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# A BILL FOR AN ACT

RELATING TO CONSERVATION.

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

1           SECTION 1. The legislature finds that there is a  
2 heightened need to protect agricultural lands from the  
3 residential, commercial, and industrial expansion that has  
4 become a theme across the State. This Act dedicates a portion  
5 of the conveyance tax collected through the legacy land  
6 conservation program to purchasing easements across, or fee  
7 title to, lands that support or enhance the conservation of  
8 important agricultural lands.

9           Also, in order to preserve agricultural lands for their  
10 agricultural, recreational, educational, habitat, open space,  
11 and historic value, this Act provides tax incentives for  
12 donations of easements to access important agricultural lands.

13           SECTION 2. Chapter 173A, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16           "§173A-           Contiguous agricultural lands; easements;  
17 important agricultural lands; tax deduction; ad-valorem tax.

18           (a) The donor of an easement under section 173A-4(d) shall be



1 entitled to one hundred thirty per cent of the value of the  
2 easement in income tax deductions. The donor may take the  
3 deduction over the donor's lifetime; provided that:

4 (1) The deduction may not exceed forty per cent of the  
5 donor's adjusted gross income in any year in which  
6 this deduction is taken except as specified in  
7 paragraph (2);

8 (2) The donor may take a one-time deduction equal to  
9 seventy per cent of the donor's adjusted gross income;  
10 and

11 (3) Except as provided in this section, the balance of any  
12 unused deduction may be taken in subsequent tax years  
13 until exhausted.

14 (b) For the purposes of any state or county tax related to  
15 the ad-valorem tax value of a donated easement under this  
16 section, the value of the easement shall be reduced to five per  
17 cent of the negotiated value of the easement under subsection  
18 (c) or any subsequent tax appraisal. The reduction in the ad-  
19 valorem tax value of the donated easement shall be perpetual and  
20 run with the land. Any county tax appraisal of the donated  
21 easement may be conducted not more than once every twenty years.



1        (c) For the purposes of this section, the value of the  
2 donated easement shall be determined through negotiations based  
3 on appraisals in subsection (d) between the donor and the  
4 commission.

5        (d) Notwithstanding any other law or provision in this  
6 chapter to the contrary, the commission shall pay for three  
7 appraisals of any prospective donated easement that shall be  
8 conducted pursuant to the uniform standards of professional  
9 appraisal practice. The average of the three appraisals shall  
10 be considered the value of the donated easement."

11        SECTION 3. Section 173A-4, Hawaii Revised Statutes, is  
12 amended to read as follows:

13        "**§173A-4 Authority to acquire and convey.** (a) In  
14 consultation with the senate president and speaker of the house  
15 of representatives, the board may acquire, by purchase, gift, or  
16 the exercise of the power of eminent domain as authorized by  
17 chapter 101, any land having value as a resource to the State.  
18 Such acquisition is hereby declared to be for a public use.

19        (b) The board may, subject to chapter 171, in consultation  
20 with the senate president and speaker of the house of  
21 representatives, and with the approval of the governor, sell,  
22 lease, or otherwise convey any such land subject to terms and



1 conditions that it deems appropriate and that will ensure that  
2 the transferee shall not use the land in a manner that is  
3 inconsistent with the purposes for which it was acquired by the  
4 board. The terms and conditions shall run with the land and  
5 shall be binding on the transferee's heirs, successors, and  
6 assigns. The board may seek enforcement of the terms and  
7 conditions in any court of appropriate jurisdiction.

8 (c) The board may, in consultation with the senate  
9 president and the speaker of the house of representatives,  
10 require as a condition of the receipt of funds that state,  
11 county, and nonprofit land conservation organizations receiving  
12 funds under this chapter provide a conservation easement under  
13 chapter 198, or an agricultural easement or deed restriction or  
14 covenant to an appropriate land conservation organization or  
15 county, state, or federal natural resource conservation agency,  
16 that shall run with the land and be recorded with the land to  
17 ensure the long-term protection of land having value as a  
18 resource to the State and preserve the interests of the State.

19 (d) In consultation with the president of the senate and  
20 the speaker of the house of representatives, the board may  
21 acquire by purchase or gift, agricultural easements across lands  
22 contiguous to important agricultural lands identified pursuant



1 to chapter 205, that are necessary for the preservation of  
2 important agricultural lands; provided that the purchase of the  
3 lands or easements is paid from the funds collected under  
4 section 247-7(b).

