

JAN 24 2013

S.B. NO. 915

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Livestock feed tax credit. (a) There shall be
5 allowed to each qualified producer subject to the tax imposed by
6 this chapter a livestock feed tax credit that shall be applied
7 to the taxpayer's net income tax liability, if any, imposed by
8 this chapter for the taxable year for which the credit is
9 properly claimed.

10 For each taxable year, a qualified producer may claim a tax
11 credit in the amount of the lesser of:

12 (1) Fifteen per cent of livestock feed costs incurred by
13 the qualified producer; or
14 (2) \$200,000.

15 (b) No other credit may be claimed under this chapter for
16 livestock feed costs for which a credit is claimed under this
17 section for the taxable year.



1 (c) The cost upon which the tax credit is computed shall
2 be determined at the entity level. In the case of a
3 partnership, S corporation, estate, trust, or other pass through
4 entity, distribution and share of the credit shall be determined
5 by rule.

6 If a deduction is taken under section 179 (with respect to
7 election to expense certain depreciable business assets) of the
8 Internal Revenue Code, no tax credit shall be allowed for that
9 portion of the livestock feed costs for which a deduction was
10 taken.

11 The basis of eligible property for depreciation or
12 accelerated cost recovery system purposes for state income taxes
13 shall be reduced by the amount of credit allowable and claimed.
14 No deduction shall be allowed for that portion of otherwise
15 deductible livestock feed costs on which a credit is claimed
16 under this section.

17 (d) If the credit under this section exceeds the
18 taxpayer's net income tax liability for the taxable year, the
19 excess of the credit over liability shall be refunded to the
20 taxpayer; provided that no refunds or payments on account of the
21 credits allowed by this section shall be made for amounts less
22 than \$1.



1 All claims for a tax credit under this section, including
2 amended claims, shall be filed on or before the end of the
3 twelfth month following the close of the taxable year for which
4 the credit is claimed. Failure to comply with the foregoing
5 provision shall constitute a waiver of the right to claim the
6 credit.

7 (e) The director of taxation:

8 (1) Shall prepare any forms that may be necessary to claim
9 a credit under this section;

10 (2) May require the taxpayer to furnish information to
11 ascertain the validity of the claim for credit made
12 under this section; and

13 (3) May adopt rules pursuant to chapter 91 to effectuate
14 this section.

15 (f) The department of agriculture shall:

16 (1) Maintain records of the total amount of livestock feed
17 costs for each taxpayer claiming a credit;

18 (2) Verify the amount of the livestock feed costs claimed
19 by each taxpayer claiming the tax credit for each
20 taxable year;



1 (3) Calculate the total livestock feed costs claimed by
2 all taxpayers claiming the tax credit in each taxable
3 year; and

4 (4) Certify the total amount of the tax credit claimed for
5 each taxpayer and for all taxpayers claiming the
6 credit in each taxable year.

7 Upon each determination, the department of agriculture
8 shall issue a certificate to the taxpayer verifying the
9 taxpayer's qualified producer status, the amount of livestock
10 feed costs claimed by the taxpayer, and the credit amount
11 certified for the taxpayer for each taxable year.

12 Notwithstanding any other law to the contrary, the
13 information required by this subsection shall be available for
14 public inspection and dissemination under chapter 92F.

15 (g) The taxpayer shall file the certificate with the
16 taxpayer's tax return with the department of taxation.

17 Notwithstanding the department of agriculture's certification
18 authority under this section, the director of taxation may audit
19 and adjust the certification to conform to the facts.

20 (h) The department of agriculture shall certify no more
21 than \$1,500,000 in credits in the aggregate for all taxpayers in
22 the taxable year beginning after December 31, 2012, and ending



1 before January 1, 2014. In no instance shall the department of
2 taxation allow the aggregate amount of tax credits claimed to
3 exceed \$1,500,000 in the taxable year. To comply with this
4 restriction, the department of agriculture shall certify credits
5 on a first come, first served basis.

6 (i) As used in this section:

7 "Livestock feed costs" means the purchase amount of all
8 edible materials consumed by a qualified producer's cows, goats,
9 sheep, poultry, sows, beef cattle, fish, or crustaceans, which
10 contribute energy or nutrients to the animal's diet, and which
11 are distributed or imported.

12 "Poultry products" means chicken eggs that are uncooked in
13 shell, egg-laying chicks, meat bird chicks, pullets, broilers,
14 fryers, and laying chicken hens.

