



GOV. MSG. NO. 852

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 1, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on July 1, 2008, the following bill was signed into law:

HB2261 HD2 SD1

A BILL FOR AN ACT RELATING TO  
AGRICULTURAL LOANS.  
(ACT 209)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on JUL 1 2008

HOUSE OF REPRESENTATIVES  
TWENTY-FOURTH LEGISLATURE, 2008  
STATE OF HAWAII

**ACT 209**  
**H.B. NO.** 2261  
H.D. 2  
S.D. 1

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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL LOANS.

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

1 SECTION 1. Section 155-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Farm sustainable projects" means projects that improve  
5 the operation's viability but are not directly tied to farm crop  
6 production. Projects may include but are not limited to  
7 photovoltaic energy, hydroelectric power, wind power generation,  
8 methane generation, food safety, product traceability, bio-  
9 diesel production, and ethanol production."

10 SECTION 2. Section 219-2, Hawaii Revised Statutes, is  
11 amended by adding a new definition to be appropriately inserted  
12 and to read as follows:

13 "Aquaculture sustainable projects" means projects that  
14 improve the operation's viability but are not directly tied to  
15 aquaculture production. Projects may include but are not  
16 limited to photovoltaic energy, hydroelectric power, wind power  
17 generation, methane generation, food safety, product  
18 traceability, biodiesel production, and ethanol production."



1 SECTION 3. Section 155-8, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Loans made under this section shall bear simple  
4 interest on the unpaid principal balance, charged on the actual  
5 amount disbursed to the borrower. The interest rate on loans of  
6 class "A", "B", "C", "E", and "G" shall be at a rate of one per  
7 cent below the prime rate or at a rate of seven and one-half per  
8 cent a year, whichever is less. For purposes of this  
9 subsection, the prime rate shall be determined on January 1 and  
10 July 1 of each year, and shall be the prime rate charged by the  
11 two largest banks in the [~~State~~] state identified by the  
12 department of commerce and consumer affairs. If the prime rates  
13 of the two largest banks are different, the lower prime rate of  
14 the two shall apply. The interest rate on class "F" loans shall  
15 be six per cent a year. The interest rate of class "H" loans  
16 shall be three per cent a year. If the money loaned is borrowed  
17 by the department, then the interest on loans of the classes  
18 shall be the rate as determined above or one per cent over the  
19 cost to the State of borrowing the money, whichever is greater.  
20 Interest on class "D" loans shall not be less than three per  
21 cent a year."



1 SECTION 4. Section 155-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§155-9 Classes of loans; purposes, terms, eligibility.**

4 (a) Loans made under this chapter shall be for the purposes and  
5 in accordance with the terms specified in classes "A" through  
6 [~~"F"~~] "H" in this section and shall be made only to applicants  
7 who meet the eligibility requirements specified therein and  
8 except as to class "B" loans to associations and class "E"  
9 loans, the eligibility requirements specified in section 155-10.  
10 The maximum amount of a loan for class "A", "C", "D", and "F"  
11 loans to an individual applicant shall also apply to any loan  
12 application submitted by a partnership, corporation, or other  
13 entity, and for the purpose of determining whether the maximum  
14 loan amount to any individual will be exceeded, outstanding  
15 loans to any partnership, corporation, or other entity that the  
16 individual has a legal or equitable interest in excess of twenty  
17 per cent shall be taken into account.

18 (b) Class A: Farm ownership and improvement loans shall  
19 provide for:

20 (1) The purchase or improvement of farm land;



1           (2) The purchase, construction, or improvement of adequate  
2           farm dwellings, and other essential farm buildings;  
3           and

4           (3) The liquidation of indebtedness incurred for any of  
5           the foregoing purposes.

6           The loans shall be for an amount not to exceed \$800,000 and  
7           for a term not to exceed forty years. To be eligible, the  
8           applicant shall (A) derive, or present an acceptable plan to  
9           derive, a major portion of the applicant's income from and  
10          devote, or intend to devote, most of the applicant's time to  
11          farming operations; and (B) have or be able to obtain the  
12          operating capital, including livestock and equipment, needed to  
13          successfully operate the applicant's farm.

14          (c) Class B: Soil and water conservation loans shall  
15          provide for:

- 16           (1) Soil conservation practices;
- 17           (2) Water development, conservation, and use;
- 18           (3) Drainage; and
- 19           (4) The liquidation of indebtedness incurred for any of  
20           the foregoing purposes.

