

JAN 26 2022

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# 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:**

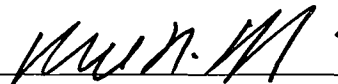
1           SECTION 1.   Section 235-110.93, Hawaii Revised Statutes, is  
2 amended by amending subsection (1) to read as follows:

3           "(1)   The department of agriculture shall cease certifying  
4 credits pursuant to this section for taxable years beginning  
5 after December 31, [~~2021~~,] 2032; provided that a taxpayer with  
6 accumulated, but unclaimed, certified credits may continue  
7 claiming the credits in subsequent taxable years until  
8 exhausted."

9           SECTION 2.   Statutory material to be repealed is bracketed  
10 and stricken.   New statutory material is underscored.

11           SECTION 3.   This Act, upon its approval, shall take effect  
12 retroactive to January 1, 2022.

13  
14                           INTRODUCED BY: \_\_\_\_\_



15   BY REQUEST

**Report Title:**

Important Agricultural Land Qualified Agricultural Cost Tax  
Credit

**Description:**

Reinstates and extends through the 2032 tax year, the duty of the Department of Agriculture to certify the amount of the Important Agricultural Lands Qualified Agricultural Cost Tax Credit for each taxable year.

*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

**SB. NO. 3032**

DEPARTMENT: Agriculture

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

PURPOSE: To restore and extend through the 2032 tax year, the duty of the Department of Agriculture to certify the amount of the Important Agricultural Land Qualified Agricultural Cost Tax Credit for each tax year, which expired at the end of the 2021 tax year.

MEANS: Amend section 235-110.93(1), Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Important Agricultural Land Qualified Agricultural 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 restoration 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 lands as Important Agricultural Lands. Since 2009, private landowners have used the "voluntary" process (section 205-45, HRS) to identify, and the Land Use Commission has designated 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 Important Agricultural Land designation were enacted in 2008 (Act 233, Session Laws of Hawaii 2008). Subsequently, the Department of Agriculture approved thirteen requests from the owners of the designated Important Agricultural Land for certification of cost claims for the Important Agricultural Land Qualified Agricultural Cost Tax Credit, totaling approximately \$4,417,701.

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 fifty informal inquiries from small landowners/farmers or their agents about the Important Agricultural Land identification and designation process, the Important Agricultural Land Qualified Agricultural Cost Tax Credit, and the farm dwellings and employee housing incentives that are part of the Important Agricultural Lands incentives (Act 233, Session Laws of Hawaii 2008), but none of the inquiries has resulted in the application for Important Agricultural Land designation.

The Important Agricultural Land Qualified Agricultural Cost Tax Credit was allowed to sunset before the "county" process (section 205-47, HRS) occurred. There have been no agricultural lands designated according to the "county" process. 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.

The Commission held meetings in April and May 2021, which included receiving public testimony from about 100 of the approximately 1,800 landowners whose properties are identified and included as part of the City's map of potential Important Agricultural Land. Testimony was also presented by the City Department of Planning and Permitting, the Office of Planning and the Department of Agriculture. At time of authorship, the matter is pending with the Land Use Commission.

Important Agricultural Land designation of qualified agricultural land will make the affected landowners and farmers eligible for certain incentives, including the Important Agricultural Land Qualified Agricultural Cost Tax Credit, if it is reinstated. The incentives are meant to promote diversified agriculture and increase agricultural self-sufficiency. Promoting diversified agriculture and increasing agricultural self-sufficiency are goals identified by the State's executive and legislative branches. If the Important Agricultural Land Qualified Agricultural Cost Tax Credit is not reinstated, landowners of lands identified via "county" designation process will not have the opportunity to apply for the tax credit afforded to those who have already designated via the "voluntary" process. Important Agricultural Land designation is

not a form of land use regulation such as zoning.

Impact on the public: The bill would allow landowners and farmers on agricultural lands that are designated by the Land Use Commission via the "voluntary" or "county" processes as Important Agricultural Lands 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. The Department of Taxation will also continue carrying out its obligations under 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: Retroactive to January 1, 2022.