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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:**

**PART I**

**EXPEDITING PERMITS FOR IMPORTANT AGRICULTURAL LANDS**

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§46- County building permits; important agricultural lands. (a) Each county agency that issues building, construction, or development related permits shall establish a procedure for the priority processing of a permit application submitted by a private entity for a construction project that uses products grown on lands designated as important agricultural lands. The permit processing procedures shall give priority to private sector permit applicants at no additional cost to the applicant and shall provide that if the county does not approve, conditionally approve, or disapprove a completed application within ninety days of the applicant's submission to the county of the application, the application shall be deemed approved. Each county shall develop rules informing farmers,



1 ranchers, and landowners of important agricultural lands that  
2 define informational needs and timeframes for permit processing.

3 (b) Each county shall develop rules for exempting from  
4 permit conditions structures strictly used for storage and that:

5 (1) Are not attached to any other structure; and

6 (2) Do not have any plumbing, heating, or electrical  
7 systems.

8 (c) For purposes of this section:

9 "Important agricultural lands" are lands designated  
10 pursuant to sections 205-44 and 205-45.

11 "Structures associated with important agricultural lands"  
12 means post-harvest handling facilities, processing facilities,  
13 and value added production facilities, when a majority of the  
14 feedstocks or agricultural products handled or processed by the  
15 facility originate from important agricultural lands."

16 **PART II**

17 **INCORPORATION INTO GENERAL PLANS**

18 SECTION 2. Section 226-58, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§226-58 County general plans.** (a) The county general  
21 plans and development plans shall be formulated with input from  
22 the state and county agencies as well as the general public.



1 County general plans or development plans shall indicate  
2 desired population and physical development patterns for each  
3 county and regions within each county. In addition, county  
4 general plans or development plans shall address the unique  
5 problems and needs of each county and regions within each  
6 county. The county general plans or development plans shall  
7 further define applicable provisions of this chapter; provided  
8 that any amendment to the county general plan of each county  
9 shall not be contrary to the county charter. The formulation,  
10 amendment, and implementation of county general plans or  
11 development plans shall take into consideration statewide  
12 objectives, policies, and programs stipulated in state  
13 functional plans approved in consonance with this chapter.

14 (b) County general plans shall be formulated on the basis  
15 of sound rationale, data, analyses, and input from state and  
16 county agencies and the general public, and contain objectives  
17 and policies as required by the charter of each county.

18 Further, the county general plans should:

19 (1) Contain objectives to be achieved and policies to be  
20 pursued with respect to population density, land use,  
21 transportation system location, public and community  
22 facility locations, water and sewage system locations,



1 visitor destinations, urban design, and all other  
2 matters necessary for the coordinated development of  
3 the county and regions within the county; and

- 4 (2) Contain implementation priorities and actions to carry  
5 out policies to include but not be limited to land use  
6 maps, programs, projects, regulatory measures,  
7 standards and principles, and interagency coordination  
8 provisions.

9 (c) County general plans shall include accommodation for  
10 the designation of important agricultural lands.

- 11 (1) County identification of important agricultural lands  
12 shall follow the standards and criteria identified in  
13 section 205-44(c) and consider the following:

- 14 (A) Lands meeting any of the criteria in section  
15 205-44(c) shall be given initial consideration;  
16 provided that the designation of important  
17 agricultural lands shall be made by weighing the  
18 standards and criteria with each other to meet  
19 the constitutionally mandated purposes in article  
20 XI, section 3, of the Hawaii State Constitution  
21 and the objectives and policies for important  
22 agricultural lands in sections 205-42 and 205-43;



1           (B) Lands for grazing or providing feed for livestock  
2                           are recognized as part of an agricultural  
3                           production system; and

4           (C) Not only lands with soil classified by the land  
5                           study bureau's detailed land classification as  
6                           overall (master) productivity rating class A or B  
7                           are qualified to be important agricultural lands,  
8                           but rather lands that can sustain or have a  
9                           viable agricultural operation in place shall be  
10                           given priority consideration; and

11         (2) Identification of incentives and implementation plans  
12                           to ensure viability of operations on important  
13                           agricultural lands shall be included within the county  
14                           general plan.

