commercial
9	agricultu	ral, silvicultural, or aquacultural facility or
10	operation	, including:
11	(1)	The care and production of livestock and livestock
12		products, poultry and poultry products, apiary
13		products, and plant and animal production for nonfood
14		uses;
15	(2)	The planting, cultivating, harvesting, and processing
16		of crops; and
17	(3)	The farming or ranching of any plant or animal species
18		in a controlled salt, brackish, or freshwater
19		environment;
20	provided	that the principal place of the agricultural business
21	is mainta	ined in the State and more than fifty per cent of the

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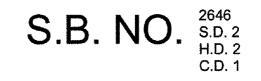
1	land the agri	cultural business owns or leases, excluding land
2	classified as	conservation land, is important agricultural land.
3	"Importa	nt agricultural lands" means lands identified and
4	designated as	important agricultural lands pursuant to part III
5	of chapter 20	5.
6	"Net inc	ome tax liability" means income tax liability
7	reduced by al	l other credits allowed under this chapter.
8	<u>"Qualifi</u>	ed agricultural costs" means expenditures for:
9	<u>(1)</u> <u>The</u>	plans, design, engineering, construction,
10	rend	ovation, repair, maintenance, and equipment for:
11	<u>(A)</u>	Roads or utilities, primarily for agricultural
12		purposes, where the majority of the lands
13		serviced by the roads or utilities, excluding
14		lands classified as conservation lands, are
15		important agricultural lands;
16	<u>(B)</u>	Agricultural processing facilities in the State,
17		primarily for agricultural purposes, where the
18		majority of the crops or livestock processed,
19		harvested, treated, washed, handled, or packaged
20		are from agricultural businesses;
21	(C)	<u>Water wells, reservoirs, dams, water storage</u>
22		facilities, water pipelines, ditches, or



1	i	rrigation systems in the State, primarily for
2	ag	gricultural purposes, providing water for lands,
3	tl	he majority of which, excluding lands classified
4	a	s conservation lands, are important agricultural
5	<u>la</u>	ands; and
6	<u>(D)</u> Ag	gricultural housing in the State, exclusively
7	fo	or agricultural purposes; provided that:
8	<u>i)</u>) The housing units are occupied solely by
9		farmers or employees for agricultural
10		businesses and their immediate family
11		members;
12	<u>(ii</u>) The housing units are owned by the
13		agricultural business;
14	<u>(iii</u>) The housing units are in the general
15		vicinity, as determined by the department of
16		agriculture, of agricultural lands owned or
17		leased by the agricultural business; and
18	_(iv) The housing units conform to any other
19		conditions that may be required by the
20		department of agriculture;

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1	(2)	Feasibility studies, regulatory processing, and legal	
2	and accounting services related to the items under		
3		paragraph (1);	
4	(3)	Equipment, primarily for agricultural purposes, used	
5		to cultivate, grow, harvest, or process agricultural	
6		products by an agricultural business; and	
7	(4)	Regulatory processing, studies, and legal and other	
8		consultant services related to obtaining or retaining	
9		sufficient water for agricultural activities and	
10		retaining the right to farm on lands identified as	
11		important agricultural lands.	
12	(1)	The department of agriculture shall cease certifying	
13	credits pursuant to this section after the fourth taxable year		
14	following	the taxable year during which the credits are first	
15	claimed; p	provided that a taxpayer with accumulated, but	
16	unclaimed	, certified credits may continue claiming the credits	
17	in subsequent taxable years until exhausted."		
18	SECTION 5. The department of taxation, in consultation		
19	with the department of agriculture, shall submit to the		
20	legislature an annual report, no later than twenty days prior to		
21	the convening of each regular session, beginning with the		
22	regular session of 2010, regarding the quantitative and		
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1	qualitative assessment of the impact of the important
2	agricultural land qualified agricultural cost tax credit.
3	SECTION 6. There is appropriated out of the general
4	revenues of the State of Hawaii the sum of \$50,000, or so much
5	thereof as may be necessary for fiscal year 2008-2009 for the
6	department of agriculture to administer the important
7	agricultural land qualified agricultural cost tax credit.
8	The sum appropriated shall be expended by the department of
9	agriculture for the purposes of this part.
10	PART IV
11	SECTION 7. Financing is also a critical component of the
12	long-term viability of agriculture on important agricultural
13	
	lands in the State. The legislature finds that it is in the
14	lands in the State. The legislature finds that it is in the public interest to assist agricultural producers in meeting
14	public interest to assist agricultural producers in meeting
14 15	public interest to assist agricultural producers in meeting their financing needs for projects that are located on important
14 15 16	public interest to assist agricultural producers in meeting their financing needs for projects that are located on important agricultural lands.
14 15 16 17	public interest to assist agricultural producers in meeting their financing needs for projects that are located on important agricultural lands. The purpose of this part is to further implement Act 183,

