
A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1 SECTION 1. Article XI, section 3 of the Hawaii State
2 Constitution establishes the State's duty to "conserve and
3 protect agricultural lands, promote diversified agriculture,
4 increase agricultural self-sufficiency and assure the
5 availability of agriculturally suitable lands" and provides
6 protections for lands identified as important agricultural
7 lands. In service of this duty, the legislature enacted Act
8 183, Session Laws of Hawaii 2005, which was codified in part III
9 of chapter 205, Hawaii Revised Statutes.

10 Act 183 directed each county to work with government and
11 community stakeholders to identify and map potential important
12 agricultural lands within its jurisdiction and make
13 recommendations to the land use commission for the designation
14 of these lands as important agricultural lands. Once
15 designated, agricultural operations on important agricultural
16 lands are eligible for a variety of state and county assistance
17 and incentive programs including grants and other funding



1 assistance, tax incentives, favorable infrastructure and permit
2 requirements, and farm and business education assistance. The
3 legislature finds that, to date, most counties have not
4 completed their identification and mapping duties under Act 183.

5 The purpose of this Act is to:

- 6 (1) Implement Act 183 in accordance with the State's
7 constitutional duty to protect important agricultural
8 lands, by providing a monetary incentive to the
9 counties for the identification and mapping of
10 important agricultural lands; and
- 11 (2) Amend the important agricultural land qualified
12 agricultural cost tax credit by:
- 13 (A) Extending the credit by ten years to allow
14 landowners and farmers to claim the tax credit in
15 the event that their agricultural lands are
16 identified and designated as important
17 agricultural lands by the land use commission
18 pursuant to this Act;
- 19 (B) Clarifying the credit amount for each year in
20 which the credit is claimed; and



1 (C) Amending the definition of "qualified
2 agricultural costs" to include the costs
3 associated with the preparation for resumption of
4 use of former plantation lands that have not been
5 used for more than three years.

6 SECTION 2. Section 205-48, Hawaii Revised Statutes, is
7 amended to read as follows:

8 " ~~[+]§205-48[+]~~ **Receipt of maps of eligible important**
9 **agricultural lands; land use commission.** (a) ~~[The land use~~
10 ~~commission shall receive the]~~ Each county shall submit its
11 recommendations and maps developed pursuant to section 205-47
12 delineating those lands eligible to be designated important
13 agricultural lands ~~[no sooner than the effective date of the~~
14 ~~legislative enactment of protection and incentive measures for~~
15 ~~important agricultural lands and agricultural viability, as~~
16 ~~provided in section 9 of Act 183, Session Laws of Hawaii 2005.]~~
17 to the land use commission by June 30, 2019.

18 (b) The department of agriculture and the office of
19 planning shall review the county report and recommendations
20 submitted and provide comments to the land use commission within
21 forty-five days of the receipt of the report and maps by the



1 land use commission. The land use commission may also consult
2 with the department of agriculture and the office of planning as
3 needed.

4 (c) [State] Where a county has submitted its
5 recommendations and maps developed pursuant to section 205-47,
6 state agency review shall be based on an evaluation of the
7 degree that the:

8 (1) County recommendations result in an identified
9 resource base that meets the definition of important
10 agricultural land and the objectives and policies for
11 important agricultural lands in sections 205-42 and
12 205-43; and

13 (2) County has met the minimum standards and criteria for
14 the identification and mapping process in sections
15 205-44 and 205-47.

16 (d) If a county fails to submit its recommendations and
17 maps by June 30, 2019, the commission shall use the standards
18 and criteria in section 205-44 to identify and develop maps of
19 important agricultural lands in that county and, after receiving
20 the recommendations of the department of agriculture and the



1 office of planning, proceed to identify and designate important
2 agricultural lands, subject to sections 205-45 and 205-49."

3 SECTION 3. Section 205-49, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

6 "(a) After receipt of the maps of eligible important
7 agricultural lands from the counties [~~and the recommendations of~~
8 ~~the department of agriculture and the office of planning,~~] or if
9 a county fails to submit its recommendations and maps by June
10 30, 2019, and the commission has identified and developed maps
11 of important agricultural lands in that county, the commission
12 shall then proceed to identify and designate important
13 agricultural lands, subject to section 205-45[-] after receiving
14 the recommendations of the department of agriculture and the
15 office of planning. The decision shall consider [~~the~~]
16 applicable county maps of eligible important agricultural lands;
17 declaratory orders issued by the commission designating
18 important agricultural lands during the three year period
19 following the enactment of legislation establishing incentives
20 and protections contemplated under section 205-46, [~~as provided~~
21 ~~in section 9 of Act 183, Session Laws of Hawaii 2005,~~] landowner



1 position statements and representations[7], and any other
2 relevant information.