15         (d) For purposes of this section, "important agricultural  
16         lands" means lands designated pursuant to sections 205-44 and  
17         205-45."

18   **PART III**

19   **TAX INCENTIVES**

20           SECTION 3. Chapter 246, Hawaii Revised Statutes, is  
21           amended by adding two new sections to be appropriately  
22           designated and to read as follows:



1        "§246-        Important agricultural lands; structures.        (a)

2        Any other law to the contrary notwithstanding, any permanent  
3        structure constructed or installed on any taxable real property  
4        designated as important agricultural lands, for activities  
5        related to growing of crops or maintaining of livestock,  
6        processing of products grown or raised on such lands, or value  
7        added production, shall be exempted in determining and assessing  
8        the value of that taxable real property for ten years or for a  
9        period of ten years from the first day of January following  
10       commencement of construction or installation of the structure on  
11       the property for such purposes; provided that any temporary  
12       structure so constructed or installed for such purpose, shall be  
13       so exempted without being subject to the ten-year limitation;  
14       provided further that such exemption shall continue only so long  
15       as the structure is maintained in good condition. Only  
16       structures used for commercial agricultural or horticultural  
17       purposes shall be included in this exemption.

18       (b) For the purposes of this chapter:

19       "Important agricultural lands" are lands designated  
20       pursuant to sections 205-44 and 205-45.

21       "Structures associated with important agricultural lands"  
22       means post harvest handling facilities, processing facilities,



1 and value added production facilities; provided that a majority  
2 of the feedstocks handled or processed by the facility shall be  
3 produced on lands designated as important agricultural lands.

4 §246- Important agricultural lands; exemption. Any  
5 portion of real property that is designated as important  
6 agricultural lands pursuant to part III of chapter 205 shall be  
7 exempt from real property taxes; provided that the exemption  
8 shall continue only so long as the property remains classified  
9 as important agricultural lands."

10 **PART IV**

11 **ENERGY**

12 SECTION 4. Chapter 269, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 "§269- Preferential energy rates; important agricultural  
16 lands. (a) The public utilities commission shall establish, by  
17 rule or decision and order, preferential rates for the purchase  
18 of energy that is used or consumed for agricultural activities  
19 on important agricultural lands, as designated pursuant to  
20 sections 205-44 and 205-45.

21 (b) Upon receipt of a bona fide request for the purchase  
22 of energy that is used or consumed for agricultural activities



1 on important agricultural lands, and proof that the energy will  
2 be used or consumed in conjunction with agricultural activities,  
3 a public utility shall forward the request for preferential  
4 rates to the public utilities commission for approval."

5 **PART V**

6 **INSURANCE**

7 SECTION 5. Chapter 431, Hawaii Revised Statutes, is  
8 amended by adding a new section to article 10E to be  
9 appropriately designated and to read as follows:

10 "§431:10E- Preferred insurance rates; important  
11 agricultural lands. Insurers may provide preferential insurance  
12 rates to owners or lessees of important agricultural lands, as  
13 designated pursuant to sections 205-44 and 205-45."

14 **PART VI**

15 **ENTERPRISE ZONE**

16 SECTION 6. Chapter 209E, Hawaii Revised Statutes, is  
17 amended by adding two new sections to be appropriately  
18 designated and to read as follows:

19 "§209E-A Important agricultural lands; designation as an  
20 enterprise zone. Notwithstanding section 209E-4, all lands  
21 designated as important agricultural lands are hereby declared  
22 to be an enterprise zone. Qualified persons who engage in





1 qualified agricultural activities who do not meet the  
2 eligibility requirements of section 209E-9 shall nonetheless be  
3 entitled to the tax credits described in section 209E-B.

4 §209E-B Important agricultural lands tax credit. (a) The  
5 department shall certify annually to the department of taxation  
6 the applicability of the tax credit provided in this section for  
7 qualified persons against any taxes due the State. Except for  
8 the general excise tax, the credit shall be eighty per cent of  
9 the tax due for the first tax year, seventy per cent of the tax  
10 due for the second tax year, sixty per cent of the tax due for  
11 the third year, fifty per cent of the tax due the fourth year,  
12 forty per cent of the tax due the fifth year, thirty per cent of  
13 the tax due the sixth year, and twenty per cent of the tax due  
14 the seventh year. For qualified persons engaged in the  
15 producing or processing of agricultural products, the credit  
16 shall continue after the seventh year at the rate of twenty per  
17 cent of the tax due for each of the subsequent three tax years.  
18 Any unused tax credit shall not be applied to future tax years.