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1	SECTION 8. Chapter 155, Hawaii Revised Statutes, is
2	amended by adding a new section to be appropriately designated
3	and to read as follows:
4	" <u>\$155-</u> Loan guaranty; important agricultural lands;
5	agricultural and aquacultural loans. (a) From July 1, 2009,
6	the chairperson of the board of agriculture may guarantee loans
7	made by commercial lenders authorized to do business in this
8	State, to agricultural producers for the purpose of developing
9	and implementing agricultural projects; provided that the
10	chairperson of the board of agriculture shall determine that:
11	(1) The agricultural projects are located on lands
12	designated as important agricultural lands pursuant to
13	part III of chapter 205; and
14	(2) The commercial lender has completed its due diligence
15	in approving the loan, including ensuring adequate
16	collateral;
17	The chairperson of the board of agriculture may impose other
18	conditions that the chairperson deems reasonable to implement
19	the loan guaranty.
20	(b) In addition to the conditions that the chairperson of
21	the board of agriculture may impose under subsection (a), any

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1	loan guar	anty made pursuant to this section shall meet the
2	following	conditions:
3	(1)	For any loan that finances operating costs, the
4		maximum term of the loan shall be ten years;
5	(2)	For any loan that finances capital improvement costs,
6		the maximum term of the loan shall be twenty years;
7	(3)	The interest rate charged on any loan shall be one per
8		cent below the commercial lender's prime rate for as
9		long as the loan guaranty is in effect;
10	(4)	The loan guaranty may be up to eighty-five per cent of
11		the outstanding principal amount of any single loan,
12		but shall not include any fees or accrued interest
13		associated with the loan or its collection; and
14	(5)	The total principal amount of the guaranteed portion
15		of all loans outstanding at any time shall not exceed
16		\$2,500,000.
17	(c)	The department of agriculture may adopt rules pursuant
18	to chapter	91 to effectuate this section.
19	(d)	As used in this section:
20	"Agri	cultural producer means a farmer, cooperative
21	associatio	on, or landowner who derives at least fifty per cent of
22	its gross	income from agricultural or aquacultural activities.

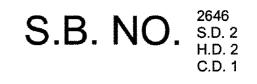
1 "Agricultural project" means a project relating to agricultural or aquacultural operations or capital 2 3 improvements." SECTION 9. The department of taxation, in consultation 4 5 with the department of agriculture, shall submit to the 6 legislature an annual report, no later than twenty days prior to 7 the convening of each regular session, beginning with the 8 regular session of 2010, that provides a quantitative and 9 qualitative assessment of the impact of the loan quaranty program established in section 155- , Hawaii Revised Statutes. 10 11 PART VI 12 SECTION 10. Section 174C-31, Hawaii Revised Statutes, is amended by amending subsections (e) and (f) to read as follows: 13 14 "(e) The department of agriculture shall prepare a state agricultural water use and development plan for agricultural 15 16 uses in the State in accordance with chapter 167 and this chapter, and subsequently modify and update the plan as 17 18 necessary. The state agricultural water use and development 19 plan shall include but not be limited to a master irrigation 20 inventory plan [which] that shall: 21 Inventory [the] public and private irrigation water $\langle 1 \rangle$

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systems;

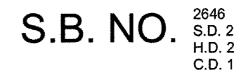


1	(2)	Identify the extent of rehabilitation needed for each
2		system;
3	(3)	Identify sources of water used by agricultural
4		operations and particularly those on lands identified
5		and designated as important agricultural lands under
6		part III of chapter 205;
7	(4)	Identify current and future water needs for
8		agricultural operations and particularly those on
9		lands identified and designated as important
10		agricultural lands under part III of chapter 205;
11	[(3)]	(5) Subsidize the cost of repair and maintenance of
12		the systems;
13	[-(4)-]	(6) Establish criteria to prioritize the
14		rehabilitation of the systems;
15	[(5)]	(7) Develop a five-year program to repair the
16		systems; and
17	[(6)]	(8) Set up a long-range plan to manage the systems.
18	The commis	ssion shall coordinate the incorporation of the state
19	agricultu	cal water use and development plan into the state water
20	projects <u>r</u>	olan.
21	(f)	Each county water use and development plan shall
22	include bu	it not be limited to:

