

JAN 18 2008

A BILL FOR AN ACT

RELATING TO LOANS FOR AGRICULTURAL AND AQUACULTURE PURPOSES.

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

1 SECTION 1. Section 155-14, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There is created a special fund to be known as the
4 agricultural loan revolving fund, from which moneys shall be
5 loaned by the department of agriculture under this chapter[
6 ~~The department, by its board of agriculture, may transfer moneys~~
7 ~~from the agricultural loan revolving fund to the aquaculture~~
8 ~~loan revolving fund, from which moneys shall be disbursed by the~~
9 ~~department pursuant to chapter 219, and may transfer moneys from~~
10 ~~that revolving fund to the agricultural loan revolving fund for~~
11 ~~disbursement pursuant to this chapter; provided that:~~

12 ~~(1) The amount of moneys transferred shall not exceed~~
13 ~~\$1,000,000 for each revolving fund within the calendar~~
14 ~~year; and~~

15 ~~(2) Twenty days prior to the convening of each regular~~
16 ~~session of the legislature, the department shall~~
17 ~~report to the legislature all transfers that were made~~



1 ~~between the agricultural loan revolving fund and the~~
 2 ~~aquaculture loan revolving fund during the preceding~~
 3 ~~calendar year and the balance of each revolving fund~~
 4 ~~as of December 31 of each year.] and chapter 219."~~

5 SECTION 2. Section 219-2, Hawaii Revised Statutes, is
 6 amended as follows:

7 1. By adding two new definitions to be appropriately
 8 inserted and to read:

9 "New aquaculturist program" means a new aquaculture loan
 10 program for qualified new aquaculturists, including persons or
 11 associations of persons who are:

- 12 (1) Displaced from employment in an aquaculture production
 13 enterprise;
- 14 (2) By reason of experience, training, or education,
 15 likely to successfully operate an aquaculture
 16 enterprise; or
- 17 (3) Actively engaged in a new aquaculture operation for
 18 less than two years.

19 "Private lender" includes banks, savings and loan
 20 associations, credit unions, mortgage companies, and other
 21 qualified companies whose business includes the making of loans
 22 in the State."



1 2. By amending the definitions of "aquaculture",
2 "cooperative", and "qualified aquaculturist" to read:

3 "Aquaculture" means the propagation, cultivation, or
4 farming of aquatic plants and animals in controlled or selected
5 environments for commercial purposes, or authorized stock
6 enhancement purposes.

7 "Cooperative" means a nonprofit association of
8 [{}aquaculturists[{} organized under chapter 421.

9 "Qualified aquaculturist" means a person, or association of
10 persons, actively engaged in aquaculture farming, aquacultural
11 produce processing, or aquacultural product development
12 activities[-] for a minimum of two years."

13 SECTION 3. Section 219-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§219-4 Funds; application of payments.** (a) ~~[There is~~
16 ~~established a special fund to be known as the aquaculture loan~~
17 ~~revolving fund from which moneys shall be loaned by the~~
18 ~~department of agriculture under this chapter. The department,~~
19 ~~by its board of agriculture, may transfer moneys from the~~
20 ~~aquaculture loan revolving fund to the agricultural loan~~
21 ~~revolving fund, from which moneys shall be disbursed by the~~
22 ~~department pursuant to chapter 155, and may transfer moneys from~~



1 ~~that revolving fund to the aquaculture loan revolving fund for~~
2 ~~disbursement pursuant to this chapter; provided that:~~

3 ~~(1) The amount of moneys transferred shall not exceed~~
4 ~~\$1,000,000 for each revolving fund within the calendar~~
5 ~~year; and~~

6 ~~(2) Twenty days prior to the convening of each regular~~
7 ~~session of the legislature, the department shall~~
8 ~~report to the legislature all transfers that were made~~
9 ~~between the aquaculture loan revolving fund and the~~
10 ~~agricultural loan revolving fund during the preceding~~
11 ~~calendar year and the balance of each revolving fund~~
12 ~~as of December 31 of each year.] Loans approved by~~

13 the department under this chapter and chapter 155 shall be
14 funded from the agricultural loan revolving fund established
15 under section 155-14.

16 (b) All interests and fees collected by the department
17 shall be deposited in [a] the agricultural loan reserve fund to
18 the extent needed to carry on the operations of [this program;
19 any moneys surplus to these needs shall be transferred to the
20 aquaculture loan revolving fund at the discretion of the
21 department.] the programs. All payments received on account of



1 principal shall be [~~ereditied to~~] paid into the agricultural loan
2 revolving fund."