21          The loans shall be for an amount not to exceed \$35,000 to  
22          an individual or \$200,000 to an association and shall be for a



1 term not to exceed twenty years for a loan to an individual and  
2 forty years to an association. To be eligible, an individual  
3 applicant shall have sufficient farm and other income to pay for  
4 farm operating and living expenses and to meet payments on the  
5 applicant's existing debts, including the proposed soil and  
6 water conservation loan. An association, to be eligible, shall  
7 be a nonprofit organization primarily engaged in extending  
8 services directly related to the purposes of the loan to its  
9 members, and at least sixty per cent of its membership shall  
10 meet the eligibility requirements specified in section 155-10.

11 (d) Class C: Farm operating loans shall be for the  
12 purpose of carrying on and improving a farming operation,  
13 including:

- 14 (1) The purchase of farm equipment and livestock;
- 15 (2) The payment of production and marketing expenses,  
16 including materials, labor, and services;
- 17 (3) The payment of living expenses;
- 18 (4) The liquidation of indebtedness incurred for any of  
19 the foregoing purposes; and
- 20 (5) The exportation of crops and livestock.

21 The loans shall be for an amount not to exceed \$800,000 and  
22 for a term not to exceed ten years. To be eligible, an



1 applicant shall derive, or present an acceptable plan to derive,  
2 a major portion of the applicant's income from and devote, or  
3 intend to devote, most of the applicant's time to farming  
4 operations.

5 Qualified farmers affected by state eradication programs  
6 may also be eligible for loans under this subsection. Loans  
7 made for rehabilitation from eradication programs shall be  
8 subject to the terms of class "C" loans; provided that the  
9 interest rate shall be three per cent a year and the  
10 requirements in section 155-3 shall be waived and paragraph (4)  
11 shall not apply.

12 (e) Class D: Emergency loans shall be for the purpose of  
13 providing relief and rehabilitation to qualified farmers without  
14 limit as to purpose:

15 (1) In areas stricken by extraordinary rainstorms,  
16 windstorms, droughts, tidal waves, earthquakes,  
17 volcanic eruptions, and other natural catastrophes;

18 (2) On farms stricken by livestock disease epidemics and  
19 crop blights;

20 (3) On farms seriously affected by prolonged shipping and  
21 dock strikes;



1 (4) During economic emergencies caused by overproduction,  
2 excessive imports, and the like; and

3 (5) During other emergencies as determined by the board of  
4 agriculture.

5 The maximum amounts and period for the loans shall be  
6 determined by the board of agriculture; provided that the board  
7 shall require that any settlement or moneys received by  
8 qualified farmers as a result of an emergency declared under  
9 this section shall first be applied to the repayment of an  
10 emergency loan made under this chapter.

11 (f) Class E: Loans to farmers' cooperatives,  
12 corporations, and food manufacturers shall provide credit to  
13 entities engaged in marketing, purchasing, and processing, and  
14 providing farm business services, including:

15 (1) Facility loans to purchase or improve land, building,  
16 and equipment for an amount not to exceed \$500,000 and  
17 a term not to exceed twenty years;

18 (2) Operating loans to finance inventories of supplies and  
19 materials, warehousing, and shipping commodities,  
20 extension of consumer credit to justified farmer-  
21 members, and other normal operating expenses for an





1 amount not to exceed \$300,000 and a term not to exceed  
2 seven years; and

3 (3) The exportation of crops and livestock.

4 To be eligible, a farmers' cooperative or corporation shall  
5 have a majority of its board of directors and a majority of its  
6 membership as shareholders who meet the eligibility requirements  
7 of section 155-10 and who devote most of their time to farming  
8 operations, and the facility loans shall be for an amount not to  
9 exceed \$500,000 or eighty per cent of the cost of the project,  
10 whichever is [~~the lesser.~~] less.

