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## A BILL FOR AN ACT

RELATING TO SUSTAINABILITY.

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

1           SECTION 1. The legislature finds that the lofty goal of  
2           creating a sustainable agricultural future in Hawaii will never  
3           be met through the expansion of existing government programs and  
4           services, given the marginal profitability of farming, the high  
5           rate of loss for crops, and the pressure for lower wages in  
6           order to ensure that crops are affordable to the public.

7           The legislature also finds that, although locally produced  
8           agricultural products are in demand, these products are priced  
9           beyond the reach of average local working families and the  
10          average consumer, due to the expenses involved in producing  
11          them, high land costs, and prevailing wage labor costs.

12          The legislature also finds that, because of these factors,  
13          imported products from the mainland or overseas are always less  
14          expensive than the local counterparts, which creates high demand  
15          for these imports among average-, moderate-, and lower-income  
16          families.



1           The legislature also finds that, because of the cost  
2 differential between locally produced products and mainland  
3 imports, in order to receive federal funds for school and other  
4 institutional meal programs, local goods have to be at the same  
5 cost or less expensive than the imported alternatives.

6           The legislature also finds that maintaining a high wage,  
7 high profitability component of agriculture is the best way to  
8 stimulate and encourage more local agricultural production.

9           The legislature also finds that an investment incentive  
10 program would stimulate private investment into sustainable  
11 diversified agricultural operations. Such an incentive would  
12 afford farming operations with the resources necessary to  
13 provide employees with high wages and create a good living for  
14 their owners and employees, while still being able to sell their  
15 products at a competitive rate on the open market to both  
16 government and the public alike.

17           The legislature further finds that Act 221, Session Laws of  
18 Hawaii 2001, established an incentive program to promote similar  
19 investment and rapid growth in the technology industry.  
20 However, the legislature also finds that Act 221, as enacted,  
21 not only had many abuses and loopholes, but also led to



1 companies forming in Hawaii to take advantage of tax credits and  
2 then leaving to the mainland. Nevertheless, the legislature  
3 finds that there is no cause for concern that companies might  
4 form in Hawaii in order to claim the investment tax credit  
5 offered by the incentive program established by this Act, only  
6 to then leave, due to the fact that sustainable agriculture is  
7 tied intrinsically to the land.

8 The legislature finds that, by taking advantage of lessons  
9 learned from Act 221 to prevent abuses in such an incentive  
10 program, diversified sustainable agriculture could bring the  
11 benefits of unbridled investment into the sustainable  
12 agricultural segment and create a highly profitable industry,  
13 while providing for a wide variety of food and agricultural  
14 products to the people of the Hawaii.

15 The purpose of this Act is to establish a diversified  
16 farming business investment tax credit.

17 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
18 amended by adding a new section to part VI to be appropriately  
19 designated and to read as follows:

20 "§235- Diversified farming business investment tax  
21 credit. (a) There shall be allowed to each taxpayer subject to



1 the taxes imposed by this chapter a diversified farming business  
2 investment tax credit that shall be deductible from the  
3 taxpayer's net income tax liability, if any, imposed by this  
4 chapter for the taxable year in which the investment was made  
5 and the following four years provided the credit is properly  
6 claimed. The tax credit shall be as follows:

7       (1) In the year the investment was made, thirty-five per  
8             cent;

9       (2) In the first year following the year in which the  
10            investment was made, twenty-five per cent;

11       (3) In the second year following the investment, twenty  
12            per cent;

13       (4) In the third year following the investment, ten per  
14            cent; and

15       (5) In the fourth year following the investment, ten per  
16            cent;

17 of the investment made by the taxpayer in each qualified  
18 diversified farming business, up to a maximum allowed credit of  
19 \$700,000 in the year the investment was made; \$500,000 in the  
20 first year following the year in which the investment was made;  
21 \$400,000 in the second year following the year in which the



1 investment was made; \$200,000 in the third year following the  
2 year in which the investment was made; and \$200,000 in the  
3 fourth year following the year in which the investment was made.

4 (b) The credit allowed under this section shall be claimed  
5 against the net income tax liability for the taxable year. For  
6 the purpose of this section, "net income tax liability" means  
7 income tax liability reduced by all other credits allowed under  
8 this chapter. A taxpayer eligible to claim a tax credit under  
9 this section may assign all or a portion of a tax credit under  
10 this section to any assignee. An assignee may subsequently  
11 assign a tax credit or any portion of a tax credit assigned  
12 under this subsection to one or more assignees. A taxpayer may  
13 claim a portion of a tax credit and assign the remaining tax  
14 credit amount. A tax credit assignment under this subsection  
15 shall be irrevocable. The tax credit assignment under this  
16 subsection shall be made on a form prescribed by the department  
17 of taxation. A taxpayer claiming a tax credit under this  
18 section shall submit a copy of the completed assignment form to  
19 the department in the tax year in which the assignment is made  
20 and shall attach a copy of the form to the tax return on which  
21 the tax credit is claimed.



1        (c) If the tax credit under this section exceeds the  
2 taxpayer's income tax liability for any of the five years that  
3 the credit is taken, the excess of the tax credit over liability  
4 may be used as a credit against the taxpayer's income tax  
5 liability in subsequent years until exhausted. Every claim,  
6 including amended claims, for a tax credit under this section  
7 shall be filed on or before the end of the twelfth month  
8 following the close of the taxable year for which the credit may  
9 be claimed. Failure to comply with the foregoing provision  
10 shall constitute a waiver of the right to claim the credit.

