

## **Appendix A**

### **Incentive Concept Form**

**IAL Incentives Concept**  
(Limited to 2 pages)

Date:

Incentive Developer:

Tel. No.

Email:

Incentive Title:

Incentive Description:

How does the incentive:

- Promote long-term use and protection of important agricultural lands for agricultural use;
- Promote agriculture viability; or
- Sustain growth of agriculture industry.

Has this incentive or a variation been implemented anywhere else? If yes, indicate the location and if the information is available, describe the outcomes achieved.

Estimated Cost of Incentive:

Estimated Effective Date of Incentive:

Estimated Sunset Date of Incentive:

**Appendix B**  
**Incentive Proposal Form**

# IMPORTANT AGRICULTURAL LANDS Incentive Proposal

Title of incentive: \_\_\_\_\_  
\_\_\_\_\_

Name of submitting organization: \_\_\_\_\_

## Contact Information

Name: First: \_\_\_\_\_ M.I. \_\_\_\_\_ Last: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Date of submittal: \_\_\_\_\_

## INCENTIVE DESCRIPTION

1. Who is the primary beneficiary of this incentive? (check one)

- Farmer(s) (owns land and farms)
- Farmer(s) (leases land for farming)
- Farmer(s) (owns & farms land & leases land for farming FROM other(s))
- Farmer(s) (owns & farms land & leases land for farming TO other(s))
- Landowner(s), non-farmer
- Other(s): Please describe: \_\_\_\_\_

2. Number of acres farmed by beneficiary identified in No. 1

- 0 acres
- 1-9 acres
- 10-49 acres
- 50-179 acres
- 180-499 acres
- 500-999 acres
- 1000+ acres

3. Describe the incentive and how it will:
  - a. Promote long-term use and protection of important agricultural lands for agricultural use;
  - b. Promote agriculture viability; or
  - c. Sustain growth of agriculture industry.

4. Describe the expected short-term (1-3 years) and long-term (3+ years) outcomes and how the outcomes will be measured.

5. Identify the administering, spending, and monitoring entity(ies)

6. Eligibility
- a. Identify eligibility criteria
  - b. Describe how eligible parties will become aware of the incentive

7. Identify the effective date of the incentive: \_\_\_\_\_

8. Identify the sunset date of the incentive: \_\_\_\_\_



9. Describe any pre-conditions for the incentive's implementation

10. Identify any partner involvement

- a. Describe any partners whose participation and support is crucial for the achievement of the outcome(s) of this incentive, e.g. counties, federal government, other organizations.
- b. Describe or provide evidence of the support of your partners

11. Cost of Incentives
  - a. Estimate the costs and provide the assumptions used in developing the estimates;
  - b. Identify which entity(ies) will incur the costs
  - c. Identify any “cap” on the cost of the incentive

12. Estimated Revenues
  - a. Does the incentive generate any revenue for the State, and if yes, provide an estimate, including assumptions and description of revenue source(s).
  - b. Describe how any revenue will be accounted for and its disposition.

13. Estimate the number of jobs created or saved by this incentive. Provide assumptions made in the estimate.

14. Does this incentive result in the introduction of new crops, opening of new markets (domestic or foreign), and/or new technologies? If yes, describe.

15. Has this incentive or a variation been implemented anywhere else? If yes, indicate the location and describe the outcomes achieved.

16. Describe how the general public will benefit from this incentive.

**Appendix C**  
**Incentive Review Guide**

## HAVING YOUR SAY: PROPOSAL CONCEPT REVIEW GUIDE

Please make sure that you provide the following details in your submission after you have reviewed the proposal(s). Complete one guide for each proposal critiqued:

Forum Member:

Name: First: \_\_\_\_\_ M.I. \_\_\_\_\_ Last: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Member of the Agricultural Community or General Public:

Name: First: \_\_\_\_\_ M.I. \_\_\_\_\_ Last: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Please describe yourself:

- Farmer (owns land and farms)
- Farmer (leases land for farming)
- Farmer (owns & farms land & leases land for farming FROM other(s))
- Farmer (owns & farms land & leases land for farming TO other(s))
- Landowner, non-farmer
- Other: Please describe: \_\_\_\_\_

Number of Acres Farmed

- 1-9 acres
- 10-49 acres
- 50-179 acres
- 180-499 acres
- 500-999 acres
- 1000+ acres

To help you with your critique, here are the key questions we would like your views on. Please answer all of the questions.

