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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL TAX CREDITS.

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

1           SECTION 1. In 1978, voters approved article XI, section 3,  
2 of the Constitution of the State of Hawaii. This section laid  
3 out the framework for state policies to promote agriculture and  
4 conserve productive agricultural lands in the state. Article  
5 XI, section 3, reads as follows:

6           "The State shall conserve and protect  
7 agricultural lands, promote diversified agriculture,  
8 increase agricultural self-sufficiency and assure the  
9 availability of agriculturally suitable lands. The  
10 legislature shall provide standards and criteria to  
11 accomplish the foregoing.

12           Lands identified by the State as important  
13 agricultural lands needed to fulfill the purposes  
14 above shall not be reclassified by the State or  
15 rezoned by its political subdivisions without meeting  
16 the standards and criteria established by the  
17 legislature and approved by a two-thirds vote of the



1 body responsible for the reclassification or rezoning  
2 action."

3 To address the issue of important agricultural lands, Act  
4 183, Session Laws of Hawaii, was enacted. Act 183 establishes  
5 standards, criteria, and mechanisms to identify important  
6 agricultural lands and implement the intent and purpose of  
7 Article XI, section 3, of the State Constitution.

8 Act 183 also recognized that while the supply of lands  
9 suitable for agriculture is critical, the long-term viability of  
10 agriculture depends on other factors as well. These factors  
11 include:

- 12 (1) Commodity prices;
- 13 (2) Availability of water and irrigation;
- 14 (3) Agricultural research and outreach;
- 15 (4) Application of production technologies;
- 16 (5) Marketing; and
- 17 (6) Availability and cost of transportation services.

18 Tax incentives are a critical component of the long-term  
19 viability of agriculture on important agricultural lands in the  
20 state. The legislature finds that is in the public interest to  
21 assist agricultural businesses who hold a majority of their



1 lands in important agricultural lands through incentives such as  
2 income tax credits.

3 The purpose of this Act is to further the implementation of  
4 Act 183 by:

5 (1) Establishing the important agricultural land  
6 agricultural business tax credit to assist  
7 agricultural businesses that own, hold, or use a  
8 majority of their lands as important agricultural  
9 lands; and

10 (2) Declaring that the substance of this Act establishes  
11 incentives and protections for important agricultural  
12 lands as contemplated by section 9 of Act 183, which  
13 effectuates the land use commission's authorization to  
14 designate lands as important agricultural lands and  
15 adopt maps therefor pursuant to section 205-49d,  
16 Hawaii Revised Statutes.

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

20 "§235- Important agricultural land agricultural  
21 business tax credit. (a) There shall be allowed to each  
22 taxpayer subject to the taxes imposed by this chapter an income



1 tax credit, which shall be deductible from the taxpayer's net  
2 income tax liability, if any, imposed by this chapter for the  
3 taxable year in which the credit is properly claimed.

4 (b) The amount of the credit shall be one hundred per cent  
5 of the qualified agricultural costs incurred in Hawaii and paid  
6 for by an agricultural business during the taxable year;  
7 provided that this amount shall be reduced pursuant to  
8 subsection (c). No other credit may be claimed under this  
9 chapter for the qualified agricultural costs for which a credit  
10 is claimed under this section for the taxable year.

11 (c) The amount of the qualified agricultural costs  
12 eligible to be claimed under this section shall be reduced by  
13 the amount of funds received by an agricultural business during  
14 the taxable year from the irrigation repair and maintenance  
15 special fund under section 167-24.

16 (d) The cost upon which the tax credit is computed shall  
17 be determined at the entity level. In the case of a  
18 partnership, S corporation, estate, trust, or other pass through  
19 entity, the allowable tax credit may be claimed by the partners,  
20 shareholders, beneficiaries, or members.

21 If a deduction is taken under section 179 (with respect to  
22 election to expense depreciable business assets) of the Internal



1 Revenue Code, no tax credit shall be allowed for that portion of  
2 the qualified agricultural cost for which the deduction is  
3 taken.

4 The basis of eligible property for depreciation or  
5 accelerated cost recovery system purposes for state income taxes  
6 shall be reduced by the amount of credit allowable and claimed.  
7 In the alternative, the taxpayer shall treat the amount of the  
8 credit allowable and claimed as a taxable income item for the  
9 taxable year in which it is properly recognized under the method  
10 of accounting used to compute taxable income.

