
A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 SECTION 1. Chapter 205, Hawaii Revised Statutes, is
2 amended by adding two new sections to part III to be
3 appropriately designated and to read as follows:

4 "**§205-A Designation of important agricultural lands by**
5 **landowner.** (a) Notwithstanding section 205-49(d), and section
6 9, of Act 183, Session Laws of Hawaii 2005, the landowner of any
7 agricultural land may petition the commission for designation of
8 the land as important agricultural land if the land:

- 9 (1) Is within an agricultural district;
10 (2) Is currently in agricultural use;
11 (3) Has at least one hundred contiguous acres;
12 (4) Is irrigated or has a dependable and adequate moisture
13 supply; and
14 (5) Has at least fifty per cent of the land in the
15 contiguous area with soils classified by the land
16 study bureau's detailed land classification as overall
17 (master) productivity rating class A or B.



1 (b) A landowner with agricultural lands not qualifying
2 under subsection (a) for designation as important agricultural
3 lands or who has unique agricultural lands may petition the
4 commission for designation of the land as important agricultural
5 lands if the land:

- 6 (1) Is within an agricultural district; and
- 7 (2) Has been in agricultural use; or
- 8 (3) Has been dedicated for agricultural use for not fewer
9 than ten years pursuant to county ordinance.

10 (c) The landowner desiring to designate land pursuant to
11 subsection (a) or (b), shall petition the commission for
12 designation of the land as important agricultural land. The
13 landowner shall include with the petition all of the tax map key
14 numbers of the land to be designated and proof of qualification
15 for designation pursuant to subsection (a) or (b).

16 Upon receipt of the petition, the commission shall make a
17 finding of fact as to whether the land in the petition area
18 meets the criteria established in subsection (a). If the
19 commission finds that the land meets the criteria in subsection
20 (a), the commission shall approve the petition and designate the
21 landowner's land as important agricultural land.



1 (c) The designation of important agricultural lands
2 pursuant to this section shall not be considered an amendment to
3 district boundaries under sections 205-3.1 and 205-4.

4 **§205-B Permissible uses on lands designated important**
5 **agricultural lands.** (a) All lands designated important
6 agricultural lands shall be restricted to the following
7 permitted uses:

8 (1) Cultivation of crops, including but not limited to
9 flowers, vegetables, foliage, fruits, forage, fiber,
10 and timber;

11 (2) Game and fish propagation;

12 (3) Raising of livestock, including poultry, bees, fish,
13 or other animal or aquatic life that are propagated
14 for economic or personal use;

15 (4) Public institutions and buildings that are necessary
16 for agricultural practices;

17 (5) Public, private, and quasi-public utility lines and
18 roadways, transformer stations, communications
19 equipment buildings, solid waste transfer stations,
20 major water storage tanks, and appurtenant small
21 buildings such as booster pumping stations, but not
22 including offices or yards for equipment, material,



- 1 vehicle storage, repair or maintenance, treatment
- 2 plants, corporation yards, or other similar
- 3 structures;
- 4 (6) Retention, restoration, rehabilitation, or
- 5 improvements of sites of historic or cultural
- 6 importance;
- 7 (7) Roadside stands for the sale of agricultural products
- 8 grown on the lot;
- 9 (8) Buildings and uses, including but not limited to
- 10 mills, storage, and processing facilities, maintenance
- 11 facilities, and vehicle and equipment storage areas
- 12 that are normally considered directly accessory to the
- 13 uses permitted in this section and are permitted under
- 14 section 205-2(d);
- 15 (9) Agricultural parks;
- 16 (10) Agricultural tourism, conducted on a working farm, or
- 17 a farming operation as defined in section 165-2, for
- 18 the enjoyment, education, or involvement of visitors;
- 19 provided that the agricultural tourism activity is
- 20 accessory and secondary to the principal agricultural
- 21 use and does not interfere with surrounding farm
- 22 operations; and provided further that this paragraph



1 shall apply only to a county that has adopted
2 ordinances regulating agricultural tourism under
3 section 205-5; and

4 (11) Bio-fuels processing facilities; provided that the
5 majority of the feedstock is grown within this state,
6 and alternative energy generating facilities,
7 including the appurtenances associated with the
8 production and transmission of bio-fuels and
9 alternative generated energy; provided further that
10 such facilities and appurtenances are compatible with
11 agricultural uses and cause minimal adverse impact on
12 important agricultural land.

