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# A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1           SECTION 1. Article XI, section 3 of the Hawaii State  
2 Constitution establishes the State's duty to "conserve and  
3 protect agricultural lands, promote diversified agriculture,  
4 increase agricultural self-sufficiency and assure the  
5 availability of agriculturally suitable lands" and provides  
6 protections for lands identified as important agricultural  
7 lands. In service of this duty, the legislature enacted Act  
8 183, Session Laws of Hawaii 2005, which was codified in part III  
9 of chapter 205, Hawaii Revised Statutes.

10           Act 183 directed each county to work with government and  
11 community stakeholders to identify and map potential important  
12 agricultural lands within its jurisdiction and make  
13 recommendations to the land use commission for the designation  
14 of these lands as important agricultural lands. Once  
15 designated, agricultural operations on important agricultural  
16 lands are eligible for a variety of state and county assistance  
17 and incentive programs including grants and other funding



1 assistance, tax incentives, favorable infrastructure and permit  
2 requirements, and farm and business education assistance. The  
3 legislature finds that, to date, most counties have not  
4 completed their identification and mapping duties under Act 183.

5 The purpose of this Act is to:

6 (1) Implement Act 183 in accordance with the State's  
7 constitutional duty to protect important agricultural  
8 lands, by providing a monetary incentive to the  
9 counties for the identification and mapping of  
10 important agricultural lands; and

11 (2) Amend the important agricultural land qualified  
12 agricultural cost tax credit by:

13 (A) Extending the credit by ten years to allow  
14 landowners and farmers to claim the tax credit in  
15 the event that their agricultural lands are  
16 identified and designated as important  
17 agricultural lands by the land use commission  
18 pursuant to this Act; and

19 (B) Establishing the credit amount for each year  
20 after the third year in which the credit is



1                   claimed, and limiting the cumulative credit per  
2                   taxpayer to \$1,000,000.

3           SECTION 2. Section 205-48, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "~~{}~~\$205-48~~{}~~ Receipt of maps of eligible important  
6 agricultural lands; land use commission. (a) ~~[The land use~~  
7 ~~commission shall receive the]~~ Each county shall submit its  
8 recommendations and maps developed pursuant to section 205-47  
9 delineating those lands eligible to be designated important  
10 agricultural lands ~~[no sooner than the effective date of the~~  
11 ~~legislative enactment of protection and incentive measures for~~  
12 ~~important agricultural lands and agricultural viability, as~~  
13 ~~provided in section 9 of Act 183, Session Laws of Hawaii 2005.]~~  
14 to the land use commission by June 30, 2019.

15           (b) The department of agriculture and the office of  
16 planning shall review the county report and recommendations  
17 submitted and provide comments to the land use commission within  
18 forty-five days of the receipt of the report and maps by the  
19 land use commission. The land use commission may also consult  
20 with the department of agriculture and the office of planning as  
21 needed.



1 (c) [State] Where a county has submitted its  
2 recommendations and maps developed pursuant to section 205-47,  
3 state agency review shall be based on an evaluation of the  
4 degree that the:

5 (1) County recommendations result in an identified  
6 resource base that meets the definition of important  
7 agricultural land and the objectives and policies for  
8 important agricultural lands in sections 205-42 and  
9 205-43; and

10 (2) County has met the minimum standards and criteria for  
11 the identification and mapping process in sections  
12 205-44 and 205-47.

13 (d) If a county fails to submit its recommendations and  
14 maps by June 30, 2019, the commission shall use the standards  
15 and criteria in section 205-44 to identify and develop maps of  
16 important agricultural lands in that county and, after receiving  
17 the recommendations of the department of agriculture and the  
18 office of planning, proceed to identify and designate important  
19 agricultural lands, subject to sections 205-45 and 205-49."

