# 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. Chapter 235, Hawaii Revised Statutes is amended
3	by adding a new section to be appropriately designated and to
4	read as follows:
5	"§235- Rental income from agricultural leases on
6	important agricultural lands excluded from gross income. (a)
7	In addition to the exclusions in section 235-7, there shall be
8	excluded from gross income, adjusted gross income, and taxable
9	income, rental income, including lease rents, received by a
10	taxpayer subject to the taxes imposed by this chapter that are
11	derived from agricultural leases on lands identified and
12	designated as important agricultural lands pursuant to part III,
13	chapter 205, for the taxable year the rental income was
14	realized; provided that:
15	(1) The minimum length of the lease term shall be:
16	(A) Twenty years; or
17	(B) Any other lease term length mutually agreeable to
18	lessor and lessee, if the amount of the lease

2007-2586 HB1639 SD2 SMA.doc

1		rent is set by an independent appraisal using the
2		lower of the comparable value or agricultural
3		capitalization appraisal methodologies;
4		and
5	(2)	The lease is in effect and the lessee is continuously
6		and substantially undertaking agricultural activity on
7		the leased land, pursuant to chapter 205, as verified
8		by the department of agriculture on a regular basis
9		using a process determined by the department of
10		agriculture; provided that the exclusion shall not
11		apply if the lease is terminated or the department of
12		agriculture determines that the leased land is not
13		continuously and substantially being used for
14		agricultural activity.
15	The taxpay	ver shall be eligible for the exclusion initially for
16	up to twen	ity years; provided that the time period may be
17	extended f	or every year the term of the lease is extended;
18	provided f	urther that the assignment of the original lease to
19	another le	essee shall be for the time period remaining on the
20	<u>original l</u>	ease, unless the terms of the lease are renegotiated.
21	(b)	Each taxpayer who claims the exclusion under this
22	section sh	all annually provide any necessary information
	2007-2586	HB1639 SD2 SMA.doc

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1	determined by and to the department of agriculture in the manner
2	prescribed by the department of agriculture to enable an
3	aggregated quantitative and qualitative assessment of the impact
4	of the exclusion."
5	SECTION 2. Section 237-24.75, Hawaii Revised Statutes, is
6	amended to read as follows:
7	"[+]§237-24.75[+] Additional exemptions. In addition to
8	the amounts exempt under section 237-24, this chapter shall not
9	apply to [amounts]:
10	(1) Amounts received as a beverage container deposit
11	collected under chapter 342G, part VIII[ $-$ ]; and
12	(2) Rental income, including lease rents, derived from
13	agricultural leases on lands identified and designated
14	as important agricultural lands pursuant to part III,
15	chapter 205, for the taxable year the rental income
16	was realized; provided that:
17	(A) The minimum length of the lease term shall be:
18	(i) <u>Twenty years; or</u>
19	(ii) Any other lease term length mutually
20	agreeable to lessor and lessee, if the
21	amount of the lease rent is set by an
22	independent appraisal using the lower of the
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1		comparable value or agricultural
2		capitalization appraisal methodologies;
3	<u>(B)</u>	The lease is in effect and the lessee is
4		continuously and substantially undertaking
5		agricultural activity on the leased land,
6		pursuant to chapter 205, as verified by the
7		department of agriculture on a regular basis
8		using a process determined by the department of
9		agriculture; provided that the exemption shall
10		not apply if the lease is terminated or the
11		department of agriculture determines that the
12		leased land is not continuously and substantially
13		being used for agricultural activity; and
14	(C)	The taxpayer shall be eligible for the exemption
15		initially for up to twenty years and for every
16		year the term of the lease is extended; provided
17		further that the assignment of the original lease
18		to another lessee shall be for the time period
19		remaining on the original lease, unless the terms
20		of the lease are renegotiated."
21	SECTION 3	. There is appropriated out of the general
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revenues of the State of Hawaii the sum of \$ 22 or so

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1 much thereof as may be necessary for fiscal year 2007-2008 and 2 the sum of \$ or so much thereof as may be necessary 3 for fiscal year 2008-2009 for the department of agriculture to 4 collect and analyze data to make an aggregated quantitative and 5 qualitative assessment of the impact of the exclusion of rental 6 income from important agricultural lands from the income tax 7 law.

8 The sums appropriated shall be expended by the department9 of agriculture for the purposes of this Act.

10 SECTION 4. The department of agriculture shall submit to 11 the legislature an annual report, no later than twenty days 12 prior to the convening of each regular session, beginning with 13 the regular session of 2009, regarding the quantitative and 14 qualitative assessment of the impact of the exclusion of rental 15 income from important agricultural lands from the income tax 16 law.

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#### PART II

18 SECTION 5. Chapter 235, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 "<u>§235-</u> Important agricultural lands tax credit. (a)
 22 There shall be allowed to each taxpayer, subject to the taxes
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1	imposed by this chapter, an important agricultural lands real
2	property tax credit that shall be deductible from the taxpayer's
3	net income tax liability, if any, imposed by this chapter for
4	the taxable year in which the credit is properly claimed.
5	(b) The amount of the credit shall be equal to one hundred
6	per cent of the actual amount of county real property taxes paid
7	by the taxpayer during the taxable year in which real property
8	tax was assessed on lands identified and designated as important
9	agricultural lands pursuant to part III, chapter 205.
10	In the case of a partnership, S corporation, estate, or
11	trust, the amount upon which the credit is computed shall be
12	determined at the entity level. Distribution and share of
13	credit shall be determined by rule.
14	(c) The tax credit shall be allowed only for the entity
15	incurring the actual cost of the real property tax. If the real
16	property tax is part of the lease rent and not otherwise
17	specified in the lease agreement, the lessor shall provide the
18	lessee with the amount of the real property tax included as part
19	of the lease rent upon request.
20	(d) The total aggregate credits claimed for each taxable

21 year shall not exceed \$10,000,000.