13 (b) Uses not expressly permitted in subsection (a) shall
14 be prohibited, except the uses permitted as provided in section
15 205-8, and construction of single-family dwellings on lots
16 existing before June 4, 1976. A single dwelling on not more
17 than one acre shall be permitted for the sole use of the
18 landowner or child of the landowner, or for the use of a lessee
19 on leased land that is used by the lessee as a working farm or a
20 farming operation, as defined in section 165-2. No other uses
21 shall be allowed by special permit on important agricultural
22 lands.



1 (c) Any other law to the contrary notwithstanding, land
2 designated as important agricultural lands shall only be
3 subdivided as provided in section 205-4.5(e). Any deed, lease,
4 agreement of sale, mortgage, or other instrument of conveyance
5 covering any land within the agricultural subdivision of lands
6 designated important agricultural lands shall expressly contain
7 the restriction on uses and the conditions contained in this
8 section and the restrictions and conditions shall be
9 encumbrances running with the land until such time that the land
10 is no longer designated as important agricultural lands."

11 SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) [Within] Except for important agricultural lands
14 designated pursuant to part III, which shall be restricted to
15 the uses expressly permitted in section 205-B, within the
16 agricultural district all lands with soil classified by the land
17 study bureau's detailed land classification as overall (master)
18 productivity rating class A or B shall be restricted to the
19 following permitted uses:

20 (1) Cultivation of crops, including ~~[but not limited to]~~
21 flowers, vegetables, foliage, fruits, forage, and
22 timber;



- 1 (2) Game and fish propagation;
- 2 (3) Raising livestock, including [~~but not limited to~~]
- 3 poultry, bees, fish, or other animal or aquatic life
- 4 that are propagated for economic or personal use;
- 5 (4) Farm dwellings, employee housing, farm buildings, or
- 6 activities or uses related to farming and animal
- 7 husbandry;
- 8 "Farm dwelling" as used in this paragraph, means a
- 9 single family dwelling located on and used in
- 10 connection with a farm, including clusters of single-
- 11 family farm dwellings permitted within agricultural
- 12 parks developed by the State, or where agricultural
- 13 activity provides income to the family occupying the
- 14 dwelling;
- 15 (5) Public institutions and buildings that are necessary
- 16 for agricultural practices;
- 17 (6) Public and private open area types of recreational
- 18 uses including day camps, picnic grounds, parks, and
- 19 riding stables, but not including dragstrips,
- 20 airports, drive-in theaters, golf courses, golf
- 21 driving ranges, country clubs, and overnight camps;



- 1 (7) Public, private, and quasi-public utility lines and
2 roadways, transformer stations, communications
3 equipment buildings, solid waste transfer stations,
4 major water storage water tanks, and appurtenant small
5 buildings such as booster pumping stations, but not
6 including offices or yards for equipment, material,
7 vehicle storage, repair or maintenance, treatment
8 plants, corporate yards, or other like structures;
- 9 (8) Retention, restoration, rehabilitation, or improvement
10 of buildings or sites of historic or scenic interest;
- 11 (9) Roadside stands for the sale of agricultural products
12 grown on the premises;
- 13 (10) Buildings and uses, including but not limited to
14 mills, storage, and processing facilities, maintenance
15 facilities, and vehicle and equipment storage areas
16 that are normally considered directly accessory to the
17 above mentioned uses and are permitted under section
18 205-2(d);
- 19 (11) Agricultural parks; or
- 20 (12) Plantation community subdivisions, which as used in
21 this paragraph means a subdivision or cluster of
22 employee housing, community buildings, and acreage



1 established on land currently or formerly owned,
2 leased, or operated by a sugar or pineapple plantation
3 and in residential use by employees or former
4 employees of the plantation; provided that the
5 employees or former employees shall have a property
6 interest in the land;

7 [+] (13) [+] Agricultural tourism conducted on a working farm, or a
8 farming operation as defined in section 165-2, for the
9 enjoyment, education, or involvement of visitors;
10 provided that the agricultural tourism activity is
11 accessory and secondary to the principal agricultural
12 use and does not interfere with surrounding farm
13 operations; and provided further that this paragraph
14 shall apply only to a county that has adopted
15 ordinances regulating agricultural tourism under
16 section 205-5; or

17 [+] (14) [+] Wind energy facilities, including the appurtenances
18 associated with the production and transmission of
19 wind generated energy; provided that such facilities
20 and appurtenances are compatible with agriculture uses
21 and cause minimal adverse impact on agricultural land.



