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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL TAXATION.

**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 sets 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 (Act 183), was enacted. Act  
3 183 establishes standards, criteria, and mechanisms to identify  
4 important agricultural lands and 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 Tax incentives are a critical component of the long-term  
18 viability of agriculture on important agricultural lands in the  
19 state. The legislature finds that it is in the public's  
20 interest to provide incentives such as income tax credits to  
21 assist agricultural businesses when the majority of the lands



1 owned, leased, or used by the business are important  
2 agricultural lands.

3 The purpose of this Act is to further the implementation of  
4 Act 183, Session Laws of Hawaii 2005, by establishing the  
5 important agricultural land agricultural business tax credit to  
6 assist agricultural businesses when the majority of the lands  
7 owned, leased, or used by the businesses are important  
8 agricultural lands.

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

12 "§235- Important agricultural land agricultural  
13 business tax credit. (a) There shall be allowed to each  
14 taxpayer an income tax credit, which shall be deductible from  
15 the taxpayer's net income tax liability, if any, imposed by this  
16 chapter for the taxable year in which the credit is properly  
17 claimed. The tax credit shall be as follows:

18 (1) In the year the qualified agricultural costs are  
19 incurred, twenty-five per cent of the qualified  
20 agricultural costs up to a maximum of \_\_\_\_\_ ;

21 (2) In the first year following the year in which the  
22 qualified agricultural costs are incurred, fifteen per



1           cent of the qualified agricultural costs up to a  
2           maximum of                   ; and

3           (3) In the second year following the year in which the  
4           qualified agricultural costs are incurred, ten per  
5           cent of the qualified agricultural costs up to a  
6           maximum of                   .

7           (b) The amount of the credit shall be                   per cent  
8           of the qualified agricultural costs incurred by an agricultural  
9           business during the taxable year; provided that this amount  
10          shall be reduced pursuant to subsection (c). No other credit  
11          may be claimed under this chapter for the qualified agricultural  
12          costs for which a credit is claimed under this section for the  
13          taxable year.

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

19          (d) The cost upon which the tax credit is computed shall  
20          be determined at the entity level. In the case of a  
21          partnership, S corporation, estate, trust, or other pass through



1 entity, the allowable tax credit may be claimed by the partners,  
2 shareholders, beneficiaries, or members.

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

8 The basis of eligible property for depreciation or  
9 accelerated cost recovery system purposes for state income taxes  
10 shall be reduced by the amount of credit allowable and claimed.

11 No credit shall be allowed for those costs for which a  
12 credit is claimed under this section.

13 (e) If the tax credit under this section exceeds the  
14 taxpayer's income tax liability, the excess of credit over  
15 liability may be used as a credit against the taxpayer's income  
16 tax liability in subsequent years until exhausted.

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



1       (f) The director of taxation shall prepare any forms that  
2 may be necessary to claim a credit under this section. The  
3 director may also require the taxpayer to furnish information to  
4 ascertain the validity of the claim for credit made under this  
5 section and may adopt rules necessary to effectuate the purposes  
6 of this section pursuant to chapter 91.

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

16       Any taxpayer failing to submit information to the  
17 department of agriculture under this subsection shall not be  
18 eligible to receive the tax credit, and any credit already  
19 claimed for that taxable year shall be recaptured in total. The  
20 amount of the recaptured tax credit shall be added to the  
21 taxpayer's tax liability for the taxable year in which the  
22 recapture occurs.



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

3 (h) On an annual basis, the department of agriculture in  
4 consultation with the department of taxation shall submit a  
5 report evaluating the effectiveness of the tax credit. The  
6 report shall include but not be limited to findings and  
7 recommendations to improve the effectiveness of the tax credit  
8 to further encourage the development of agricultural businesses  
9 that own, hold, or use important agricultural lands.

10 (i) The tax credit allowed under this section shall be  
11 available for taxable years beginning after December 31, 2006.

12 (j) As used in this section:

13 "Agricultural business" means any taxpayer with a  
14 commercial agricultural, silvicultural, or aquacultural facility  
15 or 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 it maintains its principal place of business in  
5 the state and more than fifty per cent of the land the  
6 agricultural business owns, leases, or uses, excluding land  
7 classified as conservation land, is important agricultural land.

8       "Important agricultural lands" 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 serving lands in the state  
17           used by the agricultural business for  
18           agricultural purposes;

19           (B) Agricultural processing facilities in the state  
20           that process crops or livestock from an  
21           agricultural business;





1           (C) Water wells, reservoirs, dams, water storage  
2           facilities, water pipelines, ditches, or  
3           irrigation systems in the state which provide  
4           water for lands, the majority of which are  
5           important agricultural lands; and

6           (D) Agricultural housing in the state specifically  
7           for laborers of the agricultural business;  
8           and

9           (2) Equipment used by the agricultural business to  
10           cultivate, grow, harvest, or process agricultural  
11           products."

12           SECTION 3. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$                   , or so  
14 much thereof as may be necessary for fiscal year 2007-2008, and  
15 the same sum, or so much thereof as may be necessary for fiscal  
16 year 2008-2009, to the department of taxation for the costs to  
17 administer the important agricultural land agricultural business  
18 tax credit.

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

21           SECTION 4. There is appropriated out of the general  
22 revenues of the State of Hawaii the sum of \$                   , or so



1 much thereof as may be necessary for fiscal year 2007-2008, and  
2 the same sum, or so much thereof as may be necessary for fiscal  
3 year 2008-2009, to the department of agriculture for the costs  
4 to administer the important agricultural land agricultural  
5 business tax credit.

6 The sums appropriated shall be expended by the department  
7 of agriculture for the purposes of this Act.

8 SECTION 5. New statutory material is underscored.

9 SECTION 6. This Act, upon its approval, shall apply to  
10 taxable years beginning after December 31, ; provided that  
11 sections 3 and 4 shall take effect on July 1, .



S.B. NO. 1221  
S.D. 2  
H.D. 1

**Report Title:**

Agricultural Business Tax Credit; Important Agricultural Lands

**Description:**

Establishes the important agricultural lands agricultural  
business tax credit. (SB1221 HD1)

SB1221 HD1 HMS 2007-3293