11        (d) If at the close of any taxable year in the five-year  
12 period in subsection (a):

- 13        (1) The business no longer qualifies as a qualified  
14 diversified farming business;
- 15        (2) The business or an interest in the business has been  
16 sold by the taxpayer investing in the qualified  
17 diversified farming business; or
- 18        (3) The taxpayer has withdrawn the taxpayer's investment  
19 wholly or partially from the qualified diversified  
20 farming business;



1 the credit claimed under this section shall be recaptured. The  
2 recapture shall be equal to ten per cent of the amount of the  
3 total tax credit claimed under this section in the preceding two  
4 taxable years. The amount of the credit recaptured shall apply  
5 only to the investment in the particular qualified diversified  
6 farming business that meets the requirements of paragraph (1),  
7 (2), or (3). The recapture provisions of this subsection shall  
8 not apply to a tax credit claimed for a qualified diversified  
9 farming business that does not fall within the provisions of  
10 paragraph (1), (2), or (3). The amount of the recaptured tax  
11 credit determined under this subsection shall be added to the  
12 taxpayer's tax liability for the taxable year in which the  
13 recapture occurs under this subsection.

14 (e) The director of taxation shall prepare forms as may be  
15 necessary to claim a credit under this section. The director  
16 may also require the taxpayer to furnish information to  
17 ascertain the validity of the claim for credit made under this  
18 section and may adopt rules necessary to effectuate the purposes  
19 of this section pursuant to chapter 91.

20 (f) Every taxpayer, before March 31 of each year  
21 immediately following a previous taxable year in which an



1 investment in a qualified diversified farming business was made,  
2 shall submit a written, certified statement to the department of  
3 agriculture, identifying:

4 (1) Qualified investments, if any, invested in the  
5 previous taxable year; and

6 (2) The amount of tax credits claimed pursuant to this  
7 section, if any, in the previous taxable year.

8 (g) The department of agriculture, in consultation with  
9 the department of taxation, shall:

10 (1) Maintain records of the names and addresses of the  
11 taxpayers claiming the credits under this section and  
12 the total amount of the qualified investment costs  
13 upon which the tax credit is based;

14 (2) Verify the nature and amount of the qualifying  
15 investments;

16 (3) Total all qualifying and cumulative investments that  
17 the department certifies; and

18 (4) Certify the amount of the tax credit for each taxable  
19 year and cumulative amount of the tax credit.

20 Upon each determination made under this subsection, the  
21 department of agriculture, shall issue a certificate to the





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1 taxpayer verifying information submitted to the department of  
2 agriculture, including qualifying investment amounts, the credit  
3 amount certified for each taxable year, and the cumulative  
4 amount of the tax credit during the credit period.

5 The taxpayer shall file the certificate with the taxpayer's  
6 tax return with the department of taxation. Notwithstanding the  
7 department of agriculture's certification authority under this  
8 section, the director of taxation may audit and adjust the tax  
9 credit amount to conform to the facts.

10 (h) If in any taxable year the annual amount of certified  
11 credits reaches \$ \_\_\_\_\_ in the aggregate, the department of  
12 agriculture shall immediately discontinue certifying credits and  
13 notify the department of taxation. In no instance shall the  
14 department of agriculture certify a total amount of credits  
15 exceeding \$ \_\_\_\_\_ per taxable year. To comply with this  
16 restriction, the department of agriculture shall certify credits  
17 on a first come, first served basis.

18 The department of taxation shall not allow the aggregate  
19 amount of credits claimed to exceed that amount per taxable  
20 year.

21 (i) As used in this section:



1       "Qualified diversified farming business" means a business,  
2 employing or owning capital or property, or maintaining a  
3 farming operation, in this State; provided that more  
4 than eighty per cent of its gross income is derived from  
5 sustainable agricultural operations conducted in the State.

6       "Sustainable agriculture" means an integrated system of  
7 plant and animal production practices having a site-specific  
8 application that will, over the long-term:

- 9       (1) Satisfy human food and fiber needs;  
10       (2) Enhance environmental quality and the natural resource  
11       base upon which the agriculture economy depends;  
12       (3) Make the most efficient use of nonrenewable resources  
13       and on-farm resources and integrate, where  
14       appropriate, natural biological cycles and controls;  
15       (4) Sustain the economic viability of farm operations; and  
16       (5) Enhance the quality of life for farmers and society as  
17       a whole.

18       (j) The department of agriculture shall submit to the  
19 legislature an annual report, no later than twenty days prior to  
20 the convening of each regular session, beginning with the  
21 regular session of 2019, regarding the quantitative and



1 qualitative assessment of the impact of the diversified farming  
2 business investment tax credit."

3 SECTION 3. Chapter 241, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§241- Diversified farming business investment tax  
7 credit. The diversified farming business investment tax credit  
8 provided under section 235- shall be operative for this  
9 chapter on July 1, 2017."

10 SECTION 4. Chapter 431, article 7, part II, Hawaii Revised  
11 Statutes, is amended by adding a new section to be appropriately  
12 designated and to read as follows:

13 "§431:7- Diversified farming business investment tax  
14 credit. The diversified farming business investment tax credit  
15 provided under section 235- shall be operative for this  
16 chapter on July 1, 2017."

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval;  
19 provided that section 2 shall apply to taxable years beginning  
20 after December 31, 2016, for investments made pursuant to



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1 section 235- , Hawaii Revised Statutes, on or after the  
2 effective date of this Act.  
3

INTRODUCED BY: ~~ATD~~  
Chen C. Lee  
[Signature]  
Gene Ward  
[Signature]

JAN 25 2017

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**Report Title:**

Diversified Farming; Tax Incentives

**Description:**

Establishes a diversified farming business investment tax credit.

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