15 "Qualified producer" means any person that, at the time of
16 application for and receipt of the tax credit under this
17 section, is in the business of producing:

18 (1) Milk from a herd, located in the State, of not fewer
19 than three hundred fifty cows or one hundred lactating
20 milking goats;

21 (2) Poultry products from a flock, raised and located in
22 the State, of not fewer than fifty birds;



- 1 (3) Pork from a herd, raised and located in the State, of
- 2 not fewer than fifty sows;
- 3 (4) Beef that is raised in the State; provided that
- 4 producers who finish at least one hundred head of beef
- 5 cattle annually shall be eligible for this tax credit;
- 6 (5) Sheep that are raised in the State; provided that
- 7 producers with current annual sales of at least thirty
- 8 sheep or lambs shall be eligible for this tax credit;
- 9 or
- 10 (6) Fish and crustaceans, raised in the State; provided
- 11 that producers with current annual sales of at least
- 12 two thousand pounds of fish, or crustaceans, or both
- 13 shall be eligible for this tax credit."

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

17 "§235- _____ Livestock feed development tax credit. (a)
18 There shall be allowed to each qualified producer subject to the
19 tax imposed by this chapter a livestock feed development tax
20 credit that shall be applied to the taxpayer's net income tax
21 liability, if any, imposed by this chapter.



1 For livestock feed development costs, a qualified producer
2 may claim a tax credit as follows:

3 (1) During the taxable year beginning after December 31,
4 2013, and ending before January 1, 2015:

5 (A) Ten per cent of livestock feed development costs
6 incurred by the qualified producer; or

7 (B) \$225,000;
8 whichever is less.

9 (2) During the taxable year beginning after December 31,
10 2014, and ending before January 1, 2016:

11 (A) Five per cent of livestock feed development
12 costs; or

13 (B) \$225,000;
14 whichever is less.

15 (b) No other credit may be claimed under this chapter for
16 livestock feed development costs for which a credit is claimed
17 by the taxpayer under this section for the taxable year.

18 (c) The cost upon which the tax credit is computed shall
19 be determined at the entity level. In the case of a
20 partnership, S corporation, estate, trust, or other pass through
21 entity, distribution and share of the credit shall be determined
22 by rule.

1 If a deduction is taken under section 179 (with respect to
2 election to expense certain depreciable business assets) of the
3 Internal Revenue Code, no tax credit shall be allowed for that
4 portion of the livestock feed development costs for which a
5 deduction was taken.

6 The basis of eligible property for depreciation or
7 accelerated cost recovery system purposes for state income taxes
8 shall be reduced by the amount of credit allowable and claimed.
9 No deduction shall be allowed for that portion of otherwise
10 deductible livestock feed development costs on which a credit is
11 claimed under this section.

12 (d) If the credit under this section exceeds the
13 taxpayer's net income tax liability for the taxable year, the
14 excess of the credit over liability shall be refunded to the
15 taxpayer; provided that no refunds or payments on account of the
16 credits allowed by this section shall be made for amounts less
17 than \$1.

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 (e) The director of taxation:

4 (1) Shall prepare any forms that may be necessary to claim
5 a credit under this section;

6 (2) May require the taxpayer to furnish information to
7 ascertain the validity of the claim for credit made
8 under this section; and

9 (3) May adopt rules pursuant to chapter 91 to effectuate
10 this section.

11 (f) The department of agriculture shall:

12 (1) Maintain records of the total amount of livestock feed
13 development costs for each taxpayer claiming a credit;

14 (2) Verify the amount of the livestock feed development
15 costs claimed by each taxpayer claiming the tax credit
16 for each taxable year;

17 (3) Calculate the total livestock feed development costs
18 claimed by all taxpayers claiming the tax credit for
19 each taxable year; and

20 (4) Certify the total amount of the tax credit claimed for
21 each taxpayer and for all taxpayers claiming the
22 credit in each taxable year.



1 Upon each determination, the department of agriculture
2 shall issue a certificate to the taxpayer verifying the
3 taxpayer's qualified producer status, the amount of livestock
4 feed development costs claimed by the taxpayer, and the credit
5 amount certified for the taxpayer for each taxable year.
6 Notwithstanding any other law to the contrary, this information
7 shall be available for public inspection and dissemination under
8 chapter 92F.

9 (g) The taxpayer shall file the certificate with the
10 taxpayer's tax return with the department of taxation.
11 Notwithstanding the department of agriculture's certification
12 authority under this section, the director of taxation may audit
13 and adjust certification to conform to the facts.

14 (h) The department of agriculture shall certify no more
15 than \$500,000 in credits in the aggregate for all taxpayers for
16 each taxable year.