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1	(1)	Status of water and related land development,
2		including an inventory of existing water uses for
3		domestic, municipal, and industrial users,
4		agriculture, particularly agriculture on lands
5		designated as important agricultural lands under part
6		III of chapter 205, aquaculture, hydropower
7		development, drainage, reuse, reclamation, recharge,
8		and resulting problems and constraints;
9	(2)	Future land uses and related water needs; and
10	(3)	Regional plans for water developments, including
11		recommended and alternative plans, costs, adequacy of
12		plans, and relationship to the water resource
13		protection and water quality plans."
14		PART VII
15	SECT	ION 11. Chapter 205, Hawaii Revised Statutes, is
16	amended by	γ adding a new section to part III to be appropriately
17	designated	d and to read as follows:
18	<pre>"§205- Agricultural processing facilities; permits;</pre>	
19	priority.	(a) Any agency subject to this chapter or title 13
20	that issue	es permits shall establish and implement a procedure
21	for the pi	riority processing of permit applications and renewals,
22	at no additional cost to the applicant, for agricultural	
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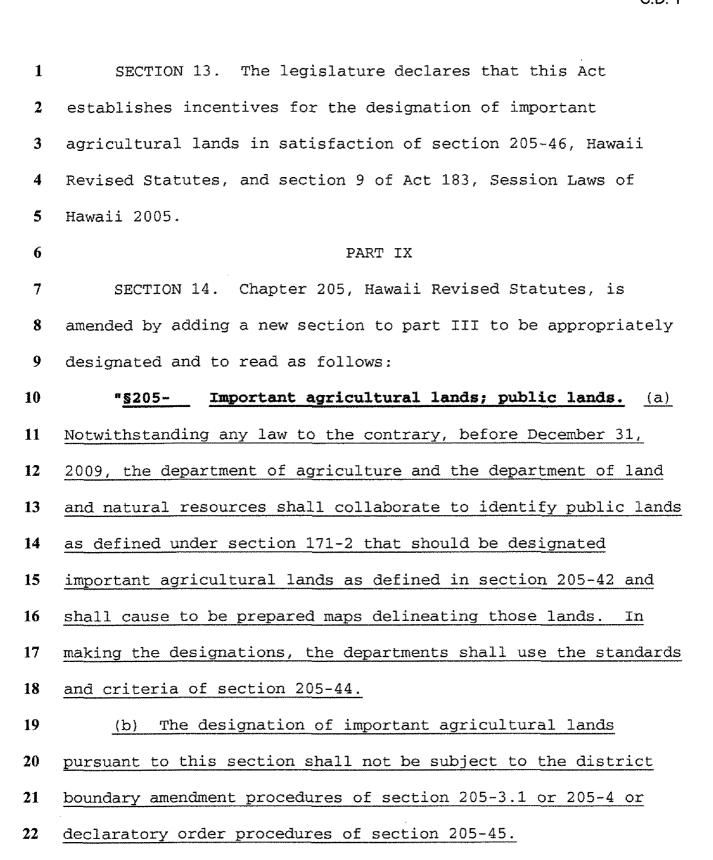
1	processing facilities that process crops or livestock from an	
2	agribusiness; provided that the majority of the lands held,	
3	owned, or used by the agribusiness shall be land designated as	
4	important agricultural lands pursuant to this part, excluding	
5	lands held, owned, or used by the agribusiness in a conservation	
6	district.	
7	Any priority permit processing procedure established	
8	pursuant to this section shall not provide or imply that any	
9	permit application filed under the priority processing procedure	
10	shall be automatically approved.	
11	(b) As used in this section, "agribusiness" means a	
12	business primarily engaged in the care and production of	
13	livestock, livestock products, poultry, poultry products,	
14	apiary, horticultural or floricultural products, the planting,	
15	cultivating, and harvesting of crops or trees, or the farming or	
16	ranching of any plant or animal species in a controlled salt,	
17	brackish, or fresh water environment."	
18	SECTION 12. Chapter 321, Hawaii Revised Statutes, is	
19	amended by adding a new section to be appropriately designated	
20	and to read as follows:	
21	"§321- Agricultural processing facilities; permits;	
22	priority. (a) Any agency subject to this chapter or title 19	
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1	that issues permits shall establish and implement a procedure
2	for the priority processing of permit applications and renewals,
3	at no additional cost to the applicant, for agricultural
4	processing facilities that process crops or livestock from an
5	agribusiness; provided that the majority of the lands held,
6	owned, or used by the agribusiness shall be land designated as
7	important agricultural lands pursuant to part III of chapter
8	205, excluding lands held, owned, or used by the agribusiness in
9	a conservation district.
10	Any priority permit processing procedure established
11	pursuant to this section shall not provide or imply that any
12	permit application filed under the priority processing procedure
13	shall be automatically approved.
14	(b) As used in this section, "agribusiness" means a
15	business primarily engaged in the care and production of
16	livestock, livestock products, poultry, poultry products,
17	apiary, horticultural or floricultural products, the planting,
18	cultivating, and harvesting of crops or trees, or the farming or
19	ranching of any plant or animal species in a controlled salt,
20	brackish, or fresh water environment."