Proposal ID. No. \_\_\_\_\_

A. Is the proposal realistic? Yes  No

B. How much of an impact on agriculture will the proposal have?

High  Medium  Low  Unclear

C. What did you like best about the proposal?

D. What were your concerns about the proposal?

E. Could this proposal be combined with any others that you have reviewed to make it stronger?  
Yes  No  Have not seen any others

F. Do you have any further suggestions for improvement? Yes  No  If yes, please specify:

G. Proposal Decision: Approve  Reject  Defer

## **Appendix D**

### **TDR and PACE Programs**



## Examples of PACE, TDR, and PDR Programs

### Enacted Legislation

#### Arizona

Arizona's zoning enabling statute (ARS §9-462.01) includes a provision authorizing the use of TDR. TDR ordinances must authorize local governments to purchase and resell development rights, require recordkeeping of severed and transferred development rights, and have procedures to ensure development that violates the transfer does not occur on the sending parcel. The statute also requires all TDR transactions be preceded by a notice and hearing, and both the owners of the sending and receiving parcels consent to the TDR.

#### Colorado

Colorado statute 30-28-401 states a process should be available for residential development that fulfills the county's goals to preserve open space, protect wildlife habitat and critical areas, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching. Transfer of development rights are enumerated as one of the possible process options.

#### Connecticut

Connecticut's general zoning statute (Conn. Gen. Stat. Chapter 124 Section 8-2) grants authority for the creation of a TDR program and to vary density limits in the receiving areas. A separate provision requires the owners of the sending and receiving parcels to jointly apply in order to transfer development rights. Chapter 124 Sections 8-2e and 8-2f enable two (or more) municipalities to execute an agreement such that transfers of development rights can occur across the boundaries of the municipalities that are party to the agreement.

Status: Signed into law in 1985.

#### Florida

Title XI Chapter 163.3177 recognizes transfer of development rights programs as an effective tool to preserve historic buildings and create public open space in an urban area. Florida law allows for the transfer of density credits from historic properties and public open spaces to areas designated for high-density development. The state provides technical assistance to local governments in order to promote the transfer of development rights within urban areas for high-density infill and redevelopment projects.

Status: Signed into law on June 24, 2004.

## Georgia

SB 86 was enacted early in the spring of 2003. As Official Code of Georgia Section 36-66A-1, the legislation enables municipalities and county governments to public health, safety, and the state's general welfare by adopting ordinances that provide for transfer of development rights.

Status: Signed by Governor Perdue on June 24, 2003.

## Illinois

Illinois's enabling statute (65 ILCS 5/11-48.2) is based on the Chicago Plan. Municipalities are authorized to designate landmarks, and may use TDRs to implement the designation. Municipalities are also authorized to create a development rights bank. Under the Illinois County Historic Preservation Law (55 ILCS 5/5-3001 - 30022), counties may employ TDR if an owner of a landmark property is seeking permission to alter or demolish the landmark, and can provide specific evidence being denied permission will cause economic hardship.

## Idaho

Title 67-6515A authorizes any city or county government to pass an ordinance to create development rights and establish procedures authorizing landowners to voluntarily transfer those rights.

Status: Signed into law on March 25, 1999.

## Kansas

Kansas Statute No. 12-755 authorizes governing bodies to adopt zoning regulations which may include the Transfer of Development Rights.

Status: Signed into law July 1, 1991.

## Kentucky

KRS §100.208 grants local governing bodies the ability to develop ordinances that enable local governments to restrict or prohibit development from parcels that have transferred developments rights, and to allow local governments to increase development density on parcels where development rights have been transferred. Transfer of development rights must be voluntary under the ordinance.

Status: Signed into law July 15, 2002.

## Maine

Title 30-A Chapter 187 § 4328, an amendment to Maine Public Law, enables local governments to adopt TDR programs to prevent incompatible development. It also allows two or more municipalities to transfer development rights between the municipalities.

Status: Signed into law in 2001.

## Maryland

Article 66B § 11:01 of the Maryland Code gives local legislative authorities the power to establish transfer of development rights programs to encourage the preservation of natural resources and facilitate orderly growth in the state.

Status: Signed into law in 1986, amended in 2000.

## Massachusetts

Title VII Chapter 40A of the General Laws of Massachusetts enables zoning ordinances to authorize permits for the transfer of development rights within or between districts, in order to protect open space, preserve farmland, promote housing for low income citizens, or other reasons that are in the community interest.

## Minnesota

Chapters 394.25 and 462.357 of the Minnesota Statutes provide for the transfer of development rights for the purpose of preserving areas considered desirable by local zoning boards and the transfer of development rights from those areas to areas the governing body considers more appropriate for development.

## New Hampshire

HB 761 enables municipalities to adopt subdivision and site plan review regulations that require innovative land use controls, including transfer of density and development rights. The bill grants local governments more regulatory authority to administer local land use, and allows them to require innovative land use controls if they are supported by the master plan. This bill expands upon the existing statute, Chapter 674 (last amended July 2002), which listed the transfer of development rights as an innovative land use control.

Status: Signed into law on June 6, 2004.