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1	(e) If the classification of the important agricultural
2	lands subject to the credit is redesignated, the credit shall no
3	longer be available.
4	(f) If the credit under this section exceeds the
5	taxpayer's tax payments due for the taxable year, the excess of
6	the credits over tax payments due shall be refunded to the
7	taxpayer; provided that the credit properly claimed by the
8	taxpayer who has no income tax liability shall be paid to the
9	taxpayer; and provided further that no refunds or payments on
10	account of the credits allowed by this section shall be made for
11	amounts less than \$1.
12	All claims for a credit under this section shall be filed
13	on or before the end of the twelfth month following the close of
14	the taxable year for which the credit may be claimed. Failure
15	to comply with the foregoing provision shall constitute a waiver
16	of the right to claim the credit.
17	(g) The director of taxation shall prepare forms that may
18	be necessary to claim a credit under this section. The director
19	may also require the taxpayer to furnish information to
20	ascertain the validity of the claim for credit made under this
21	section by rule pursuant to chapter 91.

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1	(h) Taxpayers claiming the credit under this section must
2	provide prescribed information to the department of agriculture
3	on an annual basis, upon request, that will enable a
4	quantitative and qualitative assessment of the impact of the tax
5	credit to be determined. The assessment shall be available to
6	the public.
7	The department of agriculture shall determine on an annual
8	basis if the important agricultural land subject to the credit
9	is in productive agricultural use based on a ten year farm plan
10	submitted to and approved by the department."
11	PART III
12	SECTION 6. Chapter 205, part III, Hawaii Revised Statutes,
12 13	SECTION 6. Chapter 205, part III, Hawaii Revised Statutes, is amended by adding a new section to be appropriately
13	is amended by adding a new section to be appropriately
13 14	is amended by adding a new section to be appropriately designated and to read as follows:
13 14 15	is amended by adding a new section to be appropriately designated and to read as follows: <u>\$205-</u> <u>Important agricultural land; residential housing.</u>
13 14 15 16	<pre>is amended by adding a new section to be appropriately designated and to read as follows:     "<u>\$205-</u> <u>Important agricultural land; residential housing.</u> A landowner of lands qualifying under section 205-44 may</pre>
13 14 15 16 17	<pre>is amended by adding a new section to be appropriately designated and to read as follows:     "<u>\$205-</u> <u>Important agricultural land; residential housing.</u> A landowner of lands qualifying under section 205-44 may develop, construct, and maintain residential dwelling units for</pre>
13 14 15 16 17 18	<pre>is amended by adding a new section to be appropriately designated and to read as follows:     "<u>\$205Important agricultural land; residential housing.</u> A landowner of lands qualifying under section 205-44 may develop, construct, and maintain residential dwelling units for farmers, employees, and their families; provided that:</pre>
13 14 15 16 17 18 19	<pre>is amended by adding a new section to be appropriately designated and to read as follows:     "<u>\$205Important agricultural land; residential housing.</u> A landowner of lands qualifying under section 205-44 may develop, construct, and maintain residential dwelling units for farmers, employees, and their families; provided that:     (1) The farmers' dwelling units shall be used exclusively</pre>



Page 8

1		situated; provided that the immediate family members
2		of a farmer may live in separate dwelling units
3		situated on the same designated land as the farmer's
4		family's dwelling unit;
5	(2)	The employee dwelling units shall be used exclusively
6		by employees and their immediate family members who
7		actively and currently work on the designated
8		important agricultural land upon which the dwelling is
9		situated; provided that the immediate family members
10		of the employee shall not live in separate dwelling
11		units and shall live with the employee;
12	(3)	The total land area upon which the combined total of
13		farmer and employee dwelling units and all
14		appurtenances are situated shall not occupy more than
15		twenty per cent of the total important agricultural
16		land area controlled by the farmer or the employee's
17		employer;
18	(4)	The farmers' and employee dwelling units meet all
19		applicable building code requirements;
20	(5)	Notwithstanding section 205-4.5(a)(12), the landowner
21		shall not plan or develop a residential subdivision on
22		the designated important agricultural land; and



Page 10



1	(6) The plans for farmers' and employee dwelling units
2	shall be supported by agricultural plans that are
3	approved by the department of agriculture."
4	SECTION 7. Statutory material to be repealed is bracketed
5	and stricken. New statutory material is underscored.
6	SECTION 8. This Act shall take effect on July 1, 2020;
7	provided that sections 1 and 5 shall apply to taxable years
8	beginning after December 31, 2008; and provided further that
9	section 2 shall take effect on July 1, 2009, and shall apply to
10	gross income or gross proceeds received after June 30, 2009.



Report Title: Important Agricultural Lands; Tax Incentives

#### Description:

2007-2586 HB1639 SD2 SMA.doc

Excludes rental income derived from agricultural leases on important agricultural lands from gross and adjusted gross income, and taxable income, under certain conditions, and exempts rental income derived from agricultural leases on important agricultural lands from the general excise tax law, under certain conditions; establishes a reimbursable real property tax credit for one hundred per cent of the actual amount of real property tax paid by taxpayers real property tax assessed on lands designated as important agricultural lands; provides farmer and employee housing on lands designated as important agricultural lands. (SD2)