21

PART VIII



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S.D. 2

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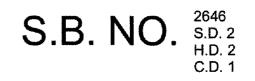
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1	(c) Noty	vithstanding any law to the contrary, beginning
2	January 1, 203	0, after receipt of the maps of public lands
3	identified as	important agricultural lands pursuant to
4	subsection (a)	, the commission shall designate the public lands
5	<u>as important a</u>	gricultural lands and adopt the maps of those
6	public lands.	Upon designation, the public lands shall be
7	subject to thi	s chapter."
8	SECTION 1	5. Section 141-1, Hawaii Revised Statutes, is
9	amended to rea	d as follows:
10	"§141-1	Duties in general. The department of agriculture
11	shall:	
12	(1) Gath	er, compile, and tabulate, from time to time,
13	info	rmation and statistics concerning:
14	(A)	Entomology and plant pathology: Insects, scales,
15		blights, and diseases injurious[$ au$] or liable to
16		become injurious[$ au$] to trees, plants, or other
17		vegetation, and the ways and means of
18		exterminating pests and diseases already in the
19		State and preventing the introduction of [those]
20		pests and diseases not yet here; and
21	(B)	General agriculture: Fruits, fibres, and useful
22		or ornamental plants and their introduction,

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1		development, care, and manufacture or
2		exportation, with a view to introducing,
3		establishing, and fostering new and valuable
4		plants and industries;
5	(2)	Encourage and cooperate with the agricultural
6		extension service and agricultural experiment station
7		of the University of Hawaii and all private persons
8		and organizations doing work of an experimental or
9		educational character coming within the scope of the
10		subject matter of chapters 141, 142, and 144 to 150A,
11		and avoid, as far as practicable, duplicating the work
12		of those persons and organizations;
13	(3)	Enter into contracts, cooperative agreements, or other
14		transactions with any person, agency, or organization,
15		public or private, as may be necessary in the conduct
16		of the department's business and on such terms as the
17		department may deem appropriate; provided that the
18		department shall not obligate any funds of the State,
19		except the funds that have been appropriated to the
20		department. Pursuant to cooperative agreement with
21		any authorized federal agency, employees of the