## New Jersey

HB 1287 creates a statewide TDR program granting municipalities the flexibility to adopt a program that meets their specific growth and preservation needs. The development plans are subject to county planning board approval to assure that regional planning needs are also taken into consideration.

Status: Signed into law on March 29, 2004.

## New Mexico

New Mexico Statutes § 5-8-43 provides counties and municipalities with guidelines to regulate the transfer of development rights in accordance with comprehensive land planning and encourage the conservation of ecological, agricultural, and historical land.

Status: Signed into law in 2003.

#### New York

New York cities, towns, and villages can enact TDR ordinances to protect natural, scenic, and agricultural values of open land, areas of historical or cultural significance, and areas of special economic value (N.Y. Gen. City Law §20-f; N.Y. Town Law §261-a; N.Y. Village Law §7-701). The TDR procedure must be the same as that prescribed for zoning ordinances. TDR ordinances can only be enacted in accordance with a local comprehensive plan. The local legislature must find that the receiving district has adequate public facilities to accommodate TDRs, adjustments must be made for the impacts of TDRs on low- and moderate-income housing, and an environmental impact statement must be produced by the local government for the receiving area. The statute also authorizes TDR banks.

#### North Carolina

Cities and counties are authorized to use "severable development rights" in connection with dedicating a corridor for a street or highway indicated on a plan as an alternative to requiring dedication of the corridor as a condition of subdivision plat approval (N.C. Gen. Stat. § 136-66.10 - .11). Through the zoning ordinance, the local legislature must indicate the receiving districts.

#### Pennsylvania

Pennsylvania Municipalities Planning Code § 10619.1 authorizes local governments to enact TDR ordinances, and does not allow TDRs in the absence of such an ordinance. Development rights cannot be transferred across municipal lines, except when there is a joint zoning ordinance between the municipalities where the sending and receiving parcels are located.

#### Rhode Island

RIGL § 45.24.33 establishes a system for the transfer of development rights within or between zoning districts.

Status: Signed into law July 13, 2001.

#### Tennessee

Under Tennessee Code Annotated § 13-7-402, counties and municipalities may establish a voluntary transfer of development rights program to preserve historic districts, or significant environmental or agricultural areas. Only counties with a metropolitan government can have a TDR program (Tennessee Code Annotated § 13-7-101(a)(2)). Any TDRs must be voluntary and by contract.

Status: Signed into law in 1982, amendments in 1987 and 2004 (SB 2446).

#### West Virginia

WVC § 7-1-3mm authorizes counties designated as growth counties to establish a transfer of development rights program, in order to preserve natural resources, protect scenic, recreational, and agricultural qualities of open lands, and facilitate

measured growth. Establishment of a transfer of development rights program must be approved by the majority of voters in a growth county.

### Proposed Legislation

#### Arizona

HB 2687 would prohibit a city, town, or county from affecting the existence of a conservation easement through a zoning, rezoning, or other ordinance or regulation. A TDR program is one specific part of the bill that would enable county and local governments to protect conservation easements.

Status: Retained on calendar for the beginning of next session, 3/15/04.

#### Delaware

HB 540 would establish a voluntary transfer of development rights program and banking system operated by a board. TDR transactions approved by the board would be administered and enforced by the Delaware Agricultural Lands Preservation Foundation. The purpose of the program is to deter sprawl, preserve farmland and open space, and promote the development of well-designed communities that use infrastructure more efficiently. Counties and municipalities that choose not to participate in the TDR program could conduct their own programs.

Status: Referred to the House Land Use and Infrastructure Committee on 6/6/02.

#### Hawaii

HB 454 would establish a land evaluation and site assessment rating system; require the land use commission to establish the boundaries of the important agricultural lands district, the conservation district, and the other lands district; and, abolish urban, rural, and agricultural districts. This legislation aims to conserve and protect agricultural lands by enabling local governments to adopt TDR programs. Only agricultural land could be considered for proposed sending areas.

Status: Carried over to 2004 Regular Session, 8/21/03.

#### Indiana

SB 125 would enable local governments to establish procedures for the voluntary transfer of development rights through zoning ordinances. Ordinances would enable local governments to restrict or prohibit development from parcels that have transferred development rights, and allow local governments to increase development density on parcels where development rights have been transferred.

Status: Referred to Committee on Agriculture and Small Business, 1/10/00.

#### North Carolina

HB 1546, introduced in May 2004, would authorize the transfer of development rights into the urban area of the town of Chapel Hill in association with conservation easements purchased in rural areas of Orange County. However, the

bill, as introduced, contains no provisions to extend the TDR program to other areas of the state.