20 SECTION 3. Section 205-49, Hawaii Revised Statutes, is  
21 amended as follows:

1           1. By amending subsection (a) to read:

2           "(a) After receipt of the maps of eligible important

3 agricultural lands from the counties [~~and the recommendations of~~

4 ~~the department of agriculture and the office of planning,~~] or if

5 a county fails to submit its recommendations and maps by June

6 30, 2019, and the commission has identified and developed maps

7 of important agricultural lands in that county, the commission

8 shall then proceed to identify and designate important

9 agricultural lands, subject to section 205-45[~~-~~], after

10 receiving the recommendations of the department of agriculture

11 and the office of planning. The decision shall consider [~~the~~

12 applicable county maps of eligible important agricultural lands;

13 declaratory orders issued by the commission designating

14 important agricultural lands during the three year period

15 following the enactment of legislation establishing incentives

16 and protections contemplated under section 205-46, [~~as provided~~

17 ~~in section 9 of Act 183, Session Laws of Hawaii 2005;~~] landowner

18 position statements and representations[~~7~~], and any other

19 relevant information.



1 In designating important agricultural lands in the State,  
2 [~~pursuant to the recommendations of individual counties,~~] the  
3 commission shall consider the extent to which:

4 (1) The proposed lands meet the standards and criteria  
5 under section 205-44;

6 (2) The proposed designation is necessary to meet the  
7 objectives and policies for important agricultural  
8 lands in sections 205-42 and 205-43; and

9 (3) The commission has designated lands as important  
10 agricultural lands, pursuant to section 205-45;  
11 provided that if the majority of landowners'  
12 landholdings is already designated as important  
13 agricultural lands, excluding lands held in the  
14 conservation district, pursuant to section 205-45 or  
15 any other provision of this part, the commission shall  
16 not designate any additional lands of that landowner  
17 as important agricultural lands except by a petition  
18 pursuant to section 205-45.

19 Any decision regarding the designation of lands as  
20 important agricultural lands and the adoption of maps of those  
21 lands pursuant to this section shall be based upon written



1 findings of fact and conclusions of law, presented in at least  
2 one public hearing conducted in the county where the land is  
3 located in accordance with chapter 91, that the subject lands  
4 meet the standards and criteria set forth in section 205-44 and  
5 shall be approved by two-thirds of the membership to which the  
6 commission is entitled."

7 2. By amending subsection (d) to read:

8 "(d) The land use commission may designate lands as  
9 important agricultural lands and adopt maps for a designation  
10 pursuant to:

11 (1) A farmer or landowner petition for declaratory ruling  
12 under section 205-45 at any time; or

13 (2) The county process for identifying and recommending  
14 lands for important agricultural lands under section  
15 205-47 [~~no sooner than three years, after the~~  
16 ~~enactment of legislation establishing incentives and~~  
17 ~~protections contemplated under section 205-46, as~~  
18 ~~provided in section 9 of Act 183, Session Laws of~~  
19 ~~Hawaii-2005.] or the commission's process for  
20 identifying and mapping important agricultural lands~~



1           if a county fails to submit its recommendations and  
2           maps by June 30, 2019."

3           SECTION 4. Section 235-110.93, Hawaii Revised Statutes, is  
4 amended as follows:

5           1. By amending subsection (a) to read:

6           "(a) There shall be allowed to each taxpayer an important  
7 agricultural land qualified agricultural cost tax credit that  
8 may be claimed in taxable years beginning after the taxable year  
9 during which the tax credit under section 235-110.46 is  
10 repealed, exhausted, or expired. The credit shall be deductible  
11 from the taxpayer's net income tax liability, if any, imposed by  
12 this chapter for the taxable year in which the credit is  
13 properly claimed. The cumulative amount of the tax credit  
14 [amount] for all years claimed shall be \$1,000,000 per taxpayer  
15 and shall be determined as follows:

16           (1) In the first year in which the credit is claimed, the  
17 lesser of the following:

18           (A) Twenty-five per cent of the qualified  
19 agricultural costs incurred by the taxpayer after  
20 July 1, 2008; or

21           (B) \$625,000;





1 (2) In the second year in which the credit is claimed, the  
2 lesser of the following:

3 (A) Fifteen per cent of qualified agricultural costs  
4 incurred by the taxpayer after July 1, 2008; or

5 (B) \$250,000; and

6 (3) In the third year in which the credit is claimed, and  
7 each year thereafter, the lesser of the following:

8 (A) Ten per cent of the qualified agricultural costs  
9 incurred by the taxpayer after July 1, 2008; or

10 (B) \$125,000.

