

ACT 183

H.B. NO. 1640

A Bill for an Act Relating to Important Agricultural Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In 1978, voters approved article XI, section 3, of the Constitution of the State of Hawaii, which sets out the framework for state policies to promote agriculture and the conservation of productive agricultural lands in the State. Article XI, section 3, reads as follows:

The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.

Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action.

The legislature finds that there is a compelling need to provide standards, criteria, and mechanisms to fulfill the intent and purpose of article XI, section 3, of the state constitution and enable implementation of the constitutional mandate.

The legislature further finds that while land is the basic resource for agriculture and the supply of lands suitable for agriculture is an irreplaceable resource, the long-term viability of agriculture also depends on factors that affect the profitability of agriculture, such as:

- (1) Commodity prices;
- (2) The availability of water for irrigation;
- (3) Agricultural research and outreach;
- (4) The application of production technologies;
- (5) Marketing; and
- (6) The availability and cost of transportation services.

Hawaii's agricultural producers face operating costs that increasingly threaten the viability of their agricultural operations and the sustainability of agriculture in Hawaii, and the legislature further finds that opportunities should be made for farmers and landowners with the ability to promote the long-term viability of agricultural use of lands.

Thus, the intent of this Act is not only to set policies for important agricultural lands and to identify important agricultural lands but also to provide for the development of incentives for agricultural viability in Hawaii, particularly for agricultural enterprises that farm important agricultural lands and for landowners of important agricultural lands. These incentives would be designed to promote the retention of important agricultural lands for viable agricultural use over the long term.

The purpose of this Act is to further implement article XI, section 3, of the state constitution by:

- (1) Establishing a new part in chapter 205, Hawaii Revised Statutes, that sets forth policies and procedures for the identification of important agricultural lands, including:
  - (A) Policies to assure the conservation and availability of important agricultural lands for long-term agricultural use;
  - (B) Standards and criteria for the identification of important agricultural lands;
  - (C) A process for the identification of important agricultural lands;
  - (D) Standards and criteria for the reclassification and rezoning of lands identified as important agricultural lands; and
  - (E) Policies for incentives for the long-term retention of important agricultural lands for agricultural use; and
- (2) Providing for a process to develop proposals for state and county incentives to promote agricultural viability, sustained growth of the agriculture industry, and the long-term use and protection of important agricultural lands for agricultural use.

## PART I

SECTION 2. Chapter 205, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### “PART . IMPORTANT AGRICULTURAL LANDS

**§205-A Declaration of policy.** It is declared that the people of Hawaii have a substantial interest in the health and sustainability of agriculture as an industry in the State. There is a compelling state interest in conserving the State’s agricultural land resource base and assuring the long-term availability of agricultural lands for agricultural use to achieve the purposes of:

- (1) Conserving and protecting agricultural lands;
- (2) Promoting diversified agriculture;
- (3) Increasing agricultural self-sufficiency; and
- (4) Assuring the availability of agriculturally suitable lands,

pursuant to article XI, section 3, of the Hawaii State constitution.

**§205-B Important agricultural lands; definition and objectives.** (a) As used in this part, unless the context otherwise requires, “important agricultural lands” means those lands, identified pursuant to this part, that:

- (1) Are capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology;
- (2) Contribute to the State’s economic base and produce agricultural commodities for export or local consumption; or
- (3) Are needed to promote the expansion of agricultural activities and income for the future, even if currently not in production.

(b) The objective for the identification of important agricultural lands is to identify and plan for the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations. To achieve this objective, the State shall:

- (1) Promote agricultural development and land use planning that delineates blocks of productive agricultural land and areas of agricultural activity for protection from the encroachment of nonagricultural uses; and
- (2) Establish incentives that promote:
  - (A) Agricultural viability;
  - (B) Sustained growth of the agriculture industry; and
  - (C) The long-term agricultural use and protection of these productive agricultural lands.