1 SECTION 3. Section 205-6, Hawaii Revised Statutes is
2 amended to read as follows:

3 **"§205-6 Special permit.** (a) Subject to this section, [~~the~~
4 ~~county planning commission may permit certain unusual and~~
5 ~~reasonable uses within agricultural and rural districts other~~
6 ~~than those for which the district is classified.] land uses
7 substantially involving or supporting agricultural tourism or
8 educational ecotourism, related to the preservation of native
9 Hawaiian endangered, threatened, proposed, and candidate
10 species, which are allowed in an approved habitat conservation
11 plan under section 195D-21 or safe harbor agreement under
12 section 195D-22, which are not identified as permissible uses
13 within the agricultural district under sections 205-2, 205-4.5,
14 and 205-B, may be permitted in the agricultural district by
15 special permit under this section. Any person who desires to
16 use the person's land within an agricultural [~~or rural~~] district
17 [~~other than~~] for [~~an agricultural or rural~~] a nonagricultural
18 use[, as the case may be,] identified in this subsection, may
19 petition the [~~planning~~] commission [~~of the county within which~~
20 ~~the person's land is located~~] for permission to use the person's
21 land in the manner desired. [~~Each county~~] The commission may
22 establish the appropriate fee for processing the special permit~~



1 petition. [~~Copies of the special permit petition shall be~~
2 ~~forwarded to the land use commission, the office of planning,~~
3 ~~and the department of agriculture for their review and comment.]~~

4 (b) The [~~planning~~] commission[~~, upon consultation with the~~
5 ~~central coordinating agency, except in counties where the~~
6 ~~planning commission is advisory only in which case the central~~
7 ~~coordinating agency,]~~ shall establish by rule [~~or regulation~~],
8 the time within which the hearing and action on petition for
9 special permit shall occur. The [~~county planning~~] commission
10 shall notify [~~the land use commission and~~] such persons and
11 agencies that may have an interest in the subject matter of the
12 time and place of the hearing.

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

21 [~~(d) Special permits for land the area of which is greater~~
22 ~~than fifteen acres or for lands designated as important~~



1 ~~agricultural lands shall be subject to approval by the land use~~
 2 ~~commission. The land use commission may impose additional~~
 3 ~~restrictions as may be necessary or appropriate in granting the~~
 4 ~~approval, including the adherence to representations made by the~~
 5 ~~applicant.~~

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

12 ~~Within forty five days after receipt of the complete record~~
 13 ~~from the county planning commission, the land use commission~~
 14 ~~shall act to approve, approve with modification, or deny the~~
 15 ~~petition.]~~

16 ~~(d) A denial [either by the county planning commission or]~~
 17 ~~by the [land use] commission or a modification by the [land use]~~
 18 ~~commission[, as the case may be,] of the desired use shall be~~
 19 ~~appealable to the circuit court of the circuit in which the land~~
 20 ~~is situated and shall be made pursuant to the Hawaii rules of~~
 21 ~~civil procedure.~~



1 ~~[(f) Land uses substantially involving or supporting~~
 2 ~~educational ecotourism, related to the preservation of native~~
 3 ~~Hawaiian endangered, threatened, proposed, and candidate~~
 4 ~~species, that are allowed in an approved habitat conservation~~
 5 ~~plan under section 195D-21 or safe harbor agreement under~~
 6 ~~section 195D-22, which are not identified as permissible uses~~
 7 ~~within the agricultural district under sections 205-2 and 205-~~
 8 ~~4.5, may be permitted in the agricultural district by special~~
 9 ~~permit under this section, on lands with soils classified by the~~
 10 ~~land study bureau's detailed land classification as overall~~
 11 ~~(master) productivity rating class C, D, E, or U.] "~~

12 SECTION 4. Section 205-44, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "~~[+]§205-44[+]~~ **Standards and criteria for the**
 15 **identification of important agricultural lands.** [~~The~~] Except as
 16 provided in section 205-A, the standards and criteria in this
 17 section shall be used to identify important agricultural lands.
 18 Lands identified as important agricultural lands by the
 19 commission need not meet every standard and criteria listed
 20 below. Rather, lands meeting any of the criteria below shall be
 21 given initial consideration; provided that the designation of
 22 important agricultural lands shall be made by weighing the