Status: Referred to State House Committee on Local Government, 5/20/04.  
Oregon

HB 3998, introduced in 2001, would create a system to compensate owners of lands zoned for agriculture or forestry in specified instances when land use regulation restricts property use. This bill would establish a transfer of development rights system. However, the bill frames land use planning in terms of "taking" development rights away from individual land owners, and the transfer of development rights functions as a compensation program for individual property owners so that local and state land use planning objectives can be met.

Status: Referred back to Committee on Land Use and Regulatory Fairness, 7/7/01.

## **Appendix E**

### **Right to Farm Fact Sheet**

## **Pennsylvania Farm Bureau**

Governmental Affairs & Communications Division  
717-761-2740 GovCom@pfb.com www.pfb.com

July, 2005

### **KEY PROVISIONS OF ACT 38 (HOUSE BILL 1646)**

*Note: The state House and Senate have passed and the Governor has signed into law House Bill 1646, formerly known as the "ACRE" legislation, to provide an effective remedy to resolve problems created by illegal local farm ordinances impacting Pennsylvania farm families. Listed below is factual information about the final version of the legislation, including the changes that removed the Office of Ordinance Review and the Agricultural Review Board from the original version of the legislation.*

- House Bill 1646 will create a process for farmers to seek review of ordinances believed to be illegally restricting normal agricultural operations. Farmers will have the ability to request the Pennsylvania Attorney General to review an ordinance restricting agriculture that the farmer believes to be illegal.
- Only farmers will be entitled to ordinance review by the Attorney General.
- The Attorney General will be given authority to bring legal actions in Commonwealth Court to challenge and prevent the enforcement of illegal ordinances.
- The Attorney General will be required to review an ordinance and make a decision on whether he will bring a legal action to challenge the ordinance within 120 days. The Attorney General will be required to notify the farmer of his decision.
- The Pennsylvania Secretary of Agriculture and the College of Agricultural Sciences at Penn State will provide expert consultation regarding the nature of normal farming operations in the Commonwealth, if requested to do so by the Attorney General.
- The scope of ordinances subject to review by the Attorney General will include any ordinance enacted before the bill's effective date, as well as ordinances enacted after that date, that would restrict normal agricultural operations or restrict the business structure of the farm operation.
- Farmers can still go to court regardless of whether or not the Attorney General takes action. Farmers who bring legal actions against an illegal local ordinance will be entitled to bring the action in Commonwealth Court, allowing them to bypass the Court of Common Pleas. Decisions made on the ordinance by Commonwealth Court will establish statewide legal precedent.
- Commonwealth Court will have the authority to appoint hearing "masters" to conduct hearings and administer the legal action in a timely and more economical fashion.



- Commonwealth Court could award attorney fees to a farmer who successfully challenges an illegal local ordinance if the farmer shows the township “negligently disregarded” the legality of the ordinance when it was enacted.
- The Court may award attorney fees to a township that successfully defends a legal challenge of its ordinance, if the township can show the lawsuit was “frivolous.”

**Two additional environmental measures are part of House Bill 1646. They include:**

- Best management practices for control of odor will be required of concentrated animal feeding operations (CAFO) and concentrated animal operations (CAO) when they expand existing structures or construct new structures housing animals or storing manure.
- Concentrated animal feeding operations (CAFO) and concentrated animal operations (CAO) will be prohibited from spreading animal manure within 100 feet of streams, lakes and ponds, or within 35 feet of streams, lakes and ponds if the farm establishes a qualified vegetative buffer next to the waterway. Farmers can still perform many farming practices in the buffer areas.

## **Appendix F**

### **Farm Sense Fact Sheet**



Lewis R. Riley  
Secretary

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Robert L. Ehrlich, Jr.  
Governor

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## Farm Sense Ag Mediation - Fact Sheet

A low cost, voluntary, confidential way to keep Maryland agriculture productive.

What is FARM SENSE?	Farm, Agricultural and Rural Mediation: Solid Efforts to Negotiate Solutions the official USDA-certified agricultural mediation program for Maryland, offers assistance to the state's agricultural community and others with concerns re agriculture.
What is mediation?	Agricultural mediation is a voluntary, confidential process in which a neutral (the mediator) assists farmers, agricultural lenders, agencies and citizens to disputes in a confidential and non-adversarial setting outside the traditional regulatory processes.
Why mediate?	Mediation usually is less costly, quicker, and more satisfactory to the parties forms of dispute resolution.
What is mediated?	Mediation may involve agricultural credit issues by the borrower or creditor, decisions by USDA agencies, or any disputes affecting the profitability of an enterprise.
When to mediate.	Mediation is appropriate anytime an agricultural producer is delinquent or is becoming delinquent on a loan; when a producer receives written notice of decision from a government agency; or any time a producer encounters concerns with another citizen.
What costs are involved?	An initial consultation with FARM SENSE program staff is at no charge. If a mediator is needed, costs are shared by the parties. Full or partial waivers of fees may be based on income. Any additional legal, financial or technical advisors, if needed, are paid by the participants.
Whom to contact.	FARM SENSE is a service of the Maryland Department of Agriculture. To learn more about the services offered contact us toll free at 800-492-5590 or write to: <p style="text-align: center;">FARM SENSE                  Maryland Department of Agriculture                  50 Truman Parkway                  Annapolis, MD 21401</p>

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 Maryland Department of Agriculture . 50 Harry S. Truman Parkway . Annapolis, MD 21401 . 410-841-5700



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## Farm Sense Ag Mediation Program Summary

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A low cost, voluntary, confidential way to keep Maryland agriculture productive.