11 No deduction shall be allowed for that portion of otherwise  
12 deductible, non-capital qualified agricultural costs for which a  
13 credit is claimed under this section.

14 (e) If the tax credit under this section exceeds the  
15 taxpayer's income tax liability, the excess of credit over  
16 liability may be used as a credit against the taxpayer's income  
17 tax liability in subsequent years until exhausted. All claims  
18 for a tax credit under this section, including amended claims,  
19 shall be filed on or before the end of the twelfth month  
20 following the close of the taxable year for which the credit is  
21 claimed. Failure to comply with the foregoing provision shall  
22 constitute a waiver of the right to claim the credit.



1        (f) The director of taxation shall prepare any forms that  
2 may be necessary to claim a credit under this section. The  
3 director may also require the taxpayer to furnish information to  
4 ascertain the validity of the claim for credit made under this  
5 section and may adopt rules necessary to effectuate the purposes  
6 of this section pursuant to chapter 91.

7        (g) The agribusiness development corporation, in  
8 consultation with the department of taxation, shall:

9            (1) Pre-qualify, pre-approve, monitor, and evaluate any  
10            taxpayer applying for or using the tax credit;

11            (2) Monitor and evaluate the effectiveness of the tax  
12            credit.

13 On an annual basis, the agribusiness development corporation  
14 shall submit a report evaluating the effectiveness of the tax  
15 credit. The report shall include but not be limited to findings  
16 and recommendations to improve the effectiveness of the tax  
17 credit to further encourage the development of agricultural  
18 businesses that own, hold, or use important agricultural lands.

19        (h) The tax credit allowed under this section shall be  
20 available for taxable years beginning after December 31, 2006.

21        (i) As used in this section:



1       "Agricultural business" means any taxpayer with a  
2 commercial agricultural, silvicultural, or aquacultural facility  
3 or operation, including:

4       (1) The care and production of livestock and livestock  
5 products, poultry and poultry products, apiary  
6 products, and plant and animal production for nonfood  
7 uses;

8       (2) The planting, cultivating, harvesting, and processing  
9 of crops; and

10       (3) The farming or ranching of any plant or animal species  
11 in a controlled salt, brackish, or freshwater  
12 environment;

13 provided that it maintains its principal place of business in  
14 the state and holds, owns, or uses a majority of its lands,  
15 excluding lands classified as conservation lands, as important  
16 agricultural lands.

17       "Important agricultural lands" means lands identified and  
18 designated as important agricultural lands pursuant to part III  
19 of chapter 205.

20       "Net income tax liability" means income tax liability  
21 reduced by all other credits allowed under this chapter.



1 "Qualified agricultural costs" means expenditures in Hawaii

2 for:

3 (1) The plans, design, engineering, construction,  
4 renovation, repair, maintenance, and equipment for:

5 (A) Roads or utilities serving lands used by an  
6 agricultural business for agricultural purposes;

7 (B) Agricultural processing facilities that process  
8 crops or livestock;

9 (C) Water wells, reservoirs, dams, water storage  
10 facilities, water pipelines, ditches, or  
11 irrigation systems for which the majority of the  
12 lands serviced by its water are important  
13 agricultural lands; and

14 (D) Agricultural housing specifically for laborers of  
15 an agricultural business;

16 (2) Feasibility studies, regulatory processing, and legal  
17 and accounting services related to the items in  
18 paragraph (1);

19 (3) Equipment used to cultivate, grow, harvest, or process  
20 agricultural products by an agricultural business; and

21 (4) Research and development of agricultural products,  
22 processes, techniques, or equipment intended to





1           promote the diversification or long-term viability of  
2           an agricultural business."

3           SECTION 3. New statutory material is underscored.

4           SECTION 4. This Act shall take effect on July 1, 2007.

5

INTRODUCED BY: Russell Kohl <sup>B/R</sup>



**Report Title:**

Important Agricultural Land Agricultural Business Tax Credit

**Description:**

Establishes the Important Agricultural Land Agricultural Business Tax Credit.

