

JAN 18 2008

A BILL FOR AN ACT

RELATING TO LOANS TO ASSIST AGRICULTURAL AND AQUACULTURAL
INDUSTRIES.

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

1 SECTION 1. The legislature finds that agriculture and
2 aquaculture are essential industries for the State and that
3 their long term sustainability is vital for the security and
4 well being of the State. The development of renewable and
5 sustainable energy is essential to the sustainability of these
6 industries.

7 Agriculture and aquaculture production areas may have
8 natural resources that are available for the production of on-
9 site energy production for use on the production facility.
10 However, conventional financing at reasonable rates and terms
11 may not be available for these types of projects.

12 The legislature finds that the State should initiate a loan
13 program to assist the agriculture and aquaculture industries in
14 developing sustainable and renewable energy projects for use on
15 their production sites.



1 The purpose of this Act is to establish a loan program to
2 financially assist in the development of sustainable energy for
3 the agriculture and aquaculture industries.

4 SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new chapter to be appropriately designated and to read
6 as follows:

7 "CHAPTER

8 **HAWAII FARM RENEWABLE SUSTAINABLE ENERGY LOAN PROGRAM**

9 § -1 Hawaii farm renewable sustainable energy loan
10 program. The purpose of this chapter is to establish the Hawaii
11 farm renewable sustainable energy loan program to be
12 administered by the board of agriculture.

13 § -2 Definitions. As used in this chapter, the
14 following words and terms have the following meanings unless the
15 context indicates otherwise:

16 "Agriculture" means the propagation, cultivation, or
17 farming of plants and animals in controlled or selected
18 environments for commercial purposes, or authorized stock
19 enhancement purposes.

20 "Aquaculture" means the propagation, cultivation, or
21 farming of aquatic plants and animals in controlled or selected



1 environments for commercial purposes, or authorized stock
2 enhancement purposes.

3 "Board" means the board of agriculture.

4 "Chairperson" means the chairperson of the board of
5 agriculture.

6 "Department" means the department of agriculture.

7 "Qualified aquaculturalist" means a person, or associations
8 of persons, actively engaged in aquaculture farming,
9 aquacultural produce processing or aquacultural product
10 development activities.

11 "Qualified farmer" means a person of proven farming ability
12 who undertakes farming activities on land that the person either
13 owns or leases and who is presently devoting, has recently
14 devoted, or intends to devote a substantial portion of the
15 person's time or who derives a major portion of the person's net
16 cash income from direct participation in farming activities.

17 "Qualified farmer" includes:

18 (1) Hawaii partnerships controlled by at least seventy-
19 five per cent by persons who would qualify
20 individually and would meet the eligibility
21 requirements of chapter 155-10;



- 1 2) Corporations where at least seventy-five per cent of
2 each class of stock issued by the corporation is owned
3 by persons who qualify individually and would meet the
4 eligibility requirements of chapter 155-10 and where
5 seventy-five per cent of the directors are qualified
6 farmers;
- 7 (3) Corporations incorporated in the State primarily for
8 agricultural production purposes, actively engaged in
9 agricultural production for a minimum of two years,
10 and with at least seventy-five per cent of each class
11 of stock owned by persons who are residents of this
12 State or entities that are domiciled in this State;
- 13 (4) Trusts with situs in Hawaii in which the trustee or
14 other individual in control of the operations of the
15 trust would qualify and meet the eligibility
16 requirements of chapter 155; and
- 17 (5) Any other legal entity recognized by the State that
18 conducts business in the State and that is capable of
19 acquiring, holding, encumbering, transferring, or
20 otherwise administering property, whether real or
21 personal, or tangible or intangible, and which entity
22 is owned and controlled by persons or other entities,



1 at least seventy-five per cent of which would qualify
2 and would meet the eligibility requirements of chapter
3 155-10.

4 "Renewable sustainable energy projects" mean on-site energy
5 projects that may include but are not limited to photovoltaic
6 energy, hydroelectric, wind power generation, methane
7 generation, biodiesel production, and ethanol production.

8 § -3 **Restriction.** Loans provided for by this chapter
9 shall be authorized only if the loans cannot be obtained from
10 the applicant's regular bank in which the applicant maintains
11 the applicant's accounts.