3 In designating important agricultural lands in the State,
4 [~~pursuant to the recommendations of individual counties,~~] the
5 commission shall consider the extent to which:

- 6 (1) The proposed lands meet the standards and criteria
7 under section 205-44;
- 8 (2) The proposed designation is necessary to meet the
9 objectives and policies for important agricultural
10 lands in sections 205-42 and 205-43; and
- 11 (3) The commission has designated lands as important
12 agricultural lands, pursuant to section 205-45;
13 provided that if the majority of landowners'
14 landholdings is already designated as important
15 agricultural lands, excluding lands held in the
16 conservation district, pursuant to section 205-45 or
17 any other provision of this part, the commission shall
18 not designate any additional lands of that landowner
19 as important agricultural lands except by a petition
20 pursuant to section 205-45.



1 Any decision regarding the designation of lands as
2 important agricultural lands and the adoption of maps of those
3 lands pursuant to this section shall be based upon written
4 findings of fact and conclusions of law, presented in at least
5 one public hearing conducted in the county where the land is
6 located in accordance with chapter 91, that the subject lands
7 meet the standards and criteria set forth in section 205-44 and
8 shall be approved by two-thirds of the membership to which the
9 commission is entitled."

10 2. By amending subsection (d) to read:

11 "(d) The land use commission may designate lands as
12 important agricultural lands and adopt maps for a designation
13 pursuant to:

14 (1) A farmer or landowner petition for declaratory ruling
15 under section 205-45 at any time; or

16 (2) The county process for identifying and recommending
17 lands for important agricultural lands under section
18 205-47 [~~no sooner than three years, after the~~
19 ~~enactment of legislation establishing incentives and~~
20 ~~protections contemplated under section 205-46, as~~
21 ~~provided in section 9 of Act 183, Session Laws of~~



1 ~~Hawaii 2005.]~~ or the commission process for
2 identifying and mapping important agricultural lands
3 if a county fails to submit its recommendations and
4 maps by June 30, 2019."

5 SECTION 4. Section 235-110.93, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending the definition of "qualified agricultural
8 costs" to read:

9 "Qualified agricultural costs" means expenditures for:

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

12 (A) Roads or utilities, primarily for agricultural
13 purposes, where the majority of the lands
14 serviced by the roads or utilities, excluding
15 lands classified as conservation lands, are
16 important agricultural lands;

17 (B) Agricultural processing facilities in the State,
18 primarily for agricultural purposes, where the
19 majority of the crops or livestock processed,
20 harvested, treated, washed, handled, or packaged
21 are from agricultural businesses;



1 (C) Water wells, reservoirs, dams, water storage
2 facilities, water pipelines, ditches, or
3 irrigation systems in the State, primarily for
4 agricultural purposes, providing water for lands,
5 the majority of which, excluding lands classified
6 as conservation lands, are important agricultural
7 lands; and

8 (D) Agricultural housing in the State, exclusively
9 for agricultural purposes; provided that:

10 (i) The housing units are occupied solely by
11 farmers or employees for agricultural
12 businesses and their immediate family
13 members;

14 (ii) The housing units are owned by the
15 agricultural business;

16 (iii) The housing units are in the general
17 vicinity, as determined by the department of
18 agriculture, of agricultural lands owned or
19 leased by the agricultural business; and



- 1 (iv) The housing units conform to any other
2 conditions that may be required by the
3 department of agriculture;
- 4 (2) Feasibility studies, regulatory processing, and legal
5 and accounting services related to the items under
6 paragraph (1);
- 7 (3) Equipment, primarily for agricultural purposes, used
8 to cultivate, grow, harvest, or process agricultural
9 products by an agricultural business; [~~and~~]
- 10 (4) Regulatory processing, studies, and legal and other
11 consultant services related to obtaining or retaining
12 sufficient water for agricultural activities and
13 retaining the right to farm on lands identified as
14 important agricultural lands[-]; and
- 15 (5) The clearing, removal of trees and debris from, and
16 soil restoration of former sugar and pineapple
17 plantation lands that have been out of use for more
18 than three years."
- 19 2. By amending subsection (a) to read:
- 20 "(a) There shall be allowed to each taxpayer an important
21 agricultural land qualified agricultural cost tax credit that