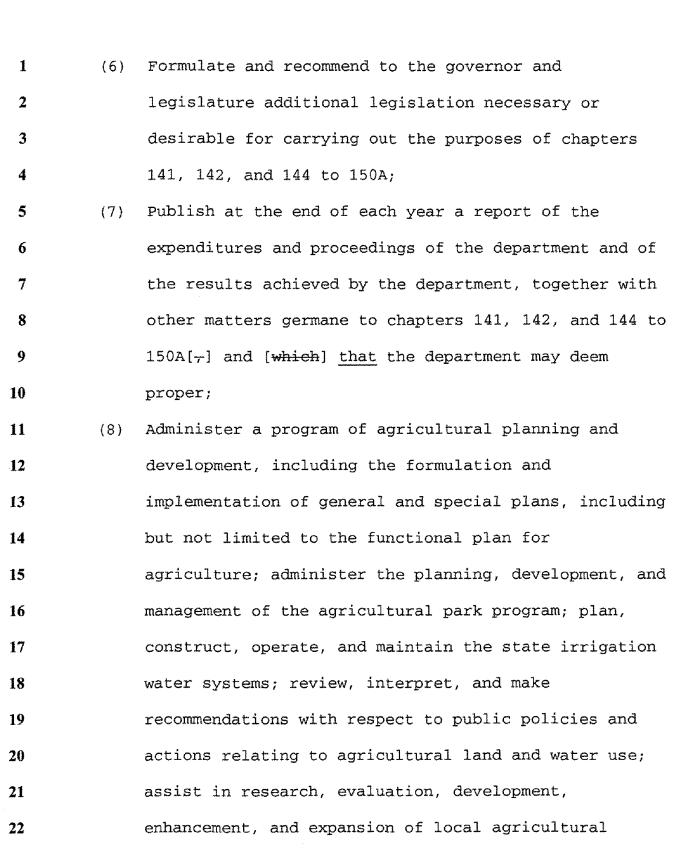
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1		behalf of the State the same as department personnel,
2		specific duties and responsibilities under chapters
3		141, 142, 150A, and rules adopted pursuant to those
4		chapters, for the effective prosecution of pest
5		control[τ] and animal disease control[τ] and the
6		regulation of import into the State and intrastate
7		movement of regulated articles;
8	(4)	Secure copies of the laws of other states,
9		territories, and countries, and other publications
10		germane to the subject matters of chapters 141, 142,
11		and 144 to 150A, and make laws and publications
12		available for public information and consultation;
13	(5)	Provide buildings, grounds, apparatus, and
14		appurtenances necessary for the examination,
15		quarantine, inspection, and fumigation provided for by
16		chapters 141, 142, and 144 to 150A; for the obtaining,
17		propagation, study, and distribution of beneficial
18		insects, growths, and antidotes for the eradication of
19		insects, blights, scales, or diseases injurious to
20		vegetation of value and for the destruction of
21		injurious vegetation; and for carrying out any other
22		purposes of chapters 141, 142, and 144 to 150A;

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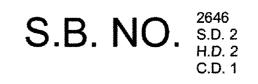
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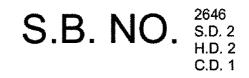
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1		industries; and serve as liaison with other public
2		agencies and private organizations for the above
3		purposes. In the foregoing, the department [of
4		agriculture] shall act to conserve and protect
5		agricultural lands and irrigation water systems,
6		promote diversified agriculture, increase agricultural
7		self-sufficiency, and ensure the availability of
8		agriculturally suitable lands[-]; and
9	(9)	Manage, administer, and exercise control over any
10		public lands, as defined under section 171-2, that are
11		designated important agricultural lands pursuant to
12		section 205- , including but not limited to
13		establishing priorities for the leasing of these
14		public lands within the department's jurisdiction."
15	SECT	ION 16. Section 171-3, Hawaii Revised Statutes, is
16	amended t	o read as follows:

17 "§171-3 Department of land and natural resources. (a)
18 The department of land and natural resources shall be headed by
19 an executive board to be known as the board of land and natural
20 resources. The department shall manage, administer, and
21 exercise control over public lands, the water resources, ocean
22 waters, navigable streams, coastal areas (excluding commercial
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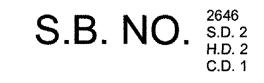
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harbor areas), and minerals and all other interests therein and 1 2 exercise such powers of disposition thereof as may be authorized 3 by law. The department shall also manage and administer the state parks, historical sites, forests, forest reserves, aquatic 4 life, aquatic life sanctuaries, public fishing areas, boating, 5 ocean recreation, coastal programs, wildlife, wildlife 6 7 sanctuaries, game management areas, public hunting areas, 8 natural area reserves, and other functions assigned by law. 9 (b) Notwithstanding subsection (a), beginning January 1, 2010, the authority to manage, administer, and exercise control 10 11 over any public lands that are designated important agricultural lands pursuant to section 205- , shall be transferred to the 12 13 department of agriculture." 14 SECTION 17. All appropriations, records, equipment, 15 machines, files, supplies, contracts, books, papers, documents, 16 maps, and other personal property heretofore made, used, acquired, or held by the department of land and natural 17 resources relating to the functions transferred to the 18 19 department of agriculture shall be transferred by this Act with 20 the functions to which they relate.