**§205-C Important agricultural lands; policies.** State and county agricultural policies, tax policies, land use plans, ordinances, and rules shall promote the long-term viability of agricultural use of important agricultural lands and shall be consistent with and implement the following policies:

- (1) Promote the retention of important agricultural lands in blocks of contiguous, intact, and functional land units large enough to allow flexibility in agricultural production and management;
- (2) Discourage the fragmentation of important agricultural lands and the conversion of these lands to nonagricultural uses;
- (3) Direct nonagricultural uses and activities from important agricultural lands to other areas and ensure that uses on important agricultural lands are actually agricultural uses;
- (4) Limit physical improvements on important agricultural lands to maintain affordability of these lands for agricultural purposes;
- (5) Provide a basic level of infrastructure and services on important agricultural lands limited to the minimum necessary to support agricultural uses and activities;
- (6) Facilitate the long-term dedication of important agricultural lands for future agricultural use through the use of incentives;
- (7) Facilitate the access of farmers to important agricultural lands for long-term viable agricultural use; and
- (8) Promote the maintenance of essential agricultural infrastructure systems, including irrigation systems.

**§205-D Standards and criteria for the identification of important agricultural lands.** The standards and criteria in this section shall be used to identify important agricultural lands. Lands identified as important agricultural lands need not meet every standard and criteria listed below. Rather, lands meeting any of the criteria below shall be given initial consideration; provided that the designation of important agricultural lands shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes in article XI, section 3, of the state constitution and the objectives and policies for important agricultural lands in sections 205-B and 205-C. The standards and criteria shall be as follows:

- (1) Land currently used for agricultural production;
- (2) Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops;
- (3) Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawaii (ALISH) system adopted by the board of agriculture on January 28, 1977;

- (4) Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production;
- (5) Land with sufficient quantities of water to support viable agricultural production;
- (6) Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county;
- (7) Land that contributes to maintaining a critical land mass important to agricultural operating productivity; and
- (8) Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power.

**§205-E Petition by farmer or landowner.** (a) A farmer or landowner with lands qualifying under section 205-D may file a petition for declaratory ruling with the commission at any time in the designation process.

(b) The petition for declaratory ruling shall be submitted in accordance with subchapter 14 of the commission's rules and shall include:

- (1) Tax map keys of the land to be designated along with verification and authorization from the applicable landowners;
- (2) Proof of qualification for designation under section 205-D, respecting a regional perspective; and
- (3) The current or planned agricultural use of the area to be designated.

(c) The commission shall review the petition and the accompanying submissions to evaluate the qualifications of the land for designation as important agricultural lands in accordance with section 205-D. If the commission, after its review and evaluation, finds that the lands qualify for designation as important agricultural lands under this part, the commission shall vote, by a two-thirds majority of the members of the commission, to issue a declaratory order designating the lands as important agricultural lands.

(d) Designating important agricultural lands by the commission shall not be considered as an amendment to district boundaries under sections 205-3.1 and 205-4 or become effective prior to legislative enactment of protection and incentive measures for important agricultural land and agricultural viability, as provided in section 9 of Act \_\_\_\_\_, Session Laws of Hawaii 2005.

(e) Farmers or landowners with lands qualifying under section 205-D may file petitions for a declaratory ruling to designate lands as important agricultural lands following the legislative enactment of protection and incentive measures for important agricultural lands and agricultural viability, as provided in section 9 of Act \_\_\_\_\_, Session Laws of Hawaii 2005.

**§205-F Incentives for important agricultural lands.** (a) To achieve the long-term agricultural viability and use of important agricultural lands, the State and each county shall ensure that their:

- (1) Agricultural development, land use, water use, regulatory, tax, and land protection policies; and
- (2) Permitting and approval procedures,

enable and promote the economic sustainability of agriculture.

Agricultural operations occurring on important agricultural lands shall be eligible for incentives and protections provided by the State and counties pursuant to this section to promote the viability of agricultural enterprise on important agricultural lands and to assure the availability of important agricultural lands for long-term agricultural use.

(b) State and county incentive programs shall provide preference to important agricultural lands and agricultural businesses on important agricultural lands.

The State and each county shall cooperate in program development to prevent duplication of and to streamline and consolidate access to programs and services for agricultural businesses located on important agricultural lands.