19 (b) When a partnership, or other pass-through entity, is  
20 eligible for a tax credit under this section, each partner shall  
21 be eligible for the tax credit provided for in this section on  
22 the partner's individual income tax return in proportion to the



1 amount of income received by the partner from the partnership.  
2 Any qualified person having taxable income from qualified  
3 agricultural activity, both within and without important  
4 agricultural lands, shall allocate and apportion the person's  
5 taxable income attributable to the conduct of business. Tax  
6 credits provided for in this section shall only apply to taxable  
7 income of a qualified person attributable to the conduct of  
8 agricultural activities within important agricultural lands  
9 located within the same county.

10 (c) In addition to any tax credit authorized under this  
11 section, any qualified business shall be entitled to a tax  
12 credit against any taxes due the State in an amount equal to a  
13 percentage of unemployment taxes paid. The amount of the credit  
14 shall be equal to eighty per cent of the unemployment taxes paid  
15 during the first year, seventy per cent of the taxes paid during  
16 the second year, sixty per cent of the taxes paid during the  
17 third year, fifty per cent of the taxes paid during the fourth  
18 year, forty per cent of the taxes paid during the fifth year,  
19 thirty per cent of the taxes paid during the sixth year, and  
20 twenty per cent of the taxes paid during the seventh year. For  
21 qualified persons engaged in the producing or processing of  
22 agricultural products, the credit shall continue after the



1 seventh year in an amount equal to twenty per cent of the taxes  
2 paid during each of the subsequent three tax years.

3 (d) Tax credits provided for in subsection (c) shall only  
4 apply to the unemployment tax paid on employees employed at the  
5 qualified person's establishment or establishments within  
6 important agricultural lands located within the same county.  
7 Any tax credit not usable shall not be applied to future tax  
8 years.

9 (e) The department shall certify annually to the  
10 department of taxation that any qualified business is exempt  
11 from the payment of general excise taxes on the gross proceeds  
12 from a qualified agricultural activity. The exemption shall  
13 extend for a period not to exceed seven years; provided that for  
14 qualified businesses engaged in the manufacturing of tangible  
15 personal property or the producing or processing of agricultural  
16 products, the exemption shall extend for a period not to exceed  
17 ten years; provided further that if a force majeure event  
18 occurs, then the period of time shall be tolled until the force  
19 majeure event ceases."

20 SECTION 7. Section 209E-2, Hawaii Revised Statutes, is  
21 amended by adding three new definitions to be appropriately  
22 inserted and to read as follows:





1 department of agriculture for the proposed plan for the  
2 improvements, which approval shall be submitted to the county  
3 together with all other requirements for the building,  
4 construction, or development related permits.

5 For purposes of this section, "important agricultural  
6 lands" are lands designated pursuant to sections 205-44 and  
7 205-45."

8 SECTION 9. Section 141-1, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§141-1 Duties in general.** The department of agriculture  
11 shall:

12 (1) Gather, compile, and tabulate, from time to time,  
13 information and statistics concerning:

14 (A) Entomology and plant pathology: Insects, scales,  
15 blights, and diseases injurious or liable to  
16 become injurious to trees, plants, or other  
17 vegetation, and the ways and means of  
18 exterminating pests and diseases already in the  
19 State and preventing the introduction of pests  
20 and diseases not yet here; and

21 (B) General agriculture: Fruits, fibres, and useful  
22 or ornamental plants and their introduction,



1           development, care, and manufacture or  
2           exportation, with a view to introducing,  
3           establishing, and fostering new and valuable  
4           plants and industries;

5       (2) Encourage and cooperate with the agricultural  
6       extension service and agricultural experiment station  
7       of the University of Hawaii and all private persons  
8       and organizations doing work of an experimental or  
9       educational character coming within the scope of the  
10      subject matter of chapters 141, 142, and 144 to 150A,  
11      and avoid, as far as practicable, duplicating the work  
12      of those persons and organizations;