1 standards and criteria with each other to meet the
2 constitutionally mandated purposes in article XI, section 3, of
3 the state constitution and the objectives and policies for
4 important agricultural lands in sections 205-42 and 205-43. The
5 standards and criteria shall be as follows:

- 6 (1) Land currently used for agricultural production;
- 7 (2) Land with soil qualities and growing conditions that
8 support agricultural production of food, fiber, or
9 fuel- and energy-producing crops;
- 10 (3) Land identified under agricultural productivity rating
11 systems, such as the agricultural lands of importance
12 to the State of Hawaii (ALISH) system adopted by the
13 board of agriculture on January 28, 1977;
- 14 (4) Land types associated with traditional native Hawaiian
15 agricultural uses, such as taro cultivation, or unique
16 agricultural crops and uses, such as coffee,
17 vineyards, aquaculture, and energy production;
- 18 (5) Land with sufficient quantities of water to support
19 viable agricultural production;
- 20 (6) Land whose designation as important agricultural lands
21 is consistent with general, development, and community
22 plans of the county;



1 (7) Land that contributes to maintaining a critical land
2 mass important to agricultural operating productivity;
3 and

4 (8) Land with or near support infrastructure conducive to
5 agricultural productivity, such as transportation to
6 markets, water, or power."

7 SECTION 5. Section 205-49, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[~~f~~]**\$205-49**[~~f~~] **Designation of important agricultural lands**
10 **[~~, adoption of important agricultural lands maps.~~] by the land**
11 **use commission.** (a) The commission shall identify potential
12 important agricultural lands based on the standards and criteria
13 in section 205-44 and the intent of this part, except lands that
14 have been designated, through the state land use, zoning, or
15 county planning process, for urban use by the State or county.

16 (b) Lands to be considered for designation as important
17 agricultural lands shall be identified by the commission in
18 consultation and cooperation with landowners, the department of
19 agriculture, office of planning, and agricultural interest
20 groups, including representatives from the Hawaii Farm Bureau
21 Federation and other agricultural organizations, Natural
22 Resources Conservation Service of the United States Department



1 of Agriculture, the office of planning, and other groups as
2 deemed necessary by the commission.

3 ~~[(a)]~~(c) After receipt of ~~[the maps of eligible important~~
4 ~~agricultural lands from the counties and]~~ the recommendations of
5 the department of agriculture ~~[and]~~, the office of planning,
6 landowners, and agricultural interest groups, the commission
7 shall then proceed to identify and designate important
8 agricultural lands~~[, subject to section 205-45]~~. The decision
9 shall consider ~~[the county maps of eligible important~~
10 ~~agricultural lands; declaratory orders issued by the commission~~
11 ~~designating important agricultural lands during the three year~~
12 ~~period following the enactment of legislation establishing~~
13 ~~incentives and protections contemplated under section 205-46, as~~
14 ~~provided in section 9 of Act 183, Session Laws of Hawaii 2005;]~~
15 landowner position statements and representations~~[,]~~ and any
16 other relevant information.

17 In designating important agricultural lands in the ~~[State,~~
18 ~~[pursuant to the recommendations of individual counties,]~~ state,
19 the commission shall consider the extent to which:

- 20 (1) The proposed lands meet the standards and criteria
21 under section 205-44;



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

14 Any decision regarding the designation of lands as
15 important agricultural lands and the adoption of maps of those
16 lands pursuant to this section shall be based upon written
17 findings of fact and conclusions of law, presented in at least
18 one public hearing conducted in the county where the land is
19 located in accordance with chapter 91, that the subject lands
20 meet the standards and criteria set forth in section 205-44 [~~and~~
21 ~~shall be approved by two thirds of the membership to which the~~
22 ~~commission is entitled~~].



1 ~~[(b)]~~ (d) Copies of the maps of important agricultural
2 lands adopted by the commission under this section shall be
3 transmitted to each county planning department and county
4 council, the department of agriculture, the agribusiness
5 development corporation, the office of planning, and other state
6 agencies involved in land use matters. The maps of important
7 agricultural lands adopted by the commission shall guide all
8 decision-making on the proposed reclassification or rezoning of
9 important agricultural lands, state agricultural development
10 programs, and other state and county land use planning and
11 decision-making.