<p style="text-align: center;"><b>What is conflict?</b></p> <ul style="list-style-type: none"> <li>● "An expressed struggle between two or more interdependent parties who perceive incompatible goals, scarce resources, and interference from the other party in achieving their goals." (Hocker &amp; Wilmot)</li> <li>● Understanding what causes conflict and how we choose to deal with it affects how we feel about the process and the people involved.</li> <li>● Conflict can be destructive or constructive. Conflict offers opportunity for growth and better decision-making concerning a shared problem.</li> </ul>	<p style="text-align: center;"><b>What is mediation?</b></p> <ul style="list-style-type: none"> <li>● A voluntary, non-adversarial, interest-based process in which a third neutral party (the mediator) meets with..</li> <li>● ...two or more parties who have a conflict, to ...</li> <li>● ...facilitate discussion, and...</li> <li>● ...assist the parties in reaching a mutual resolution of their differences.</li> </ul>
<p style="text-align: center;"><b>"Winning" in mediation may be...</b></p> <ul style="list-style-type: none"> <li>● Better understanding of the situation;</li> <li>● Less frequent or less harmful tactics;</li> <li>● Increased number of points</li> <li>● Fewer contentious parties</li> <li>● Changing the goal from "winning" to "doing well"</li> </ul>	<p style="text-align: center;"><b>Benefits of Mediation</b></p> <ul style="list-style-type: none"> <li>● Mediation can be fast, and is usually successful.</li> <li>● Participants craft the solution themselves and are generally more committed than when a judge or hearing officer imposes a solution.</li> <li>● By attempting to resolve a dispute through mediation, you do not give up your legal rights to file a formal complaint or grievance. (The mediator does not have decision-making authority.)</li> <li>● Mediation tends to mend or improve the overall relationship between the parties because the focus is largely on the disputants' interests, while litigation focuses on positions.</li> <li>● Mediation is creative and "forward-looking." Mediation can allow the parties to develop</li> </ul>

	<p>a more flexible or creative solution than is generally possible in court or formal hearings and appeals.</p> <ul style="list-style-type: none"> <li>• Mediation is confidential.</li> </ul>
<p><b>Confidentiality</b></p> <ul style="list-style-type: none"> <li>• Those involved in the mediation can speak openly about the issues.</li> <li>• With some limitations, nothing specific to the mediation can be admissible in any later administrative or judicial proceeding.</li> <li>• Parties to a mediation cannot subpoena the mediator.</li> </ul>	<p><b>When is mediation appropriate?</b></p> <ul style="list-style-type: none"> <li>• Disputes involving miscommunication</li> <li>• Disagreements over facts or values</li> <li>• Alleged discrimination</li> <li>• Personality conflicts</li> <li>• Assessment of penalties where some discretion is involved</li> </ul>
<p><b>Ask these questions:</b></p> <ul style="list-style-type: none"> <li>• Is the relationship important even though it is tense?</li> <li>• Do participants want to retain control over the outcome?</li> <li>• Could a skilled neutral party improve communications?</li> <li>• Would a third party change the dynamics of the situation?</li> <li>• Are people willing to meet to resolve their differences?</li> <li>• Is confidentiality important?</li> <li>• Is time important?</li> </ul> <p>If you answered "yes" to many of these questions, then the situation is probably suitable for mediation.</p>	<p><b>What is agricultural mediation?</b></p> <ul style="list-style-type: none"> <li>• Voluntary, confidential, non-adversarial process</li> <li>• Assists producers, lenders, agencies and citizens who have mutual concerns related to agricultural production</li> <li>• Neutral third party (mediator) helps people identify issues, options, and possible solutions</li> <li>• Not a determination nor a judgment of who is right or wrong</li> <li>• Other rights, responsibilities and options still available</li> </ul>
<p><b>How does agricultural mediation benefit Maryland?</b></p> <ul style="list-style-type: none"> <li>• Less costly, quicker, and often more satisfactory than other forms of dispute resolution.</li> <li>• Flexible and confidential process; a neutral setting in which to openly discuss sensitive issues.</li> <li>• Outcome controlled by participants, who reach their own mutually acceptable solutions.</li> <li>• Improves communication, understanding, and compliance regarding matters of mutual interest, and can preserve important relationships.</li> <li>• Mediation encourages responsible decisions about Maryland's economic and environmental future.</li> <li>• Mediation can revitalize the economic base of rural communities and strengthen our rural heritage.</li> <li>• Mediation is creative and "forward-looking."</li> <li>• Mediation can be fast, and is</li> </ul>	<p><b>Requesting mediation for credit issues</b></p> <ul style="list-style-type: none"> <li>• Requested by agricultural borrowers or their creditors (banks, suppliers, implement dealers, Farm Credit Services, Farm Service Agency, etc.)</li> <li>• When a producer is delinquent or is at risk of becoming delinquent</li> </ul> <p><b>for non-credit issues</b></p> <ul style="list-style-type: none"> <li>• Requested by agricultural producers, government regulators, or Maryland citizens</li> <li>• When an adverse decision is issued by a government agency</li> <li>• When a producer encounters conflicts or concerns with another citizen</li> </ul>

