

---

---

## A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. In 1978, voters approved article XI, section 3,  
2 of the Constitution of the State of Hawaii, which set out the  
3 framework for state policies to promote agriculture and the  
4 conservation of productive agricultural lands in the State.

5 Article XI, section 3, reads as follows:

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

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



1 To address the issue of important agricultural lands, Act  
2 183, Session Laws of Hawaii 2005, was enacted. Act 183  
3 established standards, criteria, and mechanisms to identify  
4 important agricultural lands and to implement the intent and  
5 purpose of article XI, section 3, of the Hawaii state  
6 constitution.

7 Act 183 also recognized that while the supply of lands  
8 suitable for agriculture is critical, the long-term viability of  
9 agriculture also depends on other factors. These factors  
10 include:

- 11 (1) Commodity prices;
- 12 (2) Availability of water for irrigation;
- 13 (3) Agricultural research and outreach;
- 14 (4) Application of production technologies;
- 15 (5) Marketing; and
- 16 (6) Availability and cost of transportation services.

17 Hawaii's agricultural producers face operating costs that  
18 increasingly threaten the viability of their agricultural  
19 operations and the sustainability of agriculture in Hawaii. The  
20 legislature further finds that opportunities should be made for  
21 farmers and landowners with the ability to promote the long-term  
22 viability of the agricultural use of land.



1           Therefore, the intent of this Act is to provide for the  
2 development of incentives for agricultural viability in Hawaii,  
3 particularly for agricultural businesses that farm important  
4 agricultural lands and for landowners of important agricultural  
5 lands. This incentive mechanism would be designed to promote  
6 the retention of important agricultural lands for viable  
7 agricultural use over the long term.

8           The purpose of this Act is to further implement Act 183 and  
9 provide for an important agricultural land tax credit.

10           SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
11 amended by adding a new section to be appropriately designated  
12 and to read as follows:

13           "§235- Important agricultural land tax credit. (a)  
14 There shall be allowed to each individual or corporate taxpayer  
15 who is not claimed, or is not otherwise eligible to be claimed  
16 as a dependent by another taxpayer for federal or state income  
17 tax purposes, an important agricultural land tax credit that  
18 shall be deductible from the taxpayer's net income tax liability  
19 imposed by this chapter for the taxable year in which the tax  
20 credit is properly claimed.

21           The tax credit shall apply as follows:



1       (1) In the year in which the qualified agricultural costs  
2       are incurred, the tax credit shall be fifty per cent  
3       of the qualified agricultural costs, up to a maximum  
4       of \$ \_\_\_\_\_ ;

5       (2) In the first year following the year in which the  
6       qualified agricultural costs are incurred, the tax  
7       credit shall be twenty per cent of the qualified  
8       agricultural costs, up to a maximum of \$ \_\_\_\_\_ ;

9       (3) In the second, third, and fourth years following the  
10       year in which the qualified agricultural costs are  
11       incurred, the tax credit shall be ten per cent of the  
12       qualified agricultural costs, up to a maximum of  
13       \$ \_\_\_\_\_ .

14       (b) No other credit may be claimed under this chapter for  
15       the qualified agricultural costs for which a credit is claimed  
16       under this section for the taxable year.

17       (c) The amount of the qualified agricultural costs  
18       eligible to be claimed under this section shall be reduced by  
19       the amount of funds received by the taxpayer during the taxable  
20       year from the irrigation repair and maintenance special fund  
21       under section 167-24.



1        (d) The cost upon which the tax credit is computed shall  
2 be determined at the entity level. In the case of a  
3 partnership, S corporation, estate, trust, or other pass through  
4 entity, distribution and share of the credit shall be determined  
5 pursuant to section 235-110.7(a).

6        If a deduction is taken under section 179 (with respect to  
7 election to expense depreciable business assets) of the Internal  
8 Revenue Code, no tax credit shall be allowed for that portion of  
9 the qualified agricultural cost for which the deduction is  
10 taken.

11        The basis of eligible property for depreciation or  
12 accelerated cost recovery system purposes for state income taxes  
13 shall be reduced by the amount of credit allowable and claimed.  
14 No deduction shall be allowed for that portion of otherwise  
15 deductible qualified agricultural costs on which a credit is  
16 claimed under this section.

17        (e) If the tax credit under this section exceeds the  
18 taxpayer's net income tax liability for the taxable year, the  
19 excess of the credit over liability shall be refunded to the  
20 taxpayer; provided that no refunds or payments on account of the  
21 credits allowed by this section shall be made for amounts less  
22 than \$1.



1       All claims for a tax credit under this section, including  
2 amended claims, shall be filed on or before the end of the  
3 twelfth month following the close of the taxable year for which  
4 the credit is claimed. Failure to comply with the foregoing  
5 provision shall constitute a waiver of the right to claim the  
6 credit.

7       (f) Prior to claiming the tax credit under this section,  
8 the taxpayer may request a letter from the department of  
9 agriculture specifying the qualified agricultural costs in the  
10 taxable year the tax credit will be claimed. The taxpayer shall  
11 provide to the department of agriculture the information  
12 required by the department of agriculture prior to the issuance  
13 of the letter.

14       (g) The department of agriculture, in consultation with  
15 the department of taxation, shall determine the types of  
16 information that are necessary on an annual basis to enable a  
17 quantitative and qualitative assessment of the outcomes of the  
18 tax credit to be determined. Every taxpayer, no later than the  
19 last day of the taxable year following the close of the  
20 taxpayer's taxable year in which qualified costs were incurred,  
21 shall submit a written statement containing the information to,  
22 and certified by the department of agriculture.



1        Any taxpayer failing to submit a statement to the  
2        department of agriculture in the manner prescribed by the  
3        department of agriculture prior to the last day of the taxable  
4        year following the close of the taxpayer's taxable year in which  
5        qualified costs were incurred shall be ineligible to receive the  
6        tax credit, and any credit already claimed for that taxable year  
7        shall be recaptured in total. The amount of the recaptured tax  
8        credit shall be added to the taxpayer's tax liability for the  
9        taxable year in which the recapture occurs.

10       Notwithstanding any law to the contrary, a statement  
11       submitted under this subsection shall be a public document.

12       (h) As used in this section:

13       "Agricultural business" means any person with a commercial  
14       agricultural, silvicultural, or aquacultural facility or  
15       operation, including:

16       (1) The care and production of livestock and livestock  
17       products, poultry and poultry products, apiary  
18       products, and plant and animal production for nonfood  
19       uses;

20       (2) The planting, cultivating, harvesting, and processing  
21       of crops; and



1       (3) The farming or ranching of any plant or animal species  
2           in a controlled salt, brackish, or freshwater  
3           environment;

4       provided that the principal place of the business is maintained  
5       in the State and more than fifty per cent of the land the  
6       agricultural business owns or leases, excluding land classified  
7       as conservation land, is important agricultural land.

8       "Important agricultural land" means lands identified and  
9       designated as important agricultural lands pursuant to chapter  
10       205, part III.

11       "Net income tax liability" means income tax liability  
12       reduced by all other credits allowed under this chapter.

13       "Qualified agricultural costs" means expenditures for:

14       (1) The plans, design, engineering, construction,  
15       renovation, repair, maintenance, and equipment for:

16           (A) Roads or utilities, primarily for agricultural  
17           purposes, for which the majority of the lands  
18           serviced by the roads or utilities, excluding  
19           lands classified as conservation lands, are  
20           important agricultural lands;

21           (B) Agricultural processing facilities in the State,  
22           primarily for agricultural purposes, that





1           process, harvest, treat, wash, handle, or package  
2           a majority of crops or livestock from  
3           agricultural businesses;

4           (C) Water wells, reservoirs, dams, water storage  
5           facilities, water pipelines, ditches, or  
6           irrigation systems in the State, primarily for  
7           agricultural purposes, for which the majority of  
8           the lands serviced by its water, excluding lands  
9           classified as conservation lands, are important  
10           agricultural lands; and

11           (D) Agricultural housing in the State, primarily for  
12           agricultural purposes, provided that:

13           (i) The majority of the housing units are  
14           occupied by laborers for agricultural  
15           businesses and their immediate family  
16           members;

17           (ii) The housing units are owned by the  
18           agricultural business;

19           (iii) The housing units are in the general  
20           vicinity, as determined by the department of  
21           agriculture, of important agricultural lands



1                   owned or leased by the agricultural  
2                   business; and  
3                   (iv) The housing units conform to any other  
4                   conditions that may be required by the  
5                   department of agriculture;  
6                   (2) Feasibility studies, regulatory processing, and legal  
7                   and accounting services related to the items under  
8                   paragraph (1); and  
9                   (3) Equipment, primarily for agricultural purposes, used  
10                   to cultivate, grow, harvest, or process agricultural  
11                   products by an agricultural business.  
12                   (i) The director of taxation:  
13                   (1) Shall prepare forms as may be necessary to claim a tax  
14                   credit under this section;  
15                   (2) May require proof of the claim for the tax credit; and  
16                   (3) May adopt rules pursuant to chapter 91 to effectuate  
17                   the purposes of this section.  
18                   (j) The department of agriculture, in consultation with  
19 the department of taxation, shall annually submit a report to  
20 the legislature evaluating the effectiveness of the tax credit.  
21 The report shall include but not be limited to findings and  
22 recommendations to improve the effectiveness of the tax credit



1 to further encourage the development of agricultural  
2 businesses."

3 SECTION 3. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2008-2009 to  
6 the department of taxation for the costs to administer the  
7 important agricultural land tax credit.

8 The sum appropriated shall be expended by the department of  
9 taxation for the purposes of this Act.

10 SECTION 4. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$ or so  
12 much thereof as may be necessary for fiscal year 2008-2009 to  
13 the department of agriculture for the costs to administer the  
14 important agricultural land tax credit and for one full-time  
15 equivalent planner position.

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

18 SECTION 5. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon its approval;  
20 provided that:

21 (1) Section 1 of the Act shall apply to taxable years  
22 beginning after December 31, 2007; and



1           (2) Sections 3 and 4 of the Act shall take effect on July  
2           1, 2008.

3

INTRODUCED BY:           *J. Phil. Keranator*          

JAN 21 2008



**Report Title:**

Agriculture; Important Agricultural Lands; Tax Credit

**Description:**

Establishes tax credit for agricultural businesses on important agricultural lands.