11 The taxpayer may incur qualified agricultural costs during a  
12 taxable year in anticipation of claiming the credit in future  
13 taxable years during which the credit is available. The  
14 taxpayer may claim the credit in any taxable year after the  
15 taxable year during which the taxpayer incurred the qualified  
16 agricultural costs upon which the credit is claimed; provided  
17 that, for taxable years beginning after December 31, 2017, the  
18 taxpayer may only claim the credit in the taxable year in which  
19 the taxpayer incurred the qualified agricultural costs. The  
20 taxpayer also may claim the credit in consecutive or  
21 inconsecutive taxable years until exhausted."



1           2. By amending subsection (1) to read:

2           "(1) The department of agriculture shall cease certifying  
3 credits pursuant to this section after the [~~fourth~~] fourteenth  
4 taxable year following the taxable year during which the credits  
5 are first claimed; provided that a taxpayer with accumulated,  
6 but unclaimed, certified credits may continue claiming the  
7 credits in subsequent taxable years until exhausted."

8           SECTION 5. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$                    or so  
10 much thereof as may be necessary for fiscal year 2017-2018 and  
11 the same sum or so much thereof as may be necessary for fiscal  
12 year 2018-2019 for grants-in-aid to the counties for the  
13 identification and mapping of important agricultural lands  
14 pursuant to chapter 205, Hawaii Revised Statutes, including for  
15 expenses that a county has incurred for the purposes of  
16 identifying and mapping important agricultural lands before the  
17 effective date of this Act for which the State has not  
18 previously reimbursed the county, to be allocated as follows:

- 19           (1) \$                   to the county of Hawaii;  
20           (2) \$                   to the city and county of Honolulu;  
21           (3) \$                   to the county of Kauai; and



1 (4) \$ to the county of Maui.

2 The sums appropriated shall be expended by the department  
3 of business, economic development, and tourism and disbursed to  
4 each county upon submittal of that county's recommendations and  
5 maps of important agricultural lands to the land use commission  
6 pursuant to section 205-48(a), Hawaii Revised Statutes, as  
7 amended by section 2 of this Act; provided that if any county  
8 fails to submit its recommendations and maps to the land use  
9 commission by June 30, 2019, the department of business,  
10 economic development, and tourism shall disburse that county's  
11 allocated funds to the land use commission, which shall expend  
12 those funds to identify and develop a map of important  
13 agricultural lands in that county pursuant to section 205-48(d),  
14 Hawaii Revised Statutes, as established by section 2 of this  
15 Act, by June 30, 2021.

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

18 SECTION 7. This Act shall take effect on July 1, 2050;  
19 provided that the appropriations made in section 5 of this Act  
20 shall not lapse at the end of the fiscal biennium for which the  
21 appropriations are made; provided further that all moneys from



1 the appropriations unencumbered as of June 30, 2020, shall lapse  
2 as of that date.



**Report Title:**

Important Agricultural Lands; Counties; Land Use Commission;  
Appropriations; Tax Credit

**Description:**

Requires the counties to make recommendations for important agricultural lands by 6/30/2019 or forfeit that right to the Land Use Commission. Extends the period to claim important agricultural land qualified agricultural cost tax credits by 10 years and limits cumulative tax credit to \$1,000,000 per tax payer. Appropriates unspecified funds for identification and mapping of important agricultural lands. Effective 7/1/50.  
(SD1)

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

