
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[+], 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[~~—The~~];
17 provided that, for taxable years beginning after December 31,
18 2017, the taxpayer may only claim the credit in the taxable year
19 in which the taxpayer incurred the qualified agricultural costs.
20 If the credit is being claimed for qualified agricultural costs
21 incurred during a taxable year beginning before January 1, 2018,



1 the taxpayer also may claim the credit in consecutive or
2 inconsecutive taxable years until exhausted."

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

4 "(1) The department of agriculture shall cease certifying
5 credits pursuant to this section after the [~~fourth~~] fourteenth
6 taxable year following the taxable year during which the credits
7 are first claimed; provided that a taxpayer with accumulated,
8 but unclaimed, certified credits for taxable years beginning
9 before January 1, 2018, may continue claiming the credits in
10 subsequent taxable years until exhausted."

11 SECTION 5. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ _____ or so
13 much thereof as may be necessary for fiscal year 2017-2018 and
14 the same sum or so much thereof as may be necessary for fiscal
15 year 2018-2019 to the department of agriculture to hire one
16 full-time equivalent planner V (1.0 FTE) to assist with the
17 certification of important agricultural land qualified
18 agricultural cost tax credits.

19 The sums appropriated shall be expended by the department
20 of agriculture for the purposes of this Act.



1 SECTION 6. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so
 3 much thereof as may be necessary for fiscal year 2017-2018 and
 4 the same sum or so much thereof as may be necessary for fiscal
 5 year 2018-2019 for grants-in-aid to the counties for the
 6 identification and mapping of important agricultural lands
 7 pursuant to chapter 205, Hawaii Revised Statutes, including for
 8 expenses that a county has incurred for the purposes of
 9 identifying and mapping important agricultural lands before the
 10 effective date of this Act for which the State has not
 11 previously reimbursed the county, to be allocated as follows:

- 12 (1) \$ to the county of Hawaii;
- 13 (2) \$ to the city and county of Honolulu;
- 14 (3) \$ to the county of Kauai; and
- 15 (4) \$ to the county of Maui.

16 The sums appropriated shall be expended by the department
 17 of business, economic development, and tourism and disbursed to
 18 each county upon submittal of that county's recommendations and
 19 maps of important agricultural lands to the land use commission
 20 pursuant to section 205-48(a), Hawaii Revised Statutes, as
 21 amended by section 2 of this Act; provided that if any county



1 fails to submit its recommendations and maps to the land use
2 commission by June 30, 2019, the department of business,
3 economic development, and tourism shall disburse that county's
4 allocated funds to the land use commission, which shall expend
5 those funds to identify and develop a map of important
6 agricultural lands in that county pursuant to section 205-48(d),
7 Hawaii Revised Statutes, as established by section 2 of this
8 Act, by June 30, 2021.

9 SECTION 7. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 8. This Act shall take effect on July 1, 2050;
12 provided that the appropriations made in sections 5 and 6 of
13 this Act shall not lapse at the end of the fiscal biennium for
14 which the appropriations are made; provided further that all
15 moneys from the appropriations unencumbered as of June 30, 2020,
16 shall lapse 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 7/1/2050.
(SD2)

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