(c) Incentive and protection programs shall be designed to provide a mutually supporting framework of programs and measures that enhance agricultural viability on important agricultural lands, including but not limited to:

- (1) Grant assistance;
- (2) Real property tax systems that support the needs of agriculture, including property tax assessments based on agricultural use valuation;
- (3) Reduced infrastructure requirements and facilitated building permit processes for dedicated agricultural structures;
- (4) Tax incentives to offset operational costs, promote agricultural business viability, and promote the long-term protection of important agricultural lands;
- (5) Agricultural business planning, marketing, and implementation grants;
- (6) Tax incentives and programs for equity investments and financing for agricultural operations, including agricultural irrigation systems;
- (7) Other programs and mechanisms that promote investment in agricultural businesses or agricultural land protection, such as the purchase of development rights;
- (8) State funding mechanisms to fund business viability and land protection programs;
- (9) Water regulations and policies that provide farmers of important agricultural lands access to adequate and cost-effective sources of water;
- (10) Other measures that would ensure that state capital investments, projects, programs, and rules are consistent with this part; and
- (11) Agricultural education and training for new farmers; upgrading the skills of existing farmers and other agriculture-related employees through the use of mentoring, business incubators, and public or private scholarships; and increasing the returns of farming by adding value to food processing and other tools and methods.

(d) State and county agencies shall review the protection and incentive measures enacted for important agricultural lands and agricultural viability pursuant to this chapter at least every five years to:

- (1) Determine their effectiveness in sustaining agriculture in Hawaii, assuring agricultural diversification, and increasing agricultural self-sufficiency;
- (2) Determine whether the effectiveness of tax credits or incentive programs will be enhanced by creating revolving funds or increasing rates based upon the tax revenues generated by enhanced investment and agricultural activities on important agricultural lands; and
- (3) Modify measures and programs as needed.

(e) This section shall apply only to those lands designated as important agricultural lands pursuant to sections 205-E and 205-I.

#### **§205-G Identification of important agricultural lands; county process.**

(a) Each county shall identify and map potential important agricultural lands within its jurisdiction based on the standards and criteria in section 205-D and the intent of this part, except lands that have been designated, through the state land use, zoning, or county planning process, for urban use by the State or county.

(b) Each county shall develop maps of potential lands to be considered for designation as important agricultural lands in consultation and cooperation with landowners, the department of agriculture, agricultural interest groups, including representatives from the Hawaii Farm Bureau Federation and other agricultural

organizations, the United States Department of Agriculture – Natural Resources Conservation Service, the office of planning, and other groups as necessary.

(c) Each county, through its planning department, shall develop an inclusive process for public involvement in the identification of potential lands and the development of maps of lands to be recommended as important agricultural lands, including a series of public meetings throughout the identification and mapping process. The planning departments may also establish one or more citizen advisory committees on important agricultural lands to provide further public input, utilize an existing process (such as general plan, development plan, community plan), or employ appropriate existing and adopted general plan, development plan, or community plan maps.

(d) The counties shall take notice of those lands that have already been designated as important agricultural lands by the commission.

Upon identification of potential lands to be recommended to the county council as potential important agricultural lands, the counties shall take reasonable action to notify each owner of those lands by mail or posted notice on the affected lands to inform them of the potential designation of their lands.

In formulating its final recommendations to the respective county councils, the planning departments shall report on the manner in which the important agricultural lands mapping relates to, supports, and is consistent with the:

- (1) Standards and criteria set forth in section 205-D;
- (2) County's adopted land use plans, as applied to both the identification and exclusion of important agricultural lands from such designation;
- (3) Comments received from government agencies and others identified in subsection (b);
- (4) Viability of existing agribusinesses; and
- (5) Representations or position statements of the owners whose lands are subject to the potential designation.

(e) The important agricultural lands maps shall be submitted to the county council for decision-making. The county council shall adopt the maps, with or without changes, by resolution. The adopted maps shall be transmitted to the land use commission for further action pursuant to section 205-H.

**§205-H Receipt of maps of eligible important agricultural lands; land use commission.** (a) The land use commission shall receive the county recommendations and maps delineating those lands eligible to be designated important agricultural lands no sooner than the effective date of the legislative enactment of protection and incentive measures for important agricultural lands and agricultural viability, as provided in section 9 of Act \_\_\_\_\_, Session Laws of Hawaii 2005.

(b) The department of agriculture and the office of planning shall review the county report and recommendations and provide comments to the land use commission within forty-five days of the receipt of the report and maps by the land use commission. The land use commission may also consult with the department of agriculture and the office of planning as needed.

