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## A BILL FOR AN ACT

RELATING TO TAX CREDITS.

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

1           SECTION 1. Chapter 235, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§235-   Agricultural land tax credit.   (a) There shall  
5 be allowed to each individual or corporate taxpayer who is not  
6 claimed, or is not otherwise eligible to be claimed as a  
7 dependent by another taxpayer for federal or state income tax  
8 purposes, an agricultural land tax credit that shall be  
9 deductible from the taxpayer's net income tax liability imposed  
10 by this chapter for the taxable year in which the tax credit is  
11 properly claimed.

12           The tax credit shall apply as follows:

13           (1) In the year the qualified agricultural costs are  
14           incurred, the tax credit shall be twenty per cent of  
15           the qualified agricultural costs, up to a maximum of  
16           \$50,000; and

17           (2) In the first, second, and third years following the  
18           year in which the qualified agricultural costs are



1           incurred, the tax credit shall be ten per cent of the  
2           qualified agricultural costs, up to a maximum of  
3           \$25,000 each year.

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

7           (c) The amount of the qualified agricultural costs  
8           eligible to be claimed under this section shall be reduced by  
9           the amount of funds received by the taxpayer during the taxable  
10           year from the irrigation repair and maintenance special fund  
11           under section 167-24.

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

17           If a deduction is taken under section 179 (with respect to  
18           election to expense depreciable business assets) of the Internal  
19           Revenue Code, no tax credit shall be allowed for that portion of  
20           the qualified agricultural cost for which the deduction is  
21           taken.

1       The basis of eligible property for depreciation or  
2 accelerated cost recovery system purposes for state income taxes  
3 shall be reduced by the amount of credit allowable and claimed.  
4 No deduction shall be allowed for that portion of otherwise  
5 deductible qualified agricultural costs on which a credit is  
6 claimed under this section.

7       (e) If the tax credit under this section exceeds the  
8 taxpayer's net income tax liability for the taxable year, the  
9 excess of the credit over liability shall be refunded to the  
10 taxpayer; and provided that no refunds or payments on account of  
11 the credits allowed by this section shall be made for amounts  
12 less than \$1.

13       All claims for a tax credit under this section, including  
14 amended claims, shall be filed on or before the end of the  
15 twelfth month following the close of the taxable year for which  
16 the credit is claimed. Failure to comply with the foregoing  
17 provision shall constitute a waiver of the right to claim the  
18 credit.

19       (f) Prior to claiming the tax credit under this section,  
20 the taxpayer may request a letter from the department of  
21 agriculture specifying the qualified agricultural costs in the  
22 taxable year the tax credit will be claimed. The taxpayer shall



1 provide to the department of agriculture information required by  
2 the department of agriculture prior to the issuance of the  
3 letter.

4 (g) The department of agriculture, in consultation with  
5 the department of taxation, shall determine the types of  
6 information that are necessary on an annual basis to enable a  
7 quantitative and qualitative assessment of the outcomes of the  
8 tax credit to be determined. Every taxpayer, no later than the  
9 last day of the taxable year following the close of the  
10 taxpayer's taxable year in which qualified costs were incurred,  
11 shall submit a written statement containing the information to,  
12 and certified by the department of agriculture.

13 Any taxpayer failing to submit a statement to the  
14 department of agriculture in the manner prescribed by the  
15 department of agriculture prior to the last day of the taxable  
16 year following the close of the taxpayer's taxable year in which  
17 qualified costs were incurred shall be ineligible to receive the  
18 tax credit, and any credit already claimed for that taxable year  
19 shall be recaptured in total. The amount of the recaptured tax  
20 credit shall be added to the taxpayer's tax liability for the  
21 taxable year in which the recapture occurs.



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

3 (h) As used in this section:

4 "Agricultural business" means any person with a commercial  
5 agricultural, silvicultural, or aquacultural facility or  
6 operation, including:

7 (1) The care and production of livestock and livestock  
8 products, poultry and poultry products, apiary  
9 products, and plant and animal production for nonfood  
10 uses;

11 (2) The planting, cultivating, harvesting, and processing  
12 of crops; and

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

16 provided that the principal place of the business is maintained  
17 in the State and more than fifty per cent of the land the  
18 agricultural business owns or leases, excluding land classified  
19 as conservation land, is agricultural land.