21

PART X





1	SECTION 18. Section 205-44, Hawaii Revised Statutes, is
2	amended to read as follows:
3	"[+]§205-44[+] Standards and criteria for the
4	identification of important agricultural lands. (a) The
5	standards and criteria in this section shall be used to identify
6	important agricultural lands. Lands identified as important
7	agricultural lands need not meet every standard and criteria
8	listed [below.] in subsection (c). Rather, lands meeting any of
9	the criteria [below] <u>in subsection (c)</u> shall be given initial
10	consideration; provided that the designation of important
11	agricultural lands shall be made by weighing the standards and
12	criteria with each other to meet the constitutionally mandated
13	purposes in article XI, section 3, of the [state constitution]
14	Hawaii Constitution and the objectives and policies for
15	important agricultural lands in sections 205-42 and 205-43.
16	(b) In a petition for a declaratory order submitted under
17	section 205-45 that seeks to both designate lands as important
18	agricultural lands and reclassify lands in the agricultural
19	district to the rural, conservation, or urban district, the
20	lands shall be deemed qualified for designation as important
21	agricultural land if the commission reasonably finds that the

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1	lands mee	et at least the criteria of subsection (c)(5) and (7) of				
2	this section.					
3	If a petition seeks to only designate land as important					
4	agricultu	ral lands, then the commission shall evaluate the lands				
5	in accord	ance with subsection (a).				
6	(c)	The standards and criteria shall be as follows:				
7	(1)	Land currently used for agricultural production;				
8	(2)	Land with soil qualities and growing conditions that				
9		support agricultural production of food, fiber, or				
10		fuel- and energy-producing crops;				
11	(3)	Land identified under agricultural productivity rating				
12		systems, such as the agricultural lands of importance				
13		to the State of Hawaii (ALISH) system adopted by the				
14		board of agriculture on January 28, 1977;				
15	(4)	Land types associated with traditional native Hawaiian				
16		agricultural uses, such as taro cultivation, or unique				
17		agricultural crops and uses, such as coffee,				
18		vineyards, aquaculture, and energy production;				
19	(5)	Land with sufficient quantities of water to support				
20		viable agricultural production;				

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1	(6)	Land whose designation as important agricultural lands
2		is consistent with general, development, and community
3		plans of the county;
4	(7)	Land that contributes to maintaining a critical land
5		mass important to agricultural operating productivity;
6		and
7	(8)	Land with or near support infrastructure conducive to
8		agricultural productivity, such as transportation to
9		markets, water, or power."
10	SECT	TON 19. Section 205-45, Hawaii Revised Statutes, is
11	amended t	o read as follows:
12	"[f]	§205-45[] Petition by farmer or landowner. (a) A
13	farmer or	landowner with lands qualifying under section 205-44
14	may file	with the commission a petition for declaratory [ruling
15	with the	commission] order to designate the lands as important
16	agricultu	ral lands. The petition may be filed at any time in
17	the desig	nation process.
18	<u>(b)</u>	Any law to the contrary notwithstanding, within the
19	<u>same peti</u>	tion for declaratory order as described in subsection
20	(a), the	petitioner may seek a reclassification of land in the
21	agricultu	ral district to the rural, urban, or conservation
22	<u>district,</u>	or a combination thereof; provided that:

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1	(1)	The	land sought to be reclassified to the rural,
2		urba	n, or conservation district is within the same
3		coun	ty as the land sought to be designated as
4		impo	rtant agricultural lands;
5	(2)	<u>If t</u>	he reclassification of the land is proposed to the
6		urba	n district, that reclassification to urban is
7		cons	istent with the relevant county general and
8		comm	unity, development, or community development
9		<u>plan</u>	s; and
10	(3)	The	total acreage of the land sought to be designated
11		or r	eclassified in the petition complies with the
12		folle	owing proportions:
13		<u>(A)</u>	At least eighty-five per cent of the total
14			acreage is sought to be designated as important
15			agricultural land; and
16		<u>(B)</u>	The remainder of the acreage is sought to be
17			reclassified to the rural, urban, or conservation
18			district.
19	[-(b) -]	<u>(c)</u>	The petition for declaratory [ruling] order
20	shall be s	submit	ted in accordance with subchapter 14 of the
21	commission	ı's ru	les and shall include:

