

---

---

# A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1           SECTION 1. The important agricultural lands designation  
2 serves as a resource overlay, a comprehensive statewide resource  
3 map, to identify those lands that are of significant  
4 agricultural value to the State. This resource overlay or map  
5 is intended to broadly inform decision-makers of those lands  
6 that are needed to sustain Hawaii's agricultural industry and  
7 for which agricultural incentives should be targeted to promote  
8 and support high levels of agricultural production over the  
9 long-term.

10           Section 205-47, Hawaii Revised Statutes, establishes a  
11 process for the counties to identify lands to be recommended for  
12 designation as important agricultural lands by the state land  
13 use commission. Section 205-49, Hawaii Revised Statutes,  
14 describes a process for land use commission decision-making on  
15 the county maps that is ambiguous as to whether this is a  
16 rulemaking or contested case proceeding. Section 15-15-125(d),  
17 Hawaii Administrative Rules, of the land use commission's rules



1 states that the adoption of county maps of important  
2 agricultural lands is through rulemaking. The rule recognizes  
3 that this resource mapping involves hundreds of parcels of land  
4 and cannot in practical terms be designated through hundreds of  
5 individual contested case hearings but must rather be designated  
6 through public hearings and a quasi-legislative process. In  
7 this respect, the land use commission rule mirrors the method by  
8 which the counties adopt their regional community and  
9 development plans.

10 Accordingly, the purpose of this Act is to amend section  
11 205-49, Hawaii Revised Statutes, to clarify that adoption of  
12 maps from a county is through rulemaking in conformance with  
13 existing land use commission rules.

14 SECTION 2. Section 205-49, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) After receipt of the maps of eligible important  
17 agricultural lands from the counties and the recommendations of  
18 the department of agriculture and the office of planning and  
19 sustainable development, the commission shall then proceed to  
20 identify and designate important agricultural lands, subject to  
21 section 205-45. The decision shall consider the county maps of



1 eligible important agricultural lands; declaratory orders issued  
2 by the commission designating important agricultural lands  
3 during the three year period following the enactment of  
4 legislation establishing incentives and protections contemplated  
5 under section 205-46, as provided in section 9 of Act 183,  
6 Session Laws of Hawaii 2005; landowner position statements and  
7 representations; and any other relevant information.

8 In designating important agricultural lands in the State,  
9 pursuant to the recommendations of individual counties, the  
10 commission shall consider the extent to which:

- 11 (1) The proposed lands meet the standards and criteria  
12 under section 205-44;
- 13 (2) The proposed designation is necessary to meet the  
14 objectives and policies for important agricultural  
15 lands in sections 205-42 and 205-43; and
- 16 (3) The commission has designated lands as important  
17 agricultural lands, pursuant to section 205-45;  
18 provided that if the majority of landowners'  
19 landholdings is already designated as important  
20 agricultural lands, excluding lands held in the  
21 conservation district, pursuant to section 205-45 or



1 any other provision of this part, the commission shall  
2 not designate any additional lands of that landowner  
3 as important agricultural lands except by a petition  
4 pursuant to section 205-45.

5 ~~[Any decision regarding the designation of lands as~~  
6 ~~important agricultural lands and the adoption of maps of those~~  
7 ~~lands pursuant to this section shall be based upon written~~  
8 ~~findings of fact and conclusions of law, presented in] The~~  
9 ~~commission shall conduct at least one public hearing [conducted]~~  
10 ~~in the county where the land is located [in accordance with~~  
11 ~~chapter 91, that the subject lands] to receive testimony from~~  
12 ~~the public. The commission shall subsequently designate lands~~  
13 ~~as important agricultural lands by adopting a map of the county~~  
14 ~~recommendations, in whole or in part, of those lands that meet~~  
15 ~~the standards and criteria set forth in section 205-44, and the~~  
16 ~~adoption of maps shall be approved by two-thirds of the~~  
17 ~~membership to which the commission is entitled.~~

18 The adoption of maps designating important agricultural  
19 lands pursuant to this section shall not be through a contested  
20 case hearing but rather through rulemaking pursuant to section  
21 91-3."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on June 30, 3000.



**Report Title:**

Important Agricultural Lands; Adoption of County Maps; Land Use Commission

**Description:**

Clarifies the decision-making process for the Land Use Commission adoption of county maps and designation of Important Agricultural Lands. Effective 6/30/3000. (HD1)

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