12 ~~[(e)]~~ (e) The ~~[land use]~~ commission shall have the sole
13 authority to interpret the adopted map boundaries delineating
14 the important agricultural lands.

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

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

20 ~~(2) The county process for identifying and recommending~~
21 ~~lands for important agricultural lands under section~~
22 ~~205-47 no sooner than three years,~~



1 ~~after the enactment of legislation establishing incentives and~~
2 ~~protections contemplated under section 205-46, as provided in~~
3 ~~section 9 of Act 183, Session Laws of Hawaii 2005.]"~~

4 SECTION 6. Section 205-50, Hawaii Revised Statutes, is
5 amended to read as follows:

6 " ~~[†]~~**§205-50**~~[†]~~ **Standards and criteria for the**
7 **reclassification or rezoning of important agricultural lands.**

8 (a) Any land use district boundary amendment or change in
9 zoning involving important agricultural lands identified
10 pursuant to this chapter shall be subject to this section.

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

15 ~~(e)]~~ (b) Any decision by the ~~[land use]~~ commission or
16 county pursuant to this section shall specifically consider the
17 following standards and criteria:

18 (1) The relative importance of the land for agriculture
19 based on the stock of similarly suited lands in the
20 area and the ~~[State]~~ state as a whole;

21 (2) The proposed district boundary amendment or zone
22 change will not harm the productivity or viability of



1 existing agricultural activity in the area, or
2 adversely affect the viability of other agricultural
3 activities or operations that share infrastructure,
4 processing, marketing, or other production-related
5 costs or facilities with the agricultural activities
6 on the land in question;

7 (3) The district boundary amendment or zone change will
8 not cause the fragmentation of or intrusion of
9 nonagricultural uses into largely intact areas of
10 lands identified by the State as important
11 agricultural lands that create residual parcels of a
12 size that would preclude viable agricultural use;

13 (4) The public benefit to be derived from the proposed
14 action is justified by a need for additional lands for
15 nonagricultural purposes; and

16 (5) The impact of the proposed district boundary amendment
17 or zone change on the necessity and capacity of state
18 and county agencies to provide and support additional
19 agricultural infrastructure or services in the area.

20 [~~d~~] (c) Any decision pursuant to this section shall be
21 based upon a determination that:



1 (1) On balance, the public benefit from the proposed
 2 district boundary amendment or zone change outweighs
 3 the benefits of retaining the land for agricultural
 4 purposes; and

5 (2) The proposed action will have no significant impact
 6 upon the viability of agricultural operations on
 7 adjacent agricultural lands.

8 [~~e~~] (d) The standards and criteria of this section shall
 9 be in addition to:

10 (1) The decision-making criteria of section 205-17
 11 governing decisions of the [~~land use~~] commission under
 12 this chapter; and

13 (2) The decision-making criteria adopted by each county to
 14 govern decisions of county decision-making authorities
 15 under this chapter.

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



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

8 SECTION 7. Section 205-52, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~+~~]**§205-52**[~~+~~] **Periodic review and amendment of important**
11 **agricultural lands maps.** The maps delineating important
12 agricultural lands shall be reviewed in conjunction with the
13 county general plan and community and development plan revision
14 process, or at least once every ten years following the adoption
15 of the maps by the [~~land use~~] commission; provided that the maps
16 shall not be reviewed more than once every five years. Any
17 review and amendment of the maps of important agricultural lands
18 shall be conducted in accordance with this part. [~~In these~~
19 ~~periodic reviews or petitions by the farmers or landowners for~~
20 ~~declaratory rulings, the "important agricultural lands"~~
21 ~~designation shall be removed from those important agricultural~~
22 ~~lands where the commission has issued a declaratory order that a~~



1 ~~sufficient supply of water is no longer available to allow~~
 2 ~~profitable farming of these lands due to governmental actions,~~
 3 ~~acts of God, or other causes beyond the farmer's or landowner's~~
 4 ~~reasonable control.]"~~

5 SECTION 8. Section 205-45, Hawaii Revised Statutes, is
 6 repealed:

7 "~~[\$205-45] Petition by farmer or landowner.~~ (a) A farmer
 8 ~~or landowner with lands qualifying under section 205-44 may file~~
 9 ~~a petition for declaratory ruling with the commission at any~~
 10 ~~time in the designation process.~~

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

14 ~~(1) Tax map keys of the land to be designated along with~~
 15 ~~verification and authorization from the applicable~~
 16 ~~landowners;~~