3 SECTION 4. Section 219-5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The department shall have the necessary powers to
6 carry out the purposes of this chapter, including the following:

- 7 (1) Prescribe the qualifications for eligibility of
8 applicants for loans;
- 9 (2) Establish preferences and priorities in determining
10 eligibility for loans and loan repayment requirements;
- 11 (3) Establish the conditions, consistent with the purpose
12 of this chapter, for the granting or for the
13 continuance of a grant of a loan;
- 14 (4) Provide for inspection at reasonable hours of the
15 plant facilities, books, and records of an enterprise
16 that has applied for or has been granted a loan and
17 require the submission of progress and final reports;
- 18 (5) Make loans for aquacultural products development, such
19 as financing of plant construction, conversion,
20 expansion, the acquisition of land for expansion, the
21 acquisition of equipment, machinery, supplies, or



- 1 materials or for the supplying of working capital,
2 consistent with section 219-6;
- 3 (6) Secure loans by duly recorded first mortgages upon the
4 following property within the State:
- 5 (A) Fee simple farm land;
6 (B) Leaseholds of farm land where the lease has an
7 unexpired term at least two years longer than the
8 term of the loan;
9 (C) Aquaculture products;
10 (D) Other chattels;
11 (E) A second mortgage when any prior mortgage does
12 not contain provisions that might jeopardize the
13 security position of the department or the
14 borrower's ability to repay; and
15 (F) Written agreements, such as assignments of
16 income;
- 17 (7) Administer the Hawaii [~~aquaculture~~] agricultural loan
18 revolving fund and deposit into the fund all moneys
19 received on account of principal;
- 20 (8) Include in its budget for subsequent fiscal periods
21 amounts necessary to effectuate the purposes of this
22 chapter;



- 1 (9) Insure loans made to qualified aquaculturists by
2 private lenders under sections 219-7 and 219-8;
3 provided that at no time shall the aggregate amount of
4 the State's liability, contingent or otherwise, on
5 these loans exceed \$1,000,000;
- 6 (10) Participate in loans made to qualified aquaculturists
7 by private lenders under section 219-8;
- 8 (11) Make direct loans to qualified aquaculturists as
9 provided under section 219-9;
- 10 (12) Establish interest rates chargeable by the State for
11 direct loans and by private lenders for insured and
12 participation loans; and
- 13 (13) Maintain a proper reserve in the [aquaculture]
14 agricultural loan revolving fund to guarantee payment
15 of loans insured under sections 219-7 and 219-8."

16 SECTION 5. Section 219-6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§219-6 Loan; limitation and terms. Loans made under this
19 chapter shall be for the purposes and in accordance with the
20 terms specified in classes "A", "B", "C", [and] "D", and "E" in
21 [~~paragraph~~] paragraphs (1), (2), (3), [and] (4), and (5)



1 following and shall be made only to applicants who meet the
2 eligibility requirements specified therein:

3 (1) Class A: Aquaculture farm ownership and improvement
4 loans. To provide for:

5 (A) The purchase or improvement of aquaculture farm
6 land and waters;

7 (B) The purchase, construction, or improvement of
8 adequate aquaculture farm dwellings, and other
9 essential aquaculture farm facilities; and

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

12 Such loans shall be for an amount not to exceed
13 [~~\$400,000~~] \$800,000 and for a term not to exceed forty
14 years. To be eligible the applicant shall:

15 (i) Derive, or present an acceptable plan to
16 derive, a major portion of the applicant's
17 income from and devote, or intend to devote,
18 most of the applicant's time to aquaculture
19 farming operations; and

20 (ii) Have or be able to obtain the operating
21 capital, including fishstock and equipment,



1 needed to successfully operate the
2 applicant's aquaculture farm;

3 (2) Class B: Aquaculture operating loans. To carry on
4 and improve an aquaculture operation, including:

5 (A) The purchase of aquaculture equipment and
6 fishstock;

7 (B) The payment of production and marketing expenses
8 including materials, labor, and services;

9 (C) The payment of living expenses; and

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

12 Such loans shall be for an amount not to exceed
13 ~~[\$400,000]~~ \$800,000 and for a term not to exceed ten
14 years. To be eligible, an applicant shall derive or
15 present an acceptable plan to derive a major portion
16 of the applicant's income from and devote, or intend
17 to devote, most of the applicant's time to aquaculture
18 operations;

19 (3) Class C: Aquaculture cooperative and corporation
20 loans. To provide credit to aquaculturists'
21 cooperative associations and corporations engaged in



1 marketing, purchasing, and processing, and providing
2 farm business services, including:

3 (A) Facility loans to purchase or improve land,
4 building, and equipment for an amount not to
5 exceed \$500,000 and a term not to exceed twenty
6 years; and

7 (B) Operating loans to finance inventories of
8 supplies, warehousing, and shipping commodities,
9 extension of consumer credit to justified farmer-
10 members, and other normal operating expenses for
11 an amount not to exceed \$300,000 and a term not
12 to exceed seven years.