- (c) State agency review shall be based on an evaluation of the degree that the:
- (1) County recommendations result in an identified resource base that meets the definition of important agricultural land and the objectives and policies for important agricultural lands in sections 205-B and 205-C; and
  - (2) County has met the minimum standards and criteria for the identification and mapping process in sections 205-D and 205-G.

**§205-I Designation of important agricultural lands; adoption of important agricultural lands maps.** (a) After receipt of the maps of eligible important

agricultural lands from the counties and the recommendations of the department of agriculture and the office of planning, the commission shall then proceed to identify and designate important agricultural lands, subject to section 205-E. The decision shall consider the county maps of eligible important agricultural lands; declaratory orders issued by the commission designating important agricultural lands during the three year period following the enactment of legislation establishing incentives and protections contemplated under section 205-F, as provided in section 9 of Act \_\_\_\_\_, Session Laws of Hawaii 2005; landowner position statements and representations; and any other relevant information.

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

- (1) The proposed lands meet the standards and criteria under section 205-D;
- (2) The proposed designation is necessary to meet the objectives and policies for important agricultural lands in sections 205-B and 205-C; and
- (3) The commission has designated lands as important agricultural lands, pursuant to section 205-E; provided that if the majority of landowners' landholdings is already designated as important agricultural lands, excluding lands held in the conservation district, pursuant to section 205-E or any other provision of this part, the commission shall not designate any additional lands of that landowner as important agricultural lands except by a petition pursuant to section 205-E.

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

(b) Copies of the maps of important agricultural lands adopted under this section shall be transmitted to each county planning department and county council, the department of agriculture, the agribusiness development corporation, the office of planning, and other state agencies involved in land use matters. The maps of important agricultural lands shall guide all decision-making on the proposed reclassification or rezoning of important agricultural lands, state agricultural development programs, and other state and county land use planning and decision-making.

(c) The land use commission shall have the sole authority to interpret the adopted map boundaries delineating the important agricultural lands.

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

- (1) A farmer or landowner petition for declaratory ruling under section 205-E at any time; or
- (2) The county process for identifying and recommending lands for important agricultural lands under section 205-G no sooner than three years,

after the enactment of legislation establishing incentives and protections contemplated under section 205-F, as provided in section 9 of Act \_\_\_\_\_, Session Laws of Hawaii 2005.

**§205-J Standards and criteria for the reclassification or rezoning of important agricultural lands.** (a) Any land use district boundary amendment or change in zoning involving important agricultural lands identified pursuant to this chapter shall be subject to this section.

(b) Upon acceptance by the county for processing, any application for a special permit involving important agricultural lands shall be referred to the department of agriculture and the office of planning for review and comment.

(c) Any decision by the land use commission or county pursuant to this section shall specifically consider the following standards and criteria:

- (1) The relative importance of the land for agriculture based on the stock of similarly suited lands in the area and the State as a whole;
- (2) The proposed district boundary amendment or zone change will not harm the productivity or viability of existing agricultural activity in the area, or adversely affect the viability of other agricultural activities or operations that share infrastructure, processing, marketing, or other production-related costs or facilities with the agricultural activities on the land in question;
- (3) The district boundary amendment or zone change will not cause the fragmentation of or intrusion of nonagricultural uses into largely intact areas of lands identified by the State as important agricultural lands that create residual parcels of a size that would preclude viable agricultural use;
- (4) The public benefit to be derived from the proposed action is justified by a need for additional lands for nonagricultural purposes; and
- (5) The impact of the proposed district boundary amendment or zone change on the necessity and capacity of state and county agencies to provide and support additional agricultural infrastructure or services in the area.

(d) Any decision pursuant to this section shall be based upon a determination that:

- (1) On balance, the public benefit from the proposed district boundary amendment or zone change outweighs the benefits of retaining the land for agricultural purposes; and
- (2) The proposed action will have no significant impact upon the viability of agricultural operations on adjacent agricultural lands.

(e) The standards and criteria of this section shall be in addition to:

- (1) The decision-making criteria of section 205-17 governing decisions of the land use commission under this chapter; and
- (2) The decision-making criteria adopted by each county to govern decisions of county decision-making authorities under this chapter.