11 To be eligible, a food manufacturer shall be licensed to do  
12 business in the [~~State,~~] state, and the controlling interest of  
13 the entity shall possess a minimum of two years of relevant  
14 processing or manufacturing experience as acceptable to the  
15 department of agriculture. The entity shall process Hawaii-  
16 grown agricultural products or use Hawaii-grown agricultural  
17 products as an ingredient in the manufacturing process.  
18 Facility loans shall be for an amount not to exceed \$500,000 or  
19 eighty per cent of the cost of the project, whichever is [~~the~~  
20 ~~lesser.~~] less. The requirements in section 155-10 shall be  
21 waived for food manufacturing loans; however, the entity shall



1 be a sound credit risk with the ability to repay the money  
2 borrowed.

3 (g) Class F: Loans for new farmer programs shall provide  
4 for costs of a new farm enterprise for qualified new farmers:

5 (1) Initial loans made under this class shall be for  
6 purposes and in accordance with the terms specified in  
7 class "A" and "C" only, and shall be made only for  
8 full-time farming. The loans shall be made for an  
9 amount not to exceed \$100,000 or eighty-five per cent  
10 of the cost of the project, whichever is [~~the lesser,~~]  
11 less;

12 (2) Any subsequent loan shall be made from classes "A" to  
13 "D", respectively, depending upon the purpose for  
14 which the loan funds are used; and

15 (3) Borrowers shall comply with special term loan  
16 agreements as may be required by the department and  
17 shall take special training courses as the department  
18 deems necessary.

19 (h) Class G: Loans to part-time farmers shall be for farm  
20 improvement and operating purposes for carrying on and improving  
21 farming operations, including loans for:



- 1 (1) The purchase, construction, and improvement of farm  
2 production and growing structures;
- 3 (2) The purchase of farm equipment or livestock; and
- 4 (3) The payment of production and marketing expenses,  
5 including materials, labor, and services.

6 The liquidation of indebtedness incurred for any of the  
7 purposes under this subsection and for living expenses shall not  
8 be authorized purposes. Each loan shall be for an amount not to  
9 exceed \$25,000 and for a term not to exceed ten years.

10 (i) Class H: Farm sustainable project loans shall provide  
11 for:

- 12 (1) The purchase, construction, or improvement of  
13 essential farm buildings, including the improvement of  
14 existing farm buildings related to the project;
- 15 (2) The improvement of land that may be required by the  
16 project;
- 17 (3) The purchase of equipment and payment of any related  
18 expenses, including materials, labor, and services;
- 19 (4) Operating expenses associated with the project; or  
20 (5) The liquidation of indebtedness incurred for any of  
21 the foregoing purposes.



1       The loans shall be for an amount not to exceed \$1,500,000  
2       or eighty-five per cent of the project cost, whichever is less,  
3       and for a term not to exceed forty years.

4       To be eligible, the applicant shall be a qualified farmer  
5       of sound credit rating with the ability to repay the money  
6       borrowed, as determined by the department. Income from the  
7       applicant's farming activities and any supplemental income that  
8       may be generated from the project shall be the sole criterion  
9       for the department's determination of the applicant's ability to  
10       repay the money borrowed. The department's determination may be  
11       based on projections of income and expenses."

12       SECTION 5. Section 219-6, Hawaii Revised Statutes, is  
13       amended to read as follows:

14       "**§219-6 Loan; limitation and terms.** Loans made under this  
15       chapter shall be for the purposes and in accordance with the  
16       terms specified in classes "A", "B", "C", [~~and~~] "D", and "H" in  
17       [~~paragraph~~] paragraphs (1), (2), (3), [~~and~~] (4), and (5)  
18       following and shall be made only to applicants who meet the  
19       eligibility requirements specified therein:

20       (1) Class A: Aquaculture farm ownership and improvement  
21       loans. To provide for:



1 (A) The purchase or improvement of aquaculture farm  
2 land and waters;

3 (B) The purchase, construction, or improvement of  
4 adequate aquaculture farm dwellings, and other  
5 essential aquaculture farm facilities; and

6 (C) The liquidation of indebtedness incurred for any  
7 of the foregoing purposes.