usually successful.	
<b>In times of crisis</b>	<b>At any time</b>
<ul style="list-style-type: none"> <li>● USDA agencies issuing an "adverse decision" offer the option of mediation, and must participate in mediation if requested.</li> <li>● Other organizations may also offer this option in conjunction with adverse decisions or other concerns.</li> <li>● Mediation in lieu of a formal appeal must be requested within certain time limits.</li> </ul>	<ul style="list-style-type: none"> <li>● Sooner rather than later is often preferable.</li> <li>● Meet as soon as possible to consider different interests and develop several options for resolving the problem.</li> <li>● Early mediation may prevent potential difficulties or adverse decisions.</li> </ul>
<b>What is the cost?</b>	<b>FARM SENSE has two goals</b>
<ul style="list-style-type: none"> <li>● No charge for the initial consultation</li> <li>● People share modest costs for mediation</li> <li>● Full or partial fee waivers may be available</li> <li>● No charge for training</li> </ul>	<ul style="list-style-type: none"> <li>● Training and education for organizations and individuals</li> <li>● Direct provision of mediation services</li> </ul>

**Farm, Agricultural & Rural  
Mediation:  
Solid Efforts to Negotiate Solutions  
Effectively**

FARM SENSE  
Maryland Department of Agriculture  
50 Harry S. Truman Parkway  
Annapolis, MD 21401  
Phone: 410-841-5770 or 800-492-  
5590  
Fax: 410-841-5987  
E-mail: [storrsjm@mda.state.md.us](mailto:storrsjm@mda.state.md.us)

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**Appendix G**  
**Media Coverage**

# Hawaii Florists & Shippers Association

(A Non-profit Association)

P.O. Box 5640, Hilo, Hawaii 96720  
www.hfsa.net



October 2005

## HDOA reports steady progress on vital IAL measure

Officials of the Hawaii Department of Agriculture and other State agencies are taking steps to implement Act 183 of the 2005 Legislature, which is designed to identify Hawaii's important agricultural lands (IAL) and keep them from being used for non-agricultural purposes.

The 2005 Legislature passed House Bill 1640, which became Act 183 of the 2005 Legislature. Proponents of this kind of legislation had been working for years to get it put in place.

Article XI, Section 3 of the Hawaii State Constitution, which voters approved in 1978, forbids the reclassification of lands identified by the State as important agricultural lands without due governmental procedure. But until 2005, the lawmakers never enacted the legislation necessary to provide the standards, criteria, and mechanisms to fulfill the intent and purpose of Article XI.

Act 183 calls for the development of agricultural incentive programs to promote sustained growth of the agricultural industry and ensure the long-term use and protection of important agricultural land for agricultural use. It is the task of State and County agencies to develop proposals for such incentives.

Said Duane K. Okamoto, Deputy to the HDOA Chairperson:

"We put together a group, largely guided by the act itself. We are doing this in conjunction with the State Department of Taxation. We brought in other stakeholders, including the Farm Bureau, Land Use Research Foundation of Hawaii, Department of Business, Economic Development & Tourism, and the Office of State Planning.

"We are trying to get the planning people of the counties involved as well. The Act itself requires the Department of Agriculture to submit a report prior to the start of the 2007 session of the Legislature."

But, he said, the group wants to jump-start the process.

"If possible, we would like to identify some incentives and submit them as part of a report for the 2006 session of the Legislature," Okamoto said.

The idea, he said, is to identify things the entire group can agree on—things that are not very controversial and not so complex—and bring them up at the 2006 session. Complex and controversial issues, he said, can be considered during 2006 and readied for consideration at the 2007 session.