(f) Any decision of the land use commission and any decision of any county on a land use district boundary amendment or change in zoning involving important agricultural lands shall be approved by the body responsible for the decision by a two-thirds vote of the membership to which the body is entitled.

(g) A farmer or landowner with qualifying lands may also petition the land use commission to remove the "important agricultural lands" designation from lands if a sufficient supply of water is no longer available to allow profitable farming of the land due to governmental actions, acts of God, or other causes beyond the farmer's or landowner's reasonable control.

**§205-K Important agricultural lands; county ordinances.** (a) Each county shall adopt ordinances that reduce infrastructure standards for important agricultural lands no later than the effective date of the legislative enactment of protection and incentive measures for important agricultural lands and agricultural viability, as provided in section 9 of Act \_\_\_\_\_, Session Laws of Hawaii 2005.

(b) For counties without ordinances adopted pursuant to subsection (a), important agricultural lands designated pursuant to this part may be subdivided without county processing or standards; provided that:

- (1) None of the resulting lots shall be used solely for residential occupancy; and
- (2) The leasehold lots shall return to the original lot of record upon expiration or termination of the lease.

**§205-L Periodic review and amendment of important agricultural lands maps.** The maps delineating important agricultural lands shall be reviewed in conjunction with the county general plan and community and development plan revision process, or at least once every ten years following the adoption of the maps by the land use commission; provided that the maps shall not be reviewed more than once every five years. Any review and amendment of the maps of important agricultural lands shall be conducted in accordance with this part. In these periodic reviews or petitions by the farmers or landowners for declaratory rulings, the “important agricultural lands” designation shall be removed from those important agricultural lands where the commission has issued a declaratory order that a sufficient supply of water is no longer available to allow profitable farming of these lands due to governmental actions, acts of God, or other causes beyond the farmer’s or landowner’s reasonable control.”

PART II

SECTION 3. Section 205-3.1, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) District boundary amendments involving lands in the conservation district, land areas greater than fifteen acres, or lands delineated as important agricultural lands shall be processed by the land use commission pursuant to section 205-4.

(b) Any department or agency of the State, and department or agency of the county in which the land is situated, or any person with a property interest in the land sought to be reclassified may petition the appropriate county land use decision-making authority of the county in which the land is situated for a change in the boundary of a district involving lands less than fifteen acres presently in the [agricultural,] rural[,] and urban districts[,] and lands less than fifteen acres in the agricultural district that are not designated as important agricultural lands.

(c) District boundary amendments involving land areas of fifteen acres or less, except [in conservation districts,] as provided in subsection (b), shall be determined by the appropriate county land use decision-making authority for [said] the district and shall not require consideration by the land use commission pursuant to section 205-4. ~~District boundary amendments involving land areas of fifteen acres or less in conservation districts shall be processed by the land use commission pursuant to section 205-4;~~ provided that such boundary amendments and approved uses are consistent with this chapter. The appropriate county land use decision-making authority may consolidate proceedings to amend state land use district boundaries pursuant to this subsection, with county proceedings to amend the general plan, development plan, zoning of the affected land, or such other proceedings. Appropriate ordinances and rules to allow consolidation of such proceedings may be developed by the county land use decision-making authority.”

SECTION 4. Section 205-4, Hawaii Revised Statutes, is amended as follows:  
 1. By amending subsection (a) to read:

“(a) Any department or agency of the State, any department or agency of the county in which the land is situated, or any person with a property interest in the land sought to be reclassified, may petition the land use commission for a change in the

boundary of a district. This section applies to all petitions for changes in district boundaries of lands within conservation districts, lands designated or sought to be designated as important agricultural lands, and ~~[all petitions for changes in district boundaries involving]~~ lands greater than fifteen acres in the agricultural, rural, and urban districts, except as provided in section 201G-118. The land use commission shall adopt rules pursuant to chapter 91 to implement section 201G-118.”

2. By amending subsection (h) to read:

“(h) No amendment of a land use district boundary shall be approved unless the commission finds upon the clear preponderance of the evidence that the proposed boundary is reasonable, not violative of section 205-2 and part of this chapter, and consistent with the policies and criteria established pursuant to sections 205-16 and 205-17. Six affirmative votes of the commission shall be necessary for any boundary amendment under this section.”