12 § -4 **Powers and duties of the department.** The
13 department shall have the necessary powers to carry out the
14 purposes of this chapter including the powers to:

- 15 (1) Prescribe the qualifications for eligibility of
16 applicants for loans issued pursuant to this chapter;
- 17 (2) Establish preferences and priorities in determining
18 eligibility for loans issued pursuant to this chapter
19 and their repayment requirements;
- 20 (3) Establish the conditions for the granting or for the
21 continuance of a grant of a loan issued pursuant to
22 this chapter;



- 1 (4) Provide for inspection at reasonable hours of the
2 plant facilities, books, and records of an applicant
3 for a loan under this chapter or a farmer who has been
4 granted a loan which requires the submission of
5 progress and final reports;
- 6 (5) Make loans for sustainable renewable energy projects,
7 such as plant construction, conversion, expansion, or
8 the acquisition of land for expansion, the acquisition
9 of equipment, machinery, supplies, or materials, or
10 for working capital;
- 11 (6) Secure loans by duly recorded first mortgages or other
12 appropriate instruments upon the following property
13 within the State:
- 14 (A) Fee simple farm land;
- 15 (B) Leaseholds of farm land where the lease has an
16 unexpired term of at least two years longer than
17 the term of the loan;
- 18 (C) Agriculture products, aquaculture products, or
19 power generation revenue sold to the local
20 utility;
- 21 (D) Other chattels;



- 1 (E) A junior mortgage when any prior mortgage does
2 not contain provisions that might jeopardize the
3 security position of the department or the
4 borrower's ability to repay; and
- 5 (F) Written agreements, such as an assignment of
6 income;
- 7 (7) Administer the Hawaii farm renewable sustainable
8 energy loan fund and deposit into the fund all moneys
9 received on account of principal;
- 10 (8) Include in its budget for subsequent fiscal periods
11 amounts necessary to effectuate the purposes of this
12 chapter;
- 13 (9) Make loans consistent with this chapter to qualified
14 farmers or qualified aquaculturists;
- 15 (10) Approve loans, where the requested loan amount, plus
16 any principal balance on existing loans to the
17 applicant, does not exceed \$75,000 of state funds;
18 provided that all loans shall be approved by the
19 chairperson; and
- 20 (11) Adopt rules pursuant to chapter 91 to effectuate this
21 chapter.



1 **§ -5 Loan limitations and terms.** (a) Renewable

2 sustainable energy project loans shall provide for:

3 (1) The purchase, construction, or improvement of
4 essential farm buildings related to sustainable
5 renewable energy projects;

6 (2) The improvement of land as may be required by the
7 projects;

8 (3) The purchase of equipment and payment of project
9 expenses including materials, labor, and services; and

10 (4) The liquidation of indebtedness for any of the
11 foregoing purposes.

12 (b) Loans issued pursuant to this chapter shall be for a
13 term not to exceed forty years, provided that loans shall not
14 exceed \$1,500,000 or eighty-five per cent of the project cost,
15 whichever amount is less. The interest charged on these loans
16 shall be fixed at five per cent per year. No loans shall be
17 made for any type of power plant generation projects.

18 **§ -6 Hawaii farm renewable sustainable energy loan fund,**

19 **established; application of payments.** (a) There is established
20 a special fund to be known as the Hawaii farm renewable
21 sustainable energy loan fund from which moneys shall be loaned
22 by the department under this chapter.



1 (b) All interest and fees collected by the department
 2 shall be deposited in a reserve fund to the extent needed to
 3 carry on the operation of this program; any moneys surplus to
 4 those needs shall be transferred to the Hawaii farm renewable
 5 sustainable energy loan fund at the discretion of the
 6 department. All payments received on account of principal shall
 7 be credited to the Hawaii farm renewable sustainable energy loan
 8 fund."

9 SECTION 3. There is appropriated out of the general
 10 revenues of the State of Hawaii the sum of \$ or so
 11 much thereof as may be necessary for fiscal year 2008-2009 for
 12 establishing the Hawaii farm renewable sustainable energy loan
 13 fund.

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

16 SECTION 4. This Act shall take effect on July 1, 2008.

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Report Title:

Hawaii Farm Renewable Sustainable Energy Loan Program

Description:

Establishes the Hawaii farm renewable sustainable energy loan program to provide financial assistance for the development of sustainable energy by farmers and aquaculturists.

