

JAN 27 2021

A BILL FOR AN ACT

RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT.

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

1 SECTION 1. The purpose of this Act is to extend the
2 important agricultural land qualified agricultural cost tax
3 credit that will expire at the end of the 2021 tax year. The
4 important agricultural land qualified cost tax credit supports
5 food self-sufficiency by providing tax credits to qualified
6 landowners and farmers to help offset costs related to
7 establishing and sustaining viable agricultural operations.
8 This extension will provide additional time to allow landowners
9 and farmers to claim the tax credit in the event their
10 agricultural lands are identified as potential important
11 agricultural lands and designated as such by the land use
12 commission.

13 SECTION 2. Section 235-110.93, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) There shall be allowed to each taxpayer an important
16 agricultural land qualified agricultural cost tax credit that
17 may be claimed in taxable years beginning after the taxable year
18 during which the tax credit under section 235-110.46 is

1 repealed, exhausted, or expired. The credit shall be deductible
2 from the taxpayer's net income tax liability, if any, imposed by
3 this chapter for the taxable year in which the credit is
4 properly claimed. The tax credit amount shall be determined as
5 follows:

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

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

11 (B) \$625,000;

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

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

16 (B) \$250,000; and

17 (3) In the third year in which the credit is claimed, the
18 lesser of the following:

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

21 (B) \$125,000.

1 The taxpayer may incur qualified agricultural costs during a
2 taxable year in anticipation of claiming the credit in future
3 taxable years during which the credit is available. The
4 taxpayer may claim the credit in ~~[any]~~ the third taxable year
5 after the taxable year during which the taxpayer ~~[incurred the~~
6 ~~qualified agricultural costs upon which the credit is claimed.]~~
7 applied to the department of agriculture for first-year
8 certification of the credit. The taxpayer ~~[also]~~ may
9 subsequently claim the credit in consecutive or inconsecutive
10 taxable years until exhausted."

11 SECTION 3. Section 235-110.93, Hawaii Revised Statutes, is
12 amended by amending subsection (1) to read as follows:

13 "(1) The department of agriculture shall cease certifying
14 credits pursuant to this section for taxable years beginning
15 after December 31, ~~[2021,]~~ 2031; provided that a taxpayer with
16 accumulated, but unclaimed, certified credits may continue
17 claiming the credits in subsequent taxable years until
18 exhausted."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

S.B. NO. 1028

1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



BY REQUEST

Report Title:

Important Agricultural Land Qualified Agricultural Costs Tax Credit

Description:

Extends through the 2031 tax year the time that the Department of Agriculture may certify important agricultural lands qualified agricultural costs. Delays Taxpayers from claiming and applying the credit for at least three full taxable years after credit is earned, to help address State's current fiscal concerns.

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

JUSTIFICATION SHEET

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED AGRICULTURAL COST TAX CREDIT.

PURPOSE: To extend through the 2031 tax year, the important agricultural land qualified agricultural cost tax credit that will expire at the end of the 2021 tax year.

MEANS: Amend section 235-110.93(a) and (l), Hawaii Revised Statutes (HRS).

JUSTIFICATION: The important agricultural land qualified cost tax credit supports food self-sufficiency by providing tax credits to qualified landowners and farmers to help offset costs related to establishing and sustaining viable agricultural operations. The extension of the effective period of the important agricultural land qualified cost tax credit will allow landowners and farmers to claim the tax credit in the event their agricultural lands are identified as potential important agricultural lands via the "voluntary" or "county" methods and designated as such by the Land Use Commission.

The important agricultural land law (chapter 205, part III, HRS) provides two methods, commonly known as the "voluntary" and "county" processes, to identify and designate agricultural land as important agricultural land. Since 2009, private landowners have used the "voluntary" process (section 205-45, HRS) to identify and have designated by the Land Use Commission, approximately 136,489 acres of State agricultural district land as important agricultural land in fifteen petitions on the islands of Kauai, Oahu, Maui, and

Hawaii. Incentives for designated important agricultural land were enacted in 2008 (Act 233, Session Laws of Hawaii 2008). Subsequently, the Department of Agriculture approved thirteen requests totaling approximately \$4,417,701 from the owners of the designated important agricultural land for certification of cost claims for the important agricultural land qualified agricultural cost tax credit.

The Department of Agriculture is not aware that any of the other enacted important agricultural land incentives have been sought by these landowners (farm dwellings and employee housing, loan guaranty, and priority processing of permits for agricultural processing facilities). All landowners have waived the incentive known as the 85 percent-15 percent simultaneous reclassification or credit. The Department of Agriculture has received over 50 informal inquiries from small landowners and farmers or their agents about the important agricultural land identification and designation process, the important agricultural land tax credit, and the farm dwellings and employee housing important agricultural land incentives, but none have applied for important agricultural land designation.

There have been no agricultural lands designated according to the "county" process (section 205-47, HRS). The County of Kauai has identified potential important agricultural lands according to that process but is continuing to work with landowners to encourage "voluntary" identification and subsequent designation. The City and County of Honolulu's Department of Planning and Permitting completed the identification of potential important agricultural land scenarios, and submitted the proposed important agricultural land maps and documentation to the City Council, where the City Council adopted the proposed maps on

June 5, 2019, by resolution no. 18-233, CD1, FD1. The resolution was then transmitted to the State of Hawaii Land Use Commission for further action pursuant to section 205-48, HRS.

To mitigate the immediate fiscal impacts of tax credits on the State's current budgetary shortfall and pursuant to current administration guidance for tax credits, the measure requires claims for the credit be made incrementally in the years subsequent to certification of expenses for which the credit is sought. The measure as drafted spreads the period of time to claim the credit over 3 years after an initial 3-year waiting period and the Department anticipates an increase in applications from Oahu farmers once the Land Use Commission takes action on the proposed maps from the City and County of Honolulu.

Impact on the public: Will allow landowners and farmers on agricultural lands that are designated by the Land Use Commission via the "voluntary" or "county" processes as important agricultural land to apply for the tax credit for qualified agricultural costs that are related to designated important agricultural lands.

Impact on the department and other agencies: The Department of Agriculture will continue to certify qualified agricultural costs pursuant to section 235-110.93, HRS.

GENERAL FUND: The annual amount of certified credits allowed is not to exceed \$7,500,000.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: AGR 192.

OTHER AFFECTED
AGENCIES: Department of Taxation.

EFFECTIVE DATE: Upon approval.