SECTION 5. Section 205-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) [The] Subject to this section, the county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Any person who desires to use the person’s land within an agricultural or rural district other than for an agricultural or rural use, as the case may be, may petition the planning commission of the county within which the person’s land is located for permission to use the person’s land in the manner desired. Each county may establish the appropriate fee for processing the special permit petition. Copies of the special permit petition shall be forwarded to the land use commission, the office of planning, and the department of agriculture for their review and comment.”

2. By amending subsections (c), (d), and (e) to read:

“(c) The county planning commission may, under such protective restrictions as may be deemed necessary, permit the desired use, but only when the use would promote the effectiveness and objectives of this chapter[-]; provided that a use proposed for designated important agricultural lands shall not conflict with any part of this chapter. A decision in favor of the applicant shall require a majority vote of the total membership of the county planning commission.

(d) Special permits for land the area of which is greater than fifteen acres or for lands designated as important agricultural lands shall be subject to approval by the land use commission. The land use commission may impose additional restrictions as may be necessary or appropriate in granting [such] the approval, including the adherence to representations made by the applicant.

(e) A copy of the decision, together with the complete record of the proceeding before the county planning commission on all special permit requests involving a land area greater than fifteen acres or for lands designated as important agricultural lands, shall be transmitted to the land use commission within sixty days after the decision is rendered.

Within forty-five days after receipt of the complete record from the county planning commission, the land use commission shall act to approve, approve with modification, or deny the petition. A denial either by the county planning commission or by the land use commission, or a modification by the land use commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii rules of civil procedure.”

SECTION 6. Section 205-17, Hawaii Revised Statutes, is amended to read as follows:

“**§205-17 Land use commission decision-making criteria.** In its review of any petition for reclassification of district boundaries pursuant to this chapter, the commission shall specifically consider the following:

- (1) The extent to which the proposed reclassification conforms to the applicable goals, objectives, and policies of the Hawaii state plan and relates to the applicable priority guidelines of the Hawaii state plan and the adopted functional plans;
- (2) The extent to which the proposed reclassification conforms to the applicable district standards; ~~and~~
- (3) The impact of the proposed reclassification on the following areas of state concern:
  - (A) Preservation or maintenance of important natural systems or habitats;
  - (B) Maintenance of valued cultural, historical, or natural resources;
  - (C) Maintenance of other natural resources relevant to Hawaii’s economy, including ~~[-but not limited to-]~~ agricultural resources;
  - (D) Commitment of state funds and resources;
  - (E) Provision for employment opportunities and economic development; and
  - (F) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups; ~~and~~
- (4) The standards and criteria for the reclassification or rezoning of important agricultural lands in section 205-J; and
- ~~[(4)]~~ (5) The representations and commitments made by the petitioner in securing a boundary change.”

SECTION 7. Each county shall submit its report and maps with recommendations for lands eligible for designation as important agricultural lands to the land use commission no later than sixty months from the date of county receipt of state funds appropriated for the identification process. Upon receipt of the county maps, the land use commission shall review and adopt maps designating important agricultural lands to the State in accordance with section 205-I.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$75,000, or so much thereof as may be necessary for fiscal year 2005-2006, for grants-in-aid to the counties for the identification and mapping of important agricultural lands pursuant to section 2 of this Act.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the disbursement of funds by the land use commission to each county for the identification of important agricultural lands pursuant to this Act.

The land use commission shall submit annual reports on the progress of the counties in identifying and mapping important agricultural lands to the legislature no later than twenty days before the convening of the regular sessions of 2006 through 2009.

### PART III

SECTION 9. (a) It is the intent of this Act:

- (1) That agricultural incentive programs to promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and

protection of important agricultural lands for agricultural use shall be developed concurrently with the process of identifying important agricultural lands as required under section 2 of this Act; and

- (2) That the designation of important agricultural lands and adoption of maps by the land use commission pursuant to section 2 of this Act shall take effect only upon the enactment of legislation establishing incentives and protections for important agricultural lands contemplated by section 205-F and shall be satisfied by:
  - (A) Providing a declaration of satisfaction within the Act that establishes incentives for important agricultural lands; or
  - (B) Having the legislature adopt a concurrent resolution declaring the satisfaction of implementing incentives for important agricultural lands by identifying the specific measures or Acts that establish incentives for important agricultural lands.