Okamoto said Bob Wagner of the American Farmland Trust gave the group some valuable information about programs on the Mainland.

Okamoto has made presentations regarding the group's work to Farm Bureau officials and several organizations, including the Kona County Farm Bureau and coffee farmers in Ka'u. "We hope to have more community meetings as this thing goes forward," he said. Sources within the agriculture industry consider this group's work to be of extreme importance. They hope that incentives which are sufficiently strong to lead major landowners to dedicate their land can be identified by the start of the 2006 legislative session.



## Landmark measure signed into law

# Leaders welcome law to conserve agricultural land

A measure that's being hailed by industry leaders as extremely important to people in all phases of agriculture has been passed by Hawaii's lawmakers and signed by Governor Lingle.

The measure that was introduced as House Bill 1640—"a bill for an act relating to important agricultural lands"—is now Act 183 of the 2005 Legislature.

Said Dean Okimoto, president of the Hawaii Farm Bureau Federation:

"This legislation establishes policies and procedures for identifying important agricultural lands and for developing state and county incentives to promote agricultural viability. For the past 25 years, we have not been able to pass this kind of landmark legislation on our own."

This year, backers of the legislation took a different approach that included one of the major stakeholders: the landowner.

This collaborative approach, Okimoto said, "proved that by partnering with the landowners on this issue, we could begin the process of finally getting a bill that implements the State Constitutional mandate. This was the first time that the two major stakeholders (landowners and farmers) went into the Legislature supporting this kind of positive legislation."

Backers of the measure agreed that the legislation should not only be about land use, but it should be economically driven to encourage the viability of agriculture to ensure that lands identified as important agricultural lands remain in productive uses in the future.

"Emphasizing the incentive mechanism would therefore encourage landowners and farmers to keep their lands in active farming," Okimoto said. "We did not want to end up with a bill that would strictly be a land use tool to keep non-productive lands only for open space."

Okimoto said there's still a lot of work to do to make sure Act 183 is implemented.

He encouraged all interested parties to be involved in the next few months and years to help steer and direct this effort.

"The hardest part is still ahead of us as we begin to identify and develop an incentive package," he said.

Okimoto thanked members of his board, governmental affairs committee members, and others who active lobbied their legislators.

He also recognized the efforts of Dean Uchida, executive director of the Land Use Research Foundation, as well as the efforts of Sen. Russell Kokubun, Senate Water, Land & Agriculture Chair; Rep. Ezra Kanofo, House Water, Land and Ocean Resources Chair; Rep. Felipe Abinsay, House Agriculture Chair; and Rep. Bob Herkes, House Economic Development Chair.

In addition, he thanked Governor Lingle and her administration, especially Sandra Kunimoto, Department of Agriculture

Chair, and Tony Ching, Land Use Commission Director, for their expertise and support.

Alan Takemoto, director of the Hawaii Farm Bureau Federation, said the long-awaited measure will encourage diversified farming in the aftermath of losses in the production of sugar and pineapple.

An article in the Hilo Tribune Herald had this to say:

"Agriculture contributes \$2.4 billion to the state's economy and employs 38,000 people, but 100,000 acres of former sugar and pineapple land remain fallow. If that land were farmed with appropriate crops, an additional \$1.7 billion would flow into the state's economy, according to estimates in the bill.

"Under the measure, landowners and farmers would get economic incentives such as tax credits for roads, drainage, and irrigation systems to keep designated lands in productive agricultural use."

Each county is to develop maps of lands to be considered for designation as important agricultural lands and, through its planning department, develop a process for public involvement in the identification of potential land.

Further along in the process, the counties will adopt land use plans and transmit them to the Land Use Commission for further action.

# THE KA'U CALENDER

Volume 3, Number 12

The Good News of Ka'u

October, 2005

## Important Ag Land Preservation Begins

The state's new landmark legislation to protect Important Agricultural Lands was presented to Ka'u coffee farmers in mid September. Duane Okamoto, Deputy to the Chair of the state Board of Agriculture, urged the community to get involved to make sure agricultural lands threatened by development are set aside.

He said an amendment to the state constitution in 1978 resulted in the recent legislation to conserve and protect ag lands, promote diversified agriculture and ag self-sufficiency, and ensure preservation of farm lands for future generations. He suggested that farmers thank Ka'u's state Senator Russell Kokubun for spearheading passage of the legislation.

Landowners will be given incentives to preserve important agricultural lands forever, Okamoto explained. Such incentives could involve compensation for transfer of development rights, establishment of agricultural enterprise zones and purchase of conservation easements. Many of these have been implemented in mainland states and could be adopted here, Okamoto said.