1 may be claimed in taxable years beginning after the taxable year
2 during which the tax credit under section 235-110.46 is
3 repealed, exhausted, or expired. The credit shall be deductible
4 from the taxpayer's net income tax liability, if any, imposed by
5 this chapter for the taxable year in which the credit is
6 properly claimed. The tax credit amount shall be determined as
7 follows:

8 (1) In [~~the first~~] each year in which the credit is
9 claimed, the lesser of the following:

10 (A) [~~Twenty five~~] Thirty per cent of the qualified
11 agricultural costs incurred by the taxpayer after
12 July 1, 2008; or

13 (B) [~~\$625,000,~~] \$1,000,000.

14 [~~(2) In the second year in which the credit is claimed, the~~
15 ~~lesser of the following:~~

16 [~~(A) Fifteen per cent of qualified agricultural costs~~
17 ~~incurred by the taxpayer after July 1, 2008, or~~

18 [~~(B) \$250,000, and~~

19 [~~(3) In the third year in which the credit is claimed, the~~
20 ~~lesser of the following:~~



1 ~~(A) Ten per cent of the qualified agricultural costs~~
2 ~~incurred by the taxpayer after July 1, 2008; or~~
3 ~~(B) \$125,000.]~~

4 The taxpayer may incur qualified agricultural costs during a
5 taxable year in anticipation of claiming the credit in future
6 taxable years during which the credit is available. The
7 taxpayer may claim the credit in any taxable year after the
8 taxable year during which the taxpayer incurred the qualified
9 agricultural costs upon which the credit is claimed. The
10 taxpayer also may claim the credit in consecutive or
11 inconsecutive taxable years until exhausted."

12 3. By amending subsection (1) to read:

13 "(1) The department of agriculture shall cease certifying
14 credits pursuant to this section after the [~~fourth~~] fourteenth
15 taxable year following the taxable year during which the credits
16 are first claimed; provided that a taxpayer with accumulated,
17 but unclaimed, certified credits may continue claiming the
18 credits in subsequent taxable years until exhausted."

19 SECTION 5. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$250,000 or so much
21 thereof as may be necessary for fiscal year 2017-2018 and the



1 same sum or so much thereof as may be necessary for fiscal year
2 2018-2019 for grants-in-aid to the counties for the
3 identification and mapping of important agricultural lands
4 pursuant to chapter 205, Hawaii Revised Statutes, to be
5 allocated as follows:

- 6 (1) \$62,500 to the county of Hawaii;
- 7 (2) \$62,500 to the city and county of Honolulu;
- 8 (3) \$62,500 to the county of Kauai; and
- 9 (4) \$62,500 to the county of Maui.

10 The sums appropriated shall be expended by the department
11 of business, economic development, and tourism and disbursed to
12 each county upon submittal of that county's recommendations and
13 maps of important agricultural lands to the land use commission
14 pursuant to section 205-48(a), Hawaii Revised Statutes, as
15 amended by section 2 of this Act; provided that if any county
16 fails to submit its recommendations and maps to the land use
17 commission by June 30, 2019, the department of business,
18 economic development, and tourism shall disburse that county's
19 allocated funds to the land use commission, which shall expend
20 those funds to identify and develop a map of important
21 agricultural lands in that county pursuant to section 205-48(d),



1 Hawaii Revised Statutes, as established by section 2 of this
2 Act, by June 30, 2020.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2050;
6 provided that the appropriations made in section 5 of this Act
7 shall not lapse at the end of the fiscal biennium for which the
8 appropriations are made; provided further that all moneys from
9 the appropriations unencumbered as of June 30, 2020, shall lapse
10 as of that date.



Report Title:

Important Agricultural Lands; Counties; Land Use Commission; Appropriations; Tax Credit

Description:

Requires the counties to make recommendations for important agricultural lands by 6/30/2019 or forfeit that right to the Land Use Commission. Extends the period to claim important agricultural land qualified agricultural cost tax credits by 10 years and amends qualified agricultural costs and the amount of the credit. Appropriates funds. (HB1584 HD1)

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