20 "Agricultural land" means land classified as agricultural  
21 districts under chapter 205.



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

3       "Qualified agricultural costs" means expenditures for:

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

6       (A) Roads or utilities, primarily for agricultural  
7 purposes, for which the majority of the lands  
8 serviced by the roads or utilities, excluding  
9 lands classified as conservation lands, are  
10 agricultural lands;

11       (B) Agricultural processing facilities in the State,  
12 primarily for agricultural purposes, that  
13 process, harvest, treat, wash, handle, or package  
14 a majority of crops or livestock from  
15 agricultural businesses;

16       (C) Water wells, reservoirs, dams, water storage  
17 facilities, water pipelines, ditches, or  
18 irrigation systems in the State, primarily for  
19 agricultural purposes, for which the majority of  
20 the lands serviced by its water, excluding lands  
21 classified as conservation lands, are  
22 agricultural lands; and



- 1            (D) Agricultural housing in the State, primarily for
- 2            agricultural purposes, provided that the:
- 3            (i) Majority of the housing units are occupied
- 4            by laborers for agricultural businesses and
- 5            their immediate family members;
- 6            (ii) Housing units are owned by the agricultural
- 7            business;
- 8            (iii) Housing units are in the general vicinity,
- 9            as determined by the department of
- 10           agriculture, of agricultural lands owned or
- 11           leased by the agricultural business; and
- 12           (iv) Housing units conform to any other
- 13           conditions that may be required by the
- 14           department of agriculture;
- 15           (2) Feasibility studies, regulatory processing, and legal
- 16           and accounting services related to the items under
- 17           paragraph (1); and
- 18           (3) Equipment, primarily for agricultural purposes, used
- 19           to cultivate, grow, harvest, or process agricultural
- 20           products by an agricultural business.
- 21           (i) The director of taxation:

1       (1) Shall prepare forms as may be necessary to claim a tax  
2       credit under this section;

3       (2) May require proof of the claim for the tax credit; and

4       (3) May adopt rules pursuant to chapter 91 to effectuate  
5       the purposes of this section.

6       (j) The department of agriculture, in consultation with  
7       the department of taxation, shall annually submit a report to  
8       the legislature evaluating the effectiveness of the tax credit.

9       The report shall include but not be limited to findings and  
10       recommendations to improve the effectiveness of the tax credit  
11       to further encourage the development of agricultural  
12       businesses."

13       SECTION 2. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$                    or so  
15 much thereof as may be necessary for fiscal year 2008-2009 to  
16 the department of taxation for the costs to administer the  
17 agricultural land tax credit.

18       The sums appropriated shall be expended by the department  
19 of taxation for the purposes of this Act.

20       SECTION 3. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$                    or so  
22 much thereof as may be necessary for fiscal year 2008-2009 to





1 the department of agriculture for the costs to administer the  
2 agricultural land tax credit including the hiring of one full-  
3 time equivalent planner position as necessary staff.

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

6 SECTION 4. New statutory material is underscored.

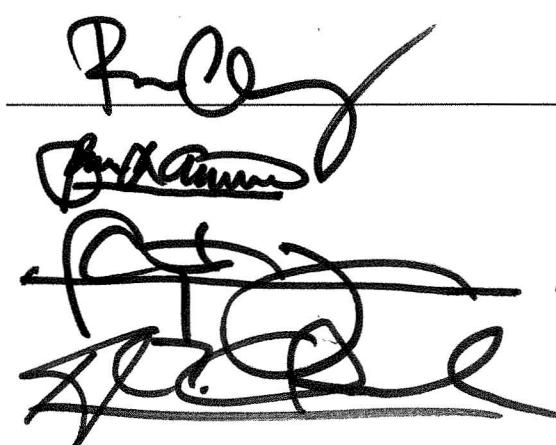
7 SECTION 5. This Act shall take effect upon its approval;  
8 provided that:

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

11 (2) Sections 2 and 3 of the Act shall take effect on July  
12 1, 2008.

13

INTRODUCED BY:



JAN 23 2008



**Report Title:**

Agriculture; Tax Credit

**Description:**

Provides a tax credit for qualified agricultural costs incurred to improve farms on land classified as agricultural districts.