13      (3) Enter into contracts, cooperative agreements, or other  
14      transactions with any person, agency, or organization,  
15      public or private, as may be necessary in the conduct  
16      of the department's business and on such terms as the  
17      department may deem appropriate; provided that the  
18      department shall not obligate any funds of the State,  
19      except the funds that have been appropriated to the  
20      department. Pursuant to cooperative agreement with  
21      any authorized federal agency, employees of the  
22      cooperative agency may be designated to carry out, on



1           behalf of the State the same as department personnel,  
2           specific duties and responsibilities under chapters  
3           141, 142, 150A, and rules adopted pursuant to those  
4           chapters, for the effective prosecution of pest  
5           control and animal disease control and the regulation  
6           of import into the State and intrastate movement of  
7           regulated articles;

8           (4) Secure copies of the laws of other states,  
9           territories, and countries, and other publications  
10          germane to the subject matters of chapters 141, 142,  
11          and 144 to 150A, and make laws and publications  
12          available for public information and consultation;

13          (5) Provide buildings, grounds, apparatus, and  
14          appurtenances necessary for the examination,  
15          quarantine, inspection, and fumigation provided for by  
16          chapters 141, 142, and 144 to 150A; for the obtaining,  
17          propagation, study, and distribution of beneficial  
18          insects, growths, and antidotes for the eradication of  
19          insects, blights, scales, or diseases injurious to  
20          vegetation of value and for the destruction of  
21          injurious vegetation; and for carrying out any other  
22          purposes of chapters 141, 142, and 144 to 150A;



- 1 (6) Formulate and recommend to the governor and  
2 legislature additional legislation necessary or  
3 desirable for carrying out the purposes of chapters  
4 141, 142, and 144 to 150A;
- 5 (7) Publish at the end of each year a report of the  
6 expenditures and proceedings of the department and of  
7 the results achieved by the department, together with  
8 other matters germane to chapters 141, 142, and 144 to  
9 150A and that the department may deem proper;
- 10 (8) Administer a program of agricultural planning and  
11 development, including the formulation and  
12 implementation of general and special plans, including  
13 but not limited to the functional plan for  
14 agriculture; administer the planning, development, and  
15 management of the agricultural park program; plan,  
16 construct, operate, and maintain the state irrigation  
17 water systems; review, interpret, and make  
18 recommendations with respect to public policies and  
19 actions relating to agricultural land and water use;  
20 assist in research, evaluation, development,  
21 enhancement, and expansion of local agricultural  
22 industries; and serve as liaison with other public





1 agencies and private organizations for the above  
 2 purposes. In the foregoing, the department shall act  
 3 to conserve and protect agricultural lands and  
 4 irrigation water systems, promote diversified  
 5 agriculture, increase agricultural self-sufficiency,  
 6 and ensure the availability of agriculturally suitable  
 7 lands; [and]

8 (9) Manage, administer, and exercise control over any  
 9 public lands, as defined under section 171-2, that are  
 10 designated important agricultural lands pursuant to  
 11 section 205-44.5, including but not limited to  
 12 establishing priorities for the leasing of these  
 13 public lands within the department's jurisdiction[-];  
 14 and

15 (10) Review the agricultural plans described in section  
 16 46- , and approve, disapprove, or conditionally  
 17 approve the agricultural plans."

**PART VIII**

**MISCELLANEOUS PROVISIONS**

20 SECTION 10. In codifying the new sections added by section  
 21 6 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 11. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 12. This Act shall take effect upon its approval;  
6 provided that:

7 (1) Part VIII of this Act shall take effect on July 1,  
8 2011;

9 (2) Part III of this Act shall apply for taxable years  
10 beginning after December 31, 2012; and

11 (3) The amendments made to section 243-3.5, Hawaii Revised  
12 Statutes, shall not be repealed when section 243-3.5,  
13 Hawaii Revised Statutes, is reenacted on June 30,  
14 2015, pursuant to Act 73, Session Laws of Hawaii 2010.

15



**Report Title:**

Important Agricultural Lands; Incentives; Counties;  
Appropriations

**Description:**

Establishes incentives for important agricultural lands,  
including reduction of unnecessary infrastructure requirements,  
expedited permitting procedures, and tax incentives. (SD1)

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