17 ~~(2) Proof of qualification for designation under section~~
 18 ~~205-44, respecting a regional perspective; and~~

19 ~~(3) The current or planned agricultural use of the area to~~
 20 ~~be designated.~~

21 ~~(c) The commission shall review the petition and the~~
 22 ~~accompanying submissions to evaluate the qualifications of the~~



1 ~~land for designation as important agricultural lands in~~
2 ~~accordance with section 205-44. If the commission, after its~~
3 ~~review and evaluation, finds that the lands qualify for~~
4 ~~designation as important agricultural lands under this part, the~~
5 ~~commission shall vote, by a two thirds majority of the members~~
6 ~~of the commission, to issue a declaratory order designating the~~
7 ~~lands as important agricultural lands.~~

8 ~~(d) Designating important agricultural lands by the~~
9 ~~commission shall not be considered as an amendment to district~~
10 ~~boundaries under sections 205-3.1 and 205-4 or become effective~~
11 ~~prior to legislative enactment of protection and incentive~~
12 ~~measures for important agricultural land and agricultural~~
13 ~~viability, as provided in section 9 of Act 183, Session Laws of~~
14 ~~Hawaii 2005.~~

15 ~~(e) Farmers or landowners with lands qualifying under section~~
16 ~~205-44 may file petitions for a declaratory ruling to designate~~
17 ~~lands as important agricultural lands following the legislative~~
18 ~~enactment of protection and incentive measures for important~~
19 ~~agricultural lands and agricultural viability, as provided in~~
20 ~~section 9 of Act 183, Session Laws of Hawaii 2005."]~~

21 SECTION 9. Section 205-47, Hawaii Revised Statutes, is
22 repealed.



1 ~~["**§205-47** Identification of important agricultural lands,~~
2 ~~county process.~~ (a) ~~Each county shall identify and map potential~~
3 ~~important agricultural lands within its jurisdiction based on~~
4 ~~the standards and criteria in section 205-44 and the intent of~~
5 ~~this part, except lands that have been designated, through the~~
6 ~~state land use, zoning, or county planning process, for urban~~
7 ~~use by the State or county.~~

8 ~~(b) Each county shall develop maps of potential lands to be~~
9 ~~considered for designation as important agricultural lands in~~
10 ~~consultation and cooperation with landowners, the department of~~
11 ~~agriculture, agricultural interest groups, including~~
12 ~~representatives from the Hawaii Farm Bureau Federation and other~~
13 ~~agricultural organizations, the United States Department of~~
14 ~~Agriculture — Natural Resources Conservation Service, the office~~
15 ~~of planning, and other groups as necessary.~~

16 ~~(c) Each county, through its planning department, shall~~
17 ~~develop an inclusive process for public involvement in the~~
18 ~~identification of potential lands and the development of maps of~~
19 ~~lands to be recommended as important agricultural lands,~~
20 ~~including a series of public meetings throughout the~~
21 ~~identification and mapping process. The planning departments may~~
22 ~~also establish one or more citizen advisory committees on~~



1 ~~important agricultural lands to provide further public input,~~
 2 ~~utilize an existing process (such as general plan, development~~
 3 ~~plan, community plan), or employ appropriate existing and~~
 4 ~~adopted general plan, development plan, or community plan maps.~~

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

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

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

17 ~~(1) Standards and criteria set forth in section 205-44;~~

18 ~~(2) County's adopted land use plans, as applied to both~~
 19 ~~the identification and exclusion of important~~
 20 ~~agricultural lands from such designation;~~

21 ~~(3) Comments received from government agencies and others~~
 22 ~~identified in subsection (b);~~



1 ~~(4) Viability of existing agribusinesses; and~~
2 ~~(5) Representations or position statements of the owners~~
3 ~~whose lands are subject to the potential designation.~~
4 ~~(c) The important agricultural lands maps shall be submitted~~
5 ~~to the county council for decision making. The county council~~
6 ~~shall adopt the maps, with or without changes, by resolution.~~
7 ~~The adopted maps shall be transmitted to the land use commission~~
8 ~~for further action pursuant to section 205-48."]~~

9 SECTION 10. Section 205-48, Hawaii Revised Statutes, is
10 repealed.

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

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



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

3 ~~(c) State agency review shall be based on an evaluation of~~
4 ~~the degree that the:~~