17 In no instance shall the department of taxation allow the
18 aggregate amount of tax credits claimed to exceed \$500,000 in
19 any taxable year.

20 (i) As used in this section:

21 "Livestock feed development costs" means the purchase
22 amount of materials or equipment needed to produce edible



1 materials consumed by the qualified producer's cows, goats,
2 poultry, sows, beef cattle, sheep, fish, or crustaceans which
3 contribute energy or nutrients to the animal's diet, including
4 seeds, fertilizer, insecticides, and fungicides used for the
5 purposes of producing feed.

6 "Poultry products" means chicken eggs that are uncooked in
7 shell, egg-laying chicks, meat bird chicks, pullets, broilers,
8 fryers, and laying chicken hens.

9 "Qualified producer" means any person that, at the time of
10 application for and receipt of the tax credit under this
11 section, is in the business of producing:

12 (1) Milk from a herd, located in the State, of not fewer
13 than three hundred fifty cows or one hundred lactating
14 milking goats;

15 (2) Poultry products from a flock, raised and located in
16 the State, of not fewer than fifty birds;

17 (3) Pork from a herd, raised and located in the State, of
18 not fewer than fifty sows;

19 (4) Beef that is raised in the State; provided that
20 producers who finish at least one hundred head of beef
21 cattle annually shall be eligible for this tax credit;



- 1 (5) Sheep that are raised in the State; provided that
- 2 producers with current annual sales of at least thirty
- 3 sheep or lambs shall be eligible for this tax credit;
- 4 or
- 5 (6) Fish and crustaceans, raised in the State; provided
- 6 that producers with current annual sales of at least
- 7 two thousand pounds of fish, or crustaceans, or both
- 8 shall be eligible for this tax credit."

9 SECTION 3. Section 235-110.93, Hawaii Revised Statutes, is
10 amended by amending subsection (h) to read as follows:

11 "(h) [~~If in any taxable year the~~] The aggregate annual
12 amount of certified important agricultural land qualified
13 agricultural cost tax credits [~~reaches \$7,500,000 in the~~
14 aggregate,] in any taxable year shall not exceed the following:

- 15 (1) \$6,000,000 for the taxable year beginning after
- 16 December 31, 2012, and ending before January 1, 2014;
- 17 (2) \$7,000,000 per taxable year for the taxable years
- 18 beginning after December 31, 2013, and ending before
- 19 January 1, 2016; and
- 20 (3) \$7,500,000 per taxable year for all other successive
- 21 taxable years.

1 If in any taxable year the annual amount of certified
2 credits reaches the limit provided by this subsection, the
3 department of agriculture shall immediately discontinue
4 certifying credits and notify the department of taxation. In no
5 instance shall the department of agriculture certify a total
6 amount of credits exceeding [~~\$7,500,000 per taxable year.~~] the
7 annual aggregate amount limit of certified credits per taxable
8 year provided by this subsection. To comply with this
9 restriction, the department of agriculture shall certify credits
10 on a first come, first served basis.

11 The department of taxation shall not allow the aggregate
12 amount of credits claimed to exceed that amount per taxable
13 year."

14 SECTION 4. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so
16 much thereof as may be necessary for fiscal year 2013-2014 for
17 staffing or other expenses necessary to implement the tax
18 credits established or amended by this Act.

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

21 SECTION 5. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2013-2014 for
2 staffing and consultant expenses necessary to implement the tax
3 credits established or amended by this Act.

4 The sum appropriated shall be expended by the department of
5 taxation for the purposes of this Act.

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

8 SECTION 7. This Act shall take effect on July 1, 2013;
9 provided that:

10 (1) Section 1 shall take effect on January 1, 2013, and
11 shall apply to the taxable year beginning after
12 December 31, 2012, and ending before January 1, 2014;
13 and

14 (2) Section 2 shall take effect on January 1, 2014, and
15 shall apply to the taxable years beginning after
16 December 31, 2013, and ending before January 1, 2016.
17

INTRODUCED BY: Clarena K. Mishkin
Sharonne Chun Aukla



Report Title:

Agriculture; Livestock Feed; Livestock Feed Development; Tax Credit; Appropriation

Description:

Amends the important agricultural land qualified agricultural cost tax credit by changing the tax credit cap to \$6,000,000 per year for the 2013 tax year and \$7,000,000 per year for the 2014 and 2015 tax years, and \$7,500,000 per year thereafter. Creates a livestock feed tax credit from 1/1/2013 to 12/31/2013. Creates livestock feed development tax credit from 1/1/2014 to 12/31/2015. Appropriates funds for staffing and consulting expenses.

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