13 To be eligible, a cooperative or corporation shall
14 have at least seventy-five per cent of its board of
15 directors and seventy-five per cent of its membership
16 as shareholders who meet the eligibility requirements
17 prescribed by the board and who devote most of their
18 time to aquaculture operations; [and]

19 (4) Class D: Emergency loans. To provide relief and
20 rehabilitation to qualified aquaculturists without
21 limit as to purpose:

1 (A) In areas stricken by extraordinary rainstorms,
2 windstorms, droughts, tidal waves, earthquakes,
3 volcanic eruptions, and other natural
4 catastrophes;

5 (B) On farms stricken by aquatic diseases;

6 (C) On farms seriously affected by prolonged shipping
7 and dock strikes;

8 (D) During economic emergencies such as those caused
9 by overproduction and excessive imports; and

10 (E) During other emergencies as determined by the
11 board.

12 The maximum amounts and period for the loans shall be
13 determined by the board; provided that the board shall
14 require that any settlement or moneys received by
15 qualified aquaculturists as a result of an emergency
16 declared under this section shall be first applied to
17 the repayment of an emergency loan made under this
18 chapter[-]; and

19 (5) Class E: Loans for new aquaculturists shall provide
20 for costs of a new aquaculture enterprise for
21 qualified new aquaculturists:



1 (A) Initial loans made under this class shall be for
2 purposes and in accordance with the terms
3 specified in class "A" or "B" only. The loans
4 shall be made for an amount not to exceed
5 \$100,000 or eighty-five per cent of the cost of
6 the project, whichever is less;

7 (B) Any subsequent loan shall be made from class "A",
8 "B", or "D", respectively, depending on the
9 purpose for which the loan funds are used; and

10 (C) Borrowers shall comply with special term loan
11 agreements as may be required by the department
12 and shall take special training courses as the
13 department deems necessary."

14 SECTION 6. Section 219-9, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The department of agriculture may make loans directly
17 to qualified aquaculturists who are unable to obtain sufficient
18 funds at reasonable rates from private lenders either
19 independently or under section 219-7 or 219-8. Loans made under
20 this section shall be authorized only if loans cannot be
21 obtained from [~~the relevant farm credit lender and~~] two [~~other~~]



1 private lenders[-], which may be deemed for the purposes of this
2 subsection to include any of the following:

- 3 (1) Private lenders;
- 4 (2) Members of the farm credit system; or
- 5 (3) The United States Department of Agriculture; provided
6 that the board of agriculture may waive this
7 requirement for emergency loans."

8 SECTION 7. On July 1, 2008, the director of finance shall
9 transfer all unexpended and unencumbered balances remaining in
10 the aquaculture loan revolving fund established in section
11 219-4, Hawaii Revised Statutes, as of June 30, 2008 to the
12 credit of the agricultural loan revolving fund established by
13 section 155-14, Hawaii Revised Statutes.

14 SECTION 8. On July 1, 2008, the director of finance shall
15 transfer all unexpended and unencumbered balances remaining in
16 the aquaculture loan reserve fund in section 219-4, Hawaii
17 Revised Statutes, as of June 30, 2008, to the credit of the
18 agricultural loan revolving fund established by section 155-14,
19 Hawaii Revised Statutes.

20 SECTION 9. The director of finance shall increase the
21 budget expenditure ceiling of the agricultural loan revolving
22 fund by the amount of the budget expenditure ceiling of the



1 aquaculture loan revolving fund; however, in no event shall the
2 increase be more than the current combined budget expenditure
3 ceiling for both funds.

4 SECTION 10. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 11. This Act shall take effect on July 1, 2008.

7

INTRODUCED BY: 

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Report Title:

Agriculture and Aquaculture Loan Limits

Description:

Increases aquaculture loan limits for Class A and B loans to \$800,000. Makes credit denial requirements identical to the agricultural loan program by eliminating the one loan denial. Creates a "new aquaculturist program". Transfers and incorporates aquaculture funds into the agricultural loan revolving fund and increases the expenditure ceiling of the agricultural loan revolving fund up to the combined ceiling total for the agricultural and aquaculture loan revolving funds.