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

10 ~~(2) County has met the minimum standards and criteria for~~
11 ~~the identification and mapping process in sections~~
12 ~~205-44 and 205-47."]~~

13 SECTION 11. Section 205-51, Hawaii Revised Statutes, is
14 repealed.

15 ~~["~~§205-51~~ Important agricultural lands, county~~
16 ~~ordinances. (a) Each county shall adopt ordinances that reduce~~
17 ~~infrastructure standards for important agricultural lands no~~
18 ~~later than the effective date of the legislative enactment of~~
19 ~~protection and incentive measures for important agricultural~~
20 ~~lands and agricultural viability, as provided in section 9 of~~
21 ~~Act 183, Session Laws of Hawaii 2005.~~



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

5 ~~(1) None of the resulting lots shall be used solely for~~
 6 ~~residential occupancy; and~~

7 ~~(2) The leasehold lots shall return to the original lot of~~
 8 ~~record upon expiration or termination of the lease."]~~

9 SECTION 12. Act 183, Session Laws of Hawaii 2005, is
 10 amended as follows:

11 1. By amending section 9(a) to read:

12 "(a) It is the intent of this Act:

13 (1) That agricultural incentive programs to promote
 14 agricultural viability, sustained growth of the
 15 agricultural industry, and the long-term use and
 16 protection of important agricultural lands for
 17 agricultural use shall be developed concurrently with
 18 the process of identifying important agricultural
 19 lands as required under section 2 of this Act; and

20 (2) That, except for the designation of important
 21 agricultural lands by a landowner pursuant to section
 22 205-A, which shall take effect as provided in section



1 205-A, the designation of important agricultural lands
2 ~~[and adoption of maps]~~ by the ~~[land use]~~ commission
3 pursuant to section 2 of this Act shall take effect
4 only upon the enactment of legislation establishing
5 incentives and protections for important agricultural
6 lands contemplated by section 205-F and shall be
7 satisfied by:

8 (A) Providing a declaration of satisfaction within the
9 Act that establishes incentives for important
10 agricultural lands; or

11 (B) Having the legislature adopt a concurrent
12 resolution declaring the satisfaction of
13 implementing incentives for important
14 agricultural lands by identifying the specific
15 measures or Acts that establish incentives for
16 important agricultural lands."

17 2. By amending section 10 to read:

18 "SECTION 10. Within one year of the ~~[adoption of maps]~~
19 designation of important agricultural lands by the ~~[land use]~~
20 commission for the lands within the jurisdiction of each county,
21 all state agencies shall report to the department of agriculture
22 on the impact of projects and programs on the designated



1 important agricultural lands and sustained agricultural use of
 2 these lands. State agencies shall develop implementation
 3 programs, as needed, to ensure that their programs are
 4 supportive of agriculture and consistent with the intent and
 5 purposes of this Act."

6 3. By repealing sections 7 and 8.

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

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

21 ~~The sum appropriated shall be expended by the department of~~
 22 ~~business, economic development, and tourism for the disbursement~~



1 ~~of funds by the land use commission to each county for the~~
2 ~~identification of important agricultural lands pursuant to this~~
3 ~~Act.~~

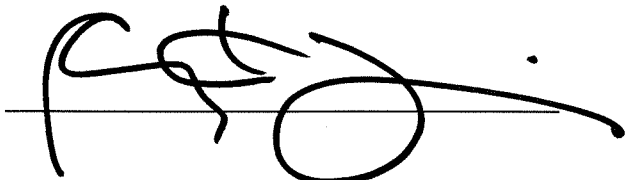
4 ~~The land use commission shall submit annual reports on the~~
5 ~~progress of the counties in identifying and mapping important~~
6 ~~agricultural lands to the legislature no later than twenty days~~
7 ~~before the convening of the regular sessions of 2006 through~~
8 ~~2009."]~~

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

11 SECTION 14. This Act shall take effect upon its approval.

12

INTRODUCED BY: _____

A large, stylized handwritten signature in black ink, written over a horizontal line.

JAN 24 2007



Report Title:

Important Agricultural Lands

Description:

Expedites the designation of important agricultural lands by the land use commission by eliminating the landowner/farmer process and the county process, and allowing the land use commission to initiate the designation process and allowing landowners to petition the land use commission for designation. Allows the landowner petition for important agricultural land designation to take effect without the legislative enactment of incentive/protection legislation. Removes the county from the special permit process.