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1	(1)	Tax map [keys] <u>key numbers</u> of the land to be
2		designated as important agricultural lands and, if
3		applicable, the land to be reclassified from the
4		agricultural district to the rural, urban, or
5		conservation district, along with verification and
6		authorization from the applicable landowners;
7	(2)	Proof of qualification for designation as important
8		agricultural lands under section 205-44, respecting a
9		regional perspective; [and]
10	(3)	The current or planned agricultural use of the area
11		sought to be designated $[-]$ as important agricultural
12		lands; and
13	(4)	If applicable, the current or planned use of the area
14		sought to be reclassified to the rural, urban, or
15		conservation district.
16	<u>(d)</u>	Prior to the commission considering a petition for a
17	declarato:	ry order to designate important agricultural land in
18	combinatio	on with the reclassification of agricultural land to
19	the rural	, urban, or conservation district, the petitioner shall
20	submit to	the commission a certification issued by the
21	department	t of agriculture as to the quality of the land for

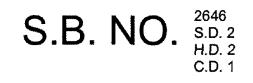
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1	which designation as important agricultural land is being
2	sought.
3	$\left[\frac{(e)}{(e)}\right]$ (e) The commission shall review the petition and the
4	accompanying submissions to evaluate the qualifications of the
5	land for designation as important agricultural lands in
6	accordance with section 205-44.
7	If the petition also seeks the reclassification of land to
8	the rural, urban, or conservation district, the commission shall
9	review the petition and accompanying submissions to evaluate:
10	(1) The suitability of the land for the reclassification
11	in accordance with section 205-2;
12	(2) If the reclassification of the land is proposed to the
13	urban district, that reclassification to urban is
14	consistent with the relevant county general and
15	community, development, or community development
16	plans; and
17	(3) Compliance with the other provisions of subsection
18	<u>(b)</u> .
19	If the commission, after its review [and evaluation], finds
20	that the [lands qualify for] designation [as important
21	agricultural lands under this part $_{r}$] and, if applicable,
22	reclassification sought in the petition should be approved, the
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1	commission shall vote, by a two-thirds majority of the members
2	of the commission, to issue a declaratory order designating the
3	petitioner's identified lands as important agricultural lands[-]
4	and, if applicable, reclassifying the petitioner's identified
5	land from the agricultural district to the rural, urban, or
6	conservation district. The commission may include reasonable
7	conditions in the declaratory order.
8	With respect to a petition that seeks to both designate
9	important agricultural lands and reclassify agricultural lands
10	to the rural, urban, or conservation district, if the commission
11	finds that either the designation or reclassification as
12	proposed by the petitioner should not be approved, the
13	commission shall deny the petition in its entirety.
14	[(d) Designating important agricultural lands by the
15	commission] (f) The designation or reclassification of land
16	pursuant to subsection (a) or (b) shall not be [considered as an
17	amendment to district boundaries under] subject to the district
18	boundary amendment procedures of sections 205-3.1 and 205-4 or
19	become effective prior to legislative enactment of protection
20	and incentive measures for important agricultural land and
21	agricultural viability, as provided in section 9 of Act 183,
22	Session Laws of Hawaii 2005.



1	[(e)] <u>(g)</u> Farmers or landowners with lands qualifying
2	under section 205-44 may file petitions for a declaratory
3	[ruling] <u>order</u> to designate lands as important agricultural
4	lands following the legislative enactment of protection and
5	incentive measures for important agricultural lands and
6	agricultural viability, as provided in section 9 of Act 183,
7	Session Laws of Hawaii 2005.
8	(h) A petitioner granted a declaratory order that
9	designates important agricultural land, whether or not combined
10	with the reclassification of land to the rural, urban, or
11	conservation district, shall earn credits if the amount of land
12	reclassified to the rural, urban, or conservation district is
13	less than fifteen per cent of the total acreage of land subject
14	to the order. The "total acreage of land subject to the order"
15	means the total acreage designated as important agricultural
16	land and, if applicable, reclassified to the rural, urban, or
17	conservation district by the declaratory order.
18	The credits shall equal the difference between the
19	following, rounded to the nearer tenth of an acre:
20	(1) The number that is fifteen per cent of the total
21	acreage of land subject to the order; less

