
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. Chapter 205, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§205- Dams and reservoirs. All dams and related
5 reservoir areas designated as important agricultural lands shall
6 be eligible for inclusion in the total acreage calculation for
7 important agricultural lands and shall qualify for incentives
8 pursuant to section 205-46; provided that dams and reservoirs
9 classified as important agricultural lands shall not be included
10 in the total acreage calculation for a petition for declaratory
11 order to designate important agricultural lands in combination
12 with the reclassification of agricultural lands to the rural,
13 urban or conservation district."

14 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
15 amended by adding two new sections to be appropriately
16 designated and to read as follows:

17 "§235-A Dam or reservoir remediation tax credit. (a)
18 There shall be allowed to each taxpayer subject to the tax



1 imposed by this chapter, a credit for remediation of dams or
2 reservoirs as directed by the department of land and natural
3 resources, which shall be deductible from the taxpayer's net
4 income tax liability, if any, imposed by this chapter for the
5 taxable year in which the credit is properly claimed.

6 (b) The amount of the credit determined under this section
7 for the taxable year shall be equal to seventy-five per cent of
8 the cost of all remediation measures taken as directed by the
9 department of land and natural resources.

10 (c) For purposes of this section:

11 "Dam" has the same meaning as in section 179D-3.

12 "Remediation" means any work performed or measures as
13 directed by the department of land and natural resources;
14 provided that remediation shall not include any measures taken
15 pursuant to an order issued pursuant to section 179D-24(f).

16 "Reservoir" has the same meaning as in section 179D-3.

17 (d) The following costs and expenses are ineligible to be
18 claimed for this credit:

19 (1) Costs recoverable by the department of land and
20 natural resources pursuant to subsection 179D-24(c)
21 for emergency measures taken by the department to
22 protect life or property;



1 (2) Attorney's fees recoverable by the department of land
2 and natural resources pursuant to subsection
3 179D-24(d); and

4 (3) Costs incurred in complying with an order of the
5 department of land and natural resources issued
6 pursuant to subsection 179D-24(f), regardless of
7 whether the taxpayer is ultimately successful in any
8 challenge to that order.

9 (e) A successor landowner of a remediated dam or reservoir
10 subject to this section shall not be eligible to claim the tax
11 credit allowed by this section.

12 (f) The credit allowed under this section shall be claimed
13 against net income tax liability for the taxable year. A tax
14 credit under this section that exceeds the taxpayer's income tax
15 liability may be used as a credit against the taxpayer's income
16 tax liability in subsequent years until exhausted.

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



1 (h) No deduction shall be allowed for that portion of the
2 cost of remediation paid or incurred for the taxable year that
3 is equal to the amount of the credit determined under this
4 section.

5 (i) The director of taxation may adopt any rules under
6 chapter 91 and forms necessary to carry out this section.

7 §235-B Aquacultural facilities tax credit. (a) There
8 shall be allowed to each taxpayer subject to the tax imposed by
9 this chapter, a credit for the cost of capital investments in
10 aquacultural facilities, which shall be deductible from the
11 taxpayer's net income tax liability, if any, imposed by this
12 chapter for the taxable year in which the credit is properly
13 claimed.

14 (b) The amount of the credit determined under this section
15 for the taxable year shall be equal to twenty-five per cent of
16 the amount of capital investments in aquacultural facilities.

17 (c) For purposes of this section:

18 "Aquacultural facilities" means infrastructure used in the
19 propagation, cultivation, or farming of aquatic plants and
20 animals in controlled or selected environments for commercial
21 purposes or authorized stock enhancement purposes including
22 hatcheries; on-shore and off-shore farms including ponds and off



1 shore cages or nets; harvesting facilities; and processing
2 facilities.

3 (d) A successor owner of aquacultural facilities subject
4 to this section shall not be eligible to claim the tax credit
5 allowed by this section.

6 (e) The credit allowed under this section shall be claimed
7 against net income tax liability for the taxable year. A tax
8 credit under this section that exceeds the taxpayer's income tax
9 liability may be used as a credit against the taxpayer's income
10 tax liability in subsequent years until exhausted.

11 (f) All claims for tax credits under this section,
12 including any amended claims, shall be filed on or before the
13 end of the twelfth month following the close of the taxable year
14 for which the credits may be claimed. Failure to comply with
15 the foregoing provision shall constitute a waiver of the right
16 to claim the credit.

17 (g) No deduction shall be allowed for that portion of the
18 capital investment paid or incurred for the taxable year that is
19 equal to the amount of the credit determined under this section.

20 (h) The director of taxation may adopt any rules under
21 chapter 91 and forms necessary to carry out this section.



1 SECTION 3. Chapter 200, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§200- Priority for aquacultural activities. (a) At
5 all harbors and waterfront improvements belonging to or
6 controlled by the State, aquacultural enterprises shall have
7 priority of access over leisure crafts and houseboats; provided
8 that this section shall not apply to commercial harbors of the
9 State.

10 (b) For purposes of this section, "aquacultural
11 enterprises" means persons or entities actively engaged in the
12 propagation, cultivation, or farming of aquatic plants and
13 animals in controlled or selected environments for commercial
14 purposes, including stock enhancement."

15 SECTION 4. Section 201-1, Hawaii Revised Statutes, is
16 amended by amending the definition of "agriculture" to read as
17 follows:

18 "Agriculture" and "agricultural" mean the planting,
19 cultivating, and harvesting of crops~~[7]~~ or aquatic life,
20 including ~~[these se]~~ crops and aquatic life that are planted,
21 cultivated, and harvested for food, ornamental, grazing, or
22 forest purposes~~[-. Once the]~~; provided that once crops or



1 aquatic life are harvested and transported to a point of
2 distribution, they cease to be agricultural [~~in the terms~~] for
3 purposes of this part."

4 SECTION 5. Section 237-24.75, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§237-24.75 **Additional exemptions.** In addition to the
7 amounts exempt under section 237-24, this chapter shall not
8 apply to:

- 9 (1) Amounts received as a beverage container deposit
10 collected under chapter 342G, part VIII;
- 11 (2) Amounts received by the operator of the Hawaii
12 convention center for reimbursement of costs or
13 advances made pursuant to a contract with the Hawaii
14 tourism authority under section 201B-7[+]; [~~and~~
- 15 +] (3) Amounts received[+] by a professional employment
16 organization from a client company equal to amounts
17 that are disbursed by the professional employment
18 organization for employee wages, salaries, payroll
19 taxes, insurance premiums, and benefits, including
20 retirement, vacation, sick leave, health benefits, and
21 similar employment benefits with respect to assigned
22 employees at a client company; provided that this



1 exemption shall not apply to a professional employment
2 organization upon failure of the professional
3 employment organization to collect, account for, and
4 pay over any income tax withholding for assigned
5 employees or any federal or state taxes for which the
6 professional employment organization is responsible.

7 As used in this paragraph, "professional employment
8 organization", "client company", and "assigned
9 employee" shall have the meanings provided in section
10 373K-1 [-]; and

11 (4) Amounts received for the wholesale or retail business
12 conducted by a qualified agricultural food processing
13 facility, during the first five years of its
14 operation."

15 SECTION 6. In codifying the new sections added by section
16 2 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect on July 1, 2011.

22



Report Title:

Agriculture; Aquaculture; Tax Credits

Description:

Provides that dams and related reservoir areas designated as important agricultural lands shall be included in the total area calculation for important agricultural lands. Provides tax credits and exemptions for dam and reservoir remediation and aquacultural facilities. Grants priority to aquacultural activities at non-commercial state-owned harbors. (SD1)

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