(b) Pursuant to section 205-F, Hawaii Revised Statutes, the department of agriculture, with the assistance of the department of taxation, shall contract appropriate meeting facilitation and cost-benefit analysis services to develop and recommend a package of proposals for agricultural incentives and other measures that promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of important agricultural lands.

The department of agriculture, in consultation with the department of taxation, shall use consultants to promote a facilitated meeting process and deliberation and seek the assistance and input from the Hawaii Farm Bureau Federation, landowners, affected state and county agencies, other stakeholders, and persons with relevant expertise that are necessary to develop and implement a comprehensive and integrated framework of incentives and programs that will promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of important agricultural lands for agricultural use in Hawaii, including tax policy, agricultural business development and financing, marketing, and agricultural land use techniques. The meeting facilitators shall ensure that stakeholder discussions are inclusive and use a consistent voting procedure.

The department of agriculture shall report stakeholder findings and recommendations, including proposed legislation and a recommended minimum criteria for determining when the "enactment of legislation establishing incentives and protection" has occurred for the purposes of this Act, to the legislature no later than twenty days before the convening of the regular session of 2007. The report shall include an analysis of the impacts and benefits of its recommendations, a record of the stakeholder group's process and deliberations, and shall provide the supporting rationale for the incentives being proposed.

(c) Incentives and other programs to promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of important agricultural lands for agricultural use in Hawaii by farmers and landowners to be considered by the department of agriculture shall include but not be limited to the following:

- (1) Assistance in identifying federal, state, and private grant and loan resources for agricultural business planning and operations, assistance with grant and loan application processes, and the processing of grants and loans;
- (2) Real property tax systems that support the needs of agriculture, including property tax assessment of land and improvements used or held only for use in agriculture based on agricultural use value rather than fair market value;
- (3) Reduced infrastructure requirements and facilitated building permit processes for the construction of dedicated agricultural structures;

- (4) Tax incentives that include but are not limited to:
  - (A) Tax credits for the sale or donation of agricultural easements on important agricultural lands; and
  - (B) General excise tax exemption for retail sales of farm produce;
- (5) Incentives that promote investment in agricultural businesses or value-added agricultural development, and other agricultural financing mechanisms;
- (6) Incentives and programs that promote long-term or permanent agricultural land protection, and the establishment of a dedicated funding source for these programs;
- (7) Establishment of a permanent state revolving fund, escalating tax credits based on the tax revenues generated by increased investment or agricultural activities conducted on important agricultural lands, and dedicated funding sources to provide moneys for incentives and other programs;
- (8) Establishment of a means to analyze the conformity of state-funded projects with the intent and purposes of part I of this Act, and a mechanism for mitigation measures when projects are not in conformance;
- (9) Institution of a requirement for the preparation of an agricultural impact statement that would include mitigation measures for adverse impacts for proposed state or county rulemaking that may affect agricultural activities, operations, and agricultural businesses on important agricultural lands; and
- (10) Other programs to carry out the intent of part I of this Act.

SECTION 10. Within one year of the adoption of maps of important agricultural lands by the land use commission for the lands within the jurisdiction of each county, all state agencies shall report to the department of agriculture on the impact of projects and programs on the designated important agricultural lands and sustained agricultural use of these lands. State agencies shall develop implementation programs, as needed, to ensure that their programs are supportive of agriculture and consistent with the intent and purposes of this Act.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$75,000, or so much thereof as may be necessary for fiscal year 2005-2006, for the development of proposals for incentives and other programs for agricultural development and agricultural land protection pursuant to section 9 of this Act; provided that any unexpended or unencumbered funds at the close of fiscal year 2005-2006 may be expended or encumbered during fiscal year 2006-2007 and shall not lapse until June 30, 2007.

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

#### PART IV

SECTION 12. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect on July 1, 2005; provided that designations made pursuant to:

(1) Section 205-E shall take effect at any time; and

(2) Section 205-G shall take effect three years,  
after the enactment of legislation establishing incentives and protections for important agricultural lands and agricultural viability, as provided in section 9 of this Act.

(Approved July 1, 2005.)