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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL TAX CREDITS.

**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 assist agricultural businesses that hold a majority  
21 of its lands within important agricultural lands by providing  
22 incentives such as income tax credits.



1           The purpose of this Act is to establish an important  
2 agricultural land agricultural business tax credit to assist  
3 agricultural businesses that own, hold, or use their lands as  
4 important agricultural lands.

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

8           "§235-     Important agricultural land agricultural business

9 tax credit. (a) There shall be allowed to each taxpayer  
10 subject to the taxes imposed by this chapter an income tax  
11 credit, which shall be deductible from the taxpayer's net income  
12 tax credit liability, if any, imposed by this chapter for the  
13 taxable year in which the credit is properly claimed. The tax  
14 credit shall be as follows:

15           (1) In the year the qualified agricultural costs are made,  
16 fifty per cent of the qualified agricultural costs up  
17 to a maximum of \_\_\_\_\_ ;

18           (2) In the first year following the year in which the  
19 qualified agricultural costs are made, twenty per cent  
20 of the qualified agricultural costs up to a maximum of  
21 \_\_\_\_\_ ;

1       (3) In the second year following the year in which the  
2       qualified agricultural costs are made, ten per cent of  
3       the qualified agricultural costs up to a maximum of  
4       \_\_\_\_\_;

5       (4) In the third year following the year in which the  
6       qualified agricultural costs are made, ten per cent of  
7       the qualified agricultural costs up to a maximum of  
8       \_\_\_\_\_ ; and

9       (5) In the fourth year following the year in which the  
10       qualified agricultural costs are made, ten per cent of  
11       the qualified agricultural costs up to a maximum of  
12       \_\_\_\_\_.

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

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

21       (d) The cost upon which the tax credit is computed shall  
22       be determined at the entity level. In the case of a



1 partnership, S corporation, estate, trust, or other pass through  
2 entity, the allowable tax credit may be claimed by the partners,  
3 shareholders, beneficiaries, or members.

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

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

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

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

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



1 provision shall constitute a waiver of the right to claim the  
2 credit.

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

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

18 Any taxpayer failing to submit information to the  
19 department of agriculture in the manner prescribed by the  
20 department of agriculture prior to the last day of the taxable  
21 year following the close of the taxpayer's taxable year in which  
22 qualified costs were expended shall not be eligible to receive



1 the tax credit, and any credit already claimed for that taxable  
2 year shall be recaptured in total. The amount of the recaptured  
3 tax credit shall be added to the taxpayer's tax liability for  
4 the taxable year in which the recapture occurs.

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

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

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

16 (j) As used in this section:

17 "Agricultural business" means any taxpayer with a  
18 commercial agricultural, silvicultural, or aquacultural facility  
19 or operation, including:

20 (1) The care and production of livestock and livestock  
21 products, poultry and poultry products, apiary



1 products, and plant and animal production for nonfood  
2 uses;

3 (2) The planting, cultivating, harvesting, and processing  
4 of crops; and

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

8 provided that it maintains its principal place of business in  
9 the State and more than fifty per cent of the land the  
10 agricultural business owns, leases, or uses, excluding land  
11 classified as conservation land, is on important agricultural  
12 land.

13 "Important agricultural lands" means lands identified and  
14 designated as important agricultural lands pursuant to chapter  
15 205, part III.

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

18 "Qualified agricultural costs" means expenditures for:

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





- 1           (A) Roads or utilities serving lands in the State
- 2                   used by an agricultural business for agricultural
- 3                   purposes;
  
- 4           (B) Agricultural processing facilities in the State
- 5                   that process crops or livestock from an
- 6                   agricultural business, including facilities that
- 7                   treat, wash, handle, or package agricultural
- 8                   products;
  
- 9           (C) Water wells, reservoirs, dams, water storage
- 10                   facilities, water pipelines, ditches, or
- 11                   irrigation systems in the State for which the
- 12                   majority of the lands serviced by its water are
- 13                   important agricultural lands; and
  
- 14           (D) Agricultural housing in the State specifically
- 15                   for laborers of an agricultural business;
  
- 16        (2) Feasibility studies, regulatory processing, and legal
- 17        and accounting services related to the items under
- 18        paragraph (1); and
  
- 19        (3) Equipment used to cultivate, grow, harvest, or process
- 20        agricultural products by an agricultural business."

21           SECTION 3. 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 taxation for the costs to  
4 administer the important agricultural land agricultural business  
5 tax credit.

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

8 SECTION 4. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$ or so  
10 much thereof as may be necessary for fiscal year 2007-2008 and  
11 the same sum or so much thereof as may be necessary for fiscal  
12 year 2008-2009 to the department of agriculture for the costs to  
13 administer the important agricultural land agricultural business  
14 tax credit.

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

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act, upon its approval, shall apply to  
19 taxable years beginning after December 31, 2006; provided that  
20 sections 3 and 4 shall take effect on July 1, 2007.



**Report Title:**

Important Agricultural Land Agricultural Business Tax Credit

**Description:**

Establishes the important agricultural land agricultural business tax credit. (SD2)