State and county agencies, farmers, landowners and the community are being asked for additional ideas. Important Agricultural Lands will be identified for

## Community Battling Punalu'u Invaders

Community volunteers will help clean Punalu'u Pond again on Sunday, Oct. 16 at 9 a.m. They are teaming up with Kamehameha Schools, Ka'u High School, county, state and the public to keep the surface of Punalu'u Pond clear of an army of aggressive invaders, the fast-reproducing aquatic plant, *Sylvania molesta*.

On Sept. 18 more than 100 volunteers held a pond-cleaning hukilau, surrounding the floating plants with a large fish net to pull the catch to the pond's edge next to Punalu'u Black Sand Beach. Volunteers also piled the molesta onto a double-hull sailing and small outrigger canoes and paddled the weeds to shore. More than 30 truckloads of molesta were delivered to a green waste dumping area.

Organizer Guy Enriques said two-thirds of the molesta was cleared from the pond's surface. "It grows fast, and we need to get rid of the rest of it so it doesn't choke the life out of the pond. I grew up on this beach and around this pond and have never seen anything like this happen in my lifetime."



...up the slopes  
Mauna Loa. Cran Petrie found  
sheep grazing on fire  
which has been taking over  
hundreds of acres on the eastern  
flank of Mauna Loa. They also  
found fireweed, which is new  
to the island but has been covering  
hundreds of acres in Kohala.  
Cran Petrie is partnering  
with Bill Price, of Waimea, and  
Bill Petrie, who lives in Kapapala.  
They are from a sheep ranching  
background on an eastern Oregon  
ranch which herded 5,000 ewes.  
Cran Petrie has the experience in sheep

production and processing in  
Australia. Price was Chief  
Financial Officer of Superior  
Farms, which owned processing  
plants in Australia and the U.S.

The partners were interested in  
finding "the ideal growing season in  
Hawaii and launched the pilot  
project to discover the production  
costs and determine whether we  
could put a marketable lamb on  
the ground on Hawaiian grasses,"  
Cran Petrie said. "The results are  
very positive. While processing is

the limiting factor, we are proving  
the production feasibility of the  
livestock in this part of the state."  
She said she foresees the freshness  
of Hawaii-grown lamb competing  
with lamb raised elsewhere.

Also working on the project are  
Kapapala ranchers Gordon Cran,  
Bill Petrie, Leon and Mona Chow  
and Sarah, Paul and Meghan  
Chow.

There are approximately 400  
ewes and ewe lambs and about 20  
rams at Kapapala. Their feed

comes exclusively from grazing.  
Care involves worming, shearing,  
lambing, weaning, herding, and  
providing mineral supplements.

As the herd grows, the ranch  
will shift from controlling the sheep  
with fencing to employing Basque  
style herding with sheep herders  
and border collies to manage the  
flocks. The herd could feed as high  
up as 5,000 feet on the slopes of  
Mauna Loa, Cran Petrie said.



### Important Ag Land Preservation... Continued from page 1

preservation, through analyzing  
their soils, having access to rain  
and irrigation, history in farming -  
including traditional Hawaiian uses,  
and proximity to market. Coffee is  
mentioned specifically in the  
legislation as an important crop to  
maintain on important ag lands,  
Okamoto told the Ka'u coffee  
farmers.

Those believing that their  
property would qualify as  
Important Agricultural Lands can  
apply to the Land Use Commission  
to have them set aside, create a

legacy of preserving farmlands for  
generations to come, and reap the  
benefits for doing so.

Okamoto said Ka'u farmers  
face the same situation that other  
farmers face around the state.  
"People have been buying up ag  
land so quickly out here."

People are investing in land for  
the purpose of subdividing it for  
speculation in Hawaii's hot real  
estate market.

He called the new law,  
"Landmark Legislation" that  
addresses "the necessity of  
keeping Hawaii involved in  
agriculture for now and the future."

Continued on page 18



Sheep help control invasive species such as fireweed and fireweed.

# Farming is first and foremost a business

## New legislation is designed to protect Hawai'i agriculture

Farming is not a lifestyle. It is not a rural ambience. Farming is first and foremost a business. And, like any other business, it must be profitable in order to be sustained.

The Important Agricultural Lands bill (House Bill 1640) passed by the 2005 Legislature and recently signed into law as Act 183 by Gov. Linda Lingle is truly landmark legislation — not because it fulfills a long-standing constitutional mandate, not because it says agriculture is a priority in this state, but because it actually begins the process of protecting Hawai'i's important agricultural lands.

Act 183 provides the framework for farmers to receive incentives and support in order to keep them farming and to ensure the preservation of Hawai'i's agriculture industry. Real agriculture. Not just agricultural lands, but agricultural



### ISLAND VOICES

By Dean Okimoto

businesses also.

For the first time, instead of focusing on implementing a 27-year-old solution to a 27-year-old problem, Act 183 acknowledges that the people of Hawai'i recognize the significