

JAN 24 2018

# A BILL FOR AN ACT

RELATED TO NEW FARMERS.

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

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§235- New farmer tax credit. (a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter, a new farmer tax credit for new farmers who purchase or rent an agricultural asset, which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

(b) The amount of the credit determined under this section for the taxable year shall be equal to:

(1) Five per cent of the lesser of the purchase price or the fair market value of the agricultural asset, up to a maximum of \$ ;

(2) Ten per cent of the gross rent paid by the new farmer to the owner of the agricultural asset in each of the



1           first, second, and third years of a rental agreement,

2           up to a maximum of \$                      per year; or

3           (3) Fifteen per cent of the cash equivalent of the gross

4           rent paid by the new farmer to the owner of the

5           agricultural asset in each of the first, second, and

6           third years of a share rent agreement, up to a maximum

7           of \$                      per year.

8           (c) An owner of an agricultural asset or new farmer may

9           terminate a rental agreement, including a share rent agreement,

10          for reasonable cause, as determined and approved by the

11          agribusiness development corporation. If a rental agreement is

12          terminated without the fault of the new farmer, the tax credits

13          shall not be retroactively disallowed. In determining

14          reasonable cause, the agribusiness development corporation shall

15          look at which party was at fault in the termination of the

16          agreement. If the agribusiness development corporation

17          determines the new farmer did not have reasonable cause, the new

18          farmer shall repay all credits received as a result of the

19          rental agreement to the director of taxation.

20          (d) The director of taxation:



- 1        (1) Shall prepare any forms that may be necessary to claim  
2        a tax credit under this section;
- 3        (2) May require the taxpayer to furnish reasonable  
4        information to ascertain the validity of the claim for  
5        the tax credit made under this section; and
- 6        (3) May adopt rules pursuant to chapter 91 necessary to  
7        effectuate the purposes of this section.
- 8        (e) The agribusiness development corporation shall:
- 9        (1) Refer new farmers to agencies and organizations that  
10       may provide additional pertinent information and  
11       assistance;
- 12       (2) Provide necessary and reasonable assistance and  
13       support to new farmers for qualification;
- 14       (3) Approve and certify or recertify new farmers as  
15       eligible for the program under this section; and
- 16       (4) Certify the amount of credit each taxpayer may claim.
- 17       Upon each determination, the agribusiness development  
18       corporation shall issue a certificate to the taxpayer verifying  
19       the amount of the tax credit.
- 20       (f) A tax credit under this section that exceeds the  
21       taxpayer's income tax liability may be used as a credit against



1 the taxpayer's income tax liability in subsequent years until  
2 exhausted. All claims for tax credits under this section,  
3 including any amended claims, shall be filed on or before the  
4 end of the twelfth month following the close of the taxable year  
5 for which the credits may be claimed. Failure to comply with  
6 this subsection shall constitute a waiver of the right to claim  
7 the credit.

8 (g) This section shall not apply to taxable years  
9 beginning after December 31, 2023.

10 (h) For the purposes of this section:

11 "Agricultural asset" means agricultural land, livestock,  
12 facilities, buildings, and machinery used for farming in the  
13 State.

14 "Farm product" means plants and animals useful to humans  
15 and includes but is not limited to forage and sod crop,  
16 oilseeds, grain and feed crops, dairy and dairy products,  
17 poultry and poultry products, livestock, fruits, and vegetables.

18 "Farming" means the active use, management, and operation  
19 of real and personal property for the production of a farm  
20 product.

21 "New farmer" means an individual who:



- 1        (1) Is a resident of Hawaii;
- 2        (2) Is seeking entry, or has entered within the last ten
- 3        years, into farming;
- 4        (3) Intends to farm land located in the State;
- 5        (4) Is not and whose spouse is not a family member of the
- 6        owner of agricultural assets from whom the new farmer
- 7        is seeking to purchase or rent agricultural assets;
- 8        (5) Is not and whose spouse is not a family member of a
- 9        partner, member, shareholder, or trustee of the owner
- 10       of agricultural assets from whom the beginning farmer
- 11       is seeking to purchase or rent agricultural assets;
- 12       and
- 13       (6) Meets the following eligibility requirements:
- 14       (A) Has a net worth that does not exceed \$                    ;
- 15       (B) Provides the majority of the day-to-day physical
- 16       labor and management of the farm;
- 17       (C) Has, by the judgement of the agribusiness
- 18       development corporation, adequate farming
- 19       experience or demonstrates knowledge in the type
- 20       of farming for which the new farmer seeks



1 assistance from the agribusiness development  
2 corporation;

3 (D) Demonstrates to the agribusiness development  
4 corporation a profit potential by submitting  
5 projected earnings statements;

6 (E) Asserts to the satisfaction of the agribusiness  
7 development corporation that farming will be a  
8 significant source of income for the new farmer;

9 (F) Agrees to notify the agribusiness development  
10 corporation if the new farmer no longer meets the  
11 eligibility requirements of certification, in  
12 which case the new farmer is no longer eligible  
13 for credits under this section; and

14 (G) Has other qualifications as specified by the  
15 agribusiness development corporation.

16 "Owner of agricultural assets" means an individual, trust,  
17 or pass-through entity that is the owner of agricultural land or  
18 has legal title to any other agricultural asset. "Owner of  
19 agricultural assets" does not mean an equipment dealer,  
20 livestock dealer, or comparable entity that is engaged in the



business of selling agricultural assets for profit and that is  
not engaged in farming as its primary business activity.

"Share rent agreement" means a rental agreement in which  
the principal consideration given to the owner of agricultural  
assets is a predetermined portion of the production of farm  
products produced from the rented agricultural assets and which  
provides for sharing production costs or risk of loss, or both."

SECTION 2. New statutory material is underscored.

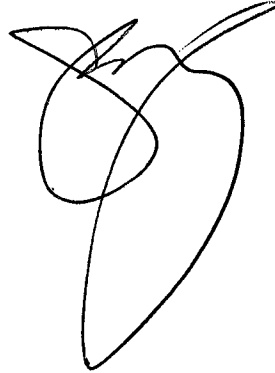
SECTION 3. This Act, upon its approval, shall apply to  
taxable years beginning after December 31, 2017.

INTRODUCED BY:

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S.B. NO. 3078





# S.B. NO. 3078

**Report Title:**

New Farmers; Income Tax Credit; Agricultural Assets

**Description:**

Allows new farmers to receive income tax credits for purchasing or renting agricultural assets through December 31, 2023. Sets out eligibility requirements to qualify as a new farmer.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