8 Such loans shall be for an amount not to exceed  
9 \$400,000 and for a term not to exceed forty years. To  
10 be eligible, the applicant shall:

11 (i) Derive, or present an acceptable plan to  
12 derive, a major portion of the applicant's  
13 income from and devote, or intend to devote,  
14 most of the applicant's time to aquaculture  
15 farming operations; and

16 (ii) Have or be able to obtain the operating  
17 capital, including fishstock and equipment,  
18 needed to successfully operate the  
19 applicant's aquaculture farm;

20 (2) Class B: Aquaculture operating loans. To carry on  
21 and improve an aquaculture operation, including:



- 1 (A) The purchase of aquaculture equipment and  
2 fishstock;
- 3 (B) The payment of production and marketing expenses,  
4 including materials, labor, and services;
- 5 (C) The payment of living expenses; and
- 6 (D) *The liquidation of indebtedness incurred for any*  
7 *of the foregoing purposes.*

8 Such loans shall be for an amount not to exceed  
9 \$400,000 and for a term not to exceed ten years. To  
10 be eligible, an applicant shall derive or present an  
11 acceptable plan to derive a major portion of the  
12 applicant's income from and devote, or intend to  
13 devote, most of the applicant's time to aquaculture  
14 operations;

15 (3) Class C: Aquaculture cooperative and corporation  
16 loans. To provide credit to aquaculturists'  
17 cooperative associations and corporations engaged in  
18 marketing, purchasing, and processing, and providing  
19 farm business services, including:

- 20 (A) Facility loans to purchase or improve land,  
21 building, and equipment for an amount not to



1           exceed \$500,000 and a term not to exceed twenty  
2           years; and

3           (B) Operating loans to finance inventories of  
4           supplies, warehousing, and shipping commodities,  
5           extension of consumer credit to justified farmer-  
6           members, and other normal operating expenses for  
7           an amount not to exceed \$300,000 and a term not  
8           to exceed seven years.

9           To be eligible, a cooperative or corporation shall  
10          have at least seventy-five per cent of its board of  
11          directors and seventy-five per cent of its membership  
12          as shareholders who meet the eligibility requirements  
13          prescribed by the board and who devote most of their  
14          time to aquaculture operations; [~~and~~]

15          (4) Class D: Emergency loans. To provide relief and  
16          rehabilitation to qualified aquaculturists without  
17          limit as to purpose:

18          (A) In areas stricken by extraordinary rainstorms,  
19          windstorms, droughts, tidal waves, earthquakes,  
20          volcanic eruptions, and other natural  
21          catastrophes;

22          (B) On farms stricken by aquatic diseases;



- 1 (C) On farms seriously affected by prolonged shipping
- 2 and dock strikes;
- 3 (D) During economic emergencies such as those caused
- 4 by overproduction and excessive imports; and
- 5 (E) During other emergencies as determined by the
- 6 board.

7 The maximum amounts and period for the loans shall be  
8 determined by the board; provided that the board shall  
9 require that any settlement or moneys received by  
10 qualified aquaculturists as a result of an emergency  
11 declared under this section shall first be applied to  
12 the repayment of an emergency loan made under this  
13 chapter[-]; and

14 (5) Class H: Aquaculture sustainable project loans shall  
15 provide for:

16 (A) The purchase, construction, or improvement of  
17 essential farm buildings, including the  
18 improvement of existing farm buildings related to  
19 the project;

20 (B) The improvement of land that may be required by  
21 the project;





1           (C) The purchase of equipment and payment of any  
2           related expenses, including materials, labor, and  
3           services;

4           (D) Operating expenses associated with the project;  
5           or

6           (E) The liquidation of indebtedness incurred for any  
7           of the foregoing purposes.

8           The loans shall be for an amount not to exceed  
9           \$1,500,000 or eighty-five per cent of the project  
10           cost, whichever is less, and for a term not to exceed  
11           forty years.

12           To be eligible, the applicant shall be a  
13           qualified aquaculturist of sound credit rating with  
14           the ability to repay the money borrowed, as determined  
15           by the department. Income from the applicant's  
16           aquacultural activities and any supplemental income  
17           that may be generated from the project shall be the  
18           sole criterion for the department's determination of  
19           the applicant's ability to repay the money borrowed.  
20           The department's determination may be based on  
21           projections of income and expenses."



1 SECTION 6. Section 219-9, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Loans made under this section shall bear simple  
4 interest on the unpaid principal balance, charged on the actual  
5 amount disbursed. The interest rate for class "A", class "B",  
6 [~~and~~] class "C", and class "H" loans shall be set by rule,  
7 pursuant to chapter 91."

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

10 SECTION 8. This Act shall take effect upon its approval.

APPROVED this 1 day of JUL , 2008



GOVERNOR OF THE STATE OF HAWAII