5 The commission shall require donors of gifts of easements  
6 to agree to development restrictions prescribed by the  
7 commission before accepting the donation."

8 SECTION 4. Section 173A-5, Hawaii Revised Statutes, is  
9 amended as follows:

10 1. By amending subsection (d) to read:

11 "(d) For funds deposited under section 247-7, [The] the  
12 appropriate percentage identified under section [247-7] 247-  
13 7(a)(1) of all taxes imposed and collected under chapter 247,  
14 and the appropriate amount collected under section 247-7(b),  
15 shall be deposited in or credited to the fund every fiscal  
16 year."

17 2. By amending subsection (h) to read:

18 "(h) The fund shall be used for:

19 (1) The acquisition of interests or rights in land having  
20 value as a resource to the State, whether in fee title  
21 or through the establishment of permanent conservation  
22 easements under chapter 198 or agricultural easements;



- 1           (2) The payment of any debt service on state financial  
2           instruments relating to the acquisition of interests  
3           or rights in land having value as a resource to the  
4           State;
- 5           (3) Annual administration costs for the fund, not to  
6           exceed five per cent of annual fund revenues of the  
7           previous year[+]; [and+]
- 8           (4) Costs related to the operation, maintenance, and  
9           management of lands acquired by way of this fund that  
10          are necessary to protect, maintain, or restore  
11          resources at risk on these lands, or that provide for  
12          greater public access and enjoyment of these lands;  
13          provided that the costs related to the operation,  
14          maintenance, and management of lands acquired by way  
15          of this fund do not exceed five per cent of annual  
16          fund revenues of the previous year[-]; and
- 17          (5) The commission may expend moneys in the fund collected  
18          pursuant to 247-7(b) to purchase lands or easements  
19          under section 173A-4(d)."

20           SECTION 5. Section 247-7, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§247-7   Disposition of taxes.   (a)   All taxes collected  
2 under this chapter shall be paid into the state treasury to the  
3 credit of the general fund of the State, to be used and expended  
4 for the purposes for which the general fund was created and  
5 exists by law; provided that, except for subsection (b), of the  
6 taxes collected each fiscal year:

- 7           (1)   Ten per cent shall be paid into the land conservation  
8                fund established pursuant to section 173A-5;
- 9           (2)   Twenty-five per cent from July 1, 2009, until June 30,  
10               2012, and thirty per cent in each fiscal year  
11                thereafter shall be paid into the rental housing trust  
12                fund established by section 201H-202; and
- 13           (3)   Twenty per cent from July 1, 2009, until June 30,  
14                2012, and twenty-five per cent in each fiscal year  
15                thereafter shall be paid into the natural area reserve  
16                fund established by section 195-9; provided that the  
17                funds paid into the natural area reserve fund shall be  
18                annually disbursed by the department of land and  
19                natural resources in the following priority:
- 20                (A)   To natural area partnership and forest  
21                    stewardship programs after joint consultation



1 with the forest stewardship committee and the  
2 natural area reserves system commission;  
3 (B) Projects undertaken in accordance with watershed  
4 management plans pursuant to section 171-58 or  
5 watershed management plans negotiated with  
6 private landowners, and management of the natural  
7 area reserves system pursuant to section 195-3;  
8 and  
9 (C) The youth conservation corps established under  
10 chapter 193.

11 (b) Conveyance taxes collected from transactions under the  
12 legacy land conservation program in chapter 173A shall be held  
13 in a separate account and deposited into the land conservation  
14 fund under 173A-5; provided that the funds shall be identified  
15 and deposited separately from the funds deposited pursuant to  
16 subsection (a)(1)."

17 SECTION 6. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.





1 SECTION 7. This Act shall take effect upon its approval  
2 and shall apply to taxable years beginning after December 31,  
3 2009.

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INTRODUCED BY:

*J. Phil. Kucenator*

JAN 26 2010



**Report Title:**

Conservation; Important Agricultural Lands; Legacy Land  
Conservation Commission

**Description:**

Allows the legacy land conservation commission to acquire agricultural easements across lands contiguous to important agricultural lands to protect and conserve important agricultural lands. The Act also provides tax incentives for easement donors.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