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1	(2) The amount of the petitioner's land that is
2	reclassified from the agricultural district to the
3	rural, urban, or conservation district by the
4	declaratory order.
5	A petitioner with credits earned within a county may
6	petition the commission for a declaratory order to reclassify
7	any of the petitioner's other land in the same county from the
8	agricultural district to the rural, urban, or conservation
9	district until the credits are exhausted or expired. The
10	"petitioner's other land in the same county" means land owned by
11	the petitioner that is in the same county as the land designated
12	or reclassified under the petition. The commission may issue
13	the declaratory order if it finds that the land is suitable for
14	reclassification in accordance with section 205-2 and that the
15	reclassification is consistent with the relevant county general
16	and community, development, or community development plans. The
17	petitioner may petition for such reclassification until all of
18	the petitioner's credits are exhausted. Any unexhausted credits
19	shall expire and become unusable ten years after the granting of
20	the declaratory order that designated the important agricultural
21	land and, if applicable, reclassified land to the rural, urban,
22	or conservation district.

22 or conservation district.

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1	A petitioner with unused and unexhausted credits shall not
2	transfer the credits to another person.
3	(i) Notwithstanding any other law to the contrary, the
4	land use commission may grant declaratory orders pursuant to
5	this section before the commission receives from any county a
6	map delineating recommended important agricultural lands.
7	(j) Land designated as important agricultural land
8	pursuant to a declaratory order that both designates land as
9	important agricultural land and reclassifies land in the
10	agricultural district to the rural, urban, or conservation
11	district, or a combination thereof pursuant to this section
12	shall be re-designated only with the prior authorization of the
13	legislature. The authorization shall be expressed by the
14	adoption of a concurrent resolution approved by a two-thirds
15	vote of each house of the legislature voting separately. When
16	making its decision, the legislature shall consider the
17	standards and criteria in section 205-50.
18	(k) The commission may adopt rules pursuant to chapter 91
19	to effectuate this section."
20	SECTION 20. Section 205-50, Hawaii Revised Statutes, is
21	amended by amending subsection (g) to read as follows:

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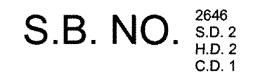
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1 "(q) A farmer or landowner with gualifying lands may also 2 petition the land use commission to remove the "important agricultural lands" designation from lands if a sufficient 3 4 supply of water is no longer available to allow profitable farming of the land due to government actions, acts of God, or 5 other causes beyond the farmer's or landowner's reasonable 6 7 control. If the "important agricultural lands" were designated by a declaratory order in combination with the reclassification 8 of land in the agricultural district to the rural, urban, or 9 10 conservation district pursuant to section 205-45, the commission 11 shall not remove the designation unless the legislature provides 12 prior authorization by adoption of a concurrent resolution in 13 accordance with section 205-45." 14 SECTION 21. Section 205-52, Hawaii Revised Statutes, is 15 amended to read as follows: "[+]\$205-52[+] Periodic review and amendment of important 16 17 agricultural lands maps. The maps delineating important 18 agricultural lands shall be reviewed in conjunction with the 19 county general plan and community [and], development, or 20 community development plan revision process, or at least once

21 every ten years following the adoption of the maps by the land

22 use commission; provided that the maps shall not be reviewed

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1 more than once every five years. Any review and amendment of 2 the maps of important agricultural lands shall be conducted in 3 accordance with this part. In these periodic reviews or 4 petitions by the farmers or landowners for declaratory rulings, 5 the "important agricultural lands" designation shall be removed 6 from those important agricultural lands where the commission has 7 issued a declaratory order that a sufficient supply of water is no longer available to allow profitable farming of these lands 8 9 due to governmental actions, acts of God, or other causes beyond 10 the farmer's or landowner's reasonable control[-]; provided 11 that, if the "important agricultural lands" were designated by a 12 declaratory order in combination with the reclassification of 13 land in the agricultural district to the rural, urban, or 14 conservation district pursuant to section 205-45, the commission 15 shall not remove the designation unless the legislature provides prior authorization by adoption of a concurrent resolution in 16 17 accordance with section 205-45." 18 PART XI 19 SECTION 22. Statutory material to be repealed is bracketed 20 and stricken. New statutory material is underscored. 21 SECTION 23. This Act shall take effect on July 1, 2008.

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Report Title:

Agriculture; Important Agricultural Lands

Description:

Provides incentives and protections to establish and sustain viable agricultural operations on important agricultural lands, and provides for the designation of important agricultural lands on public lands. (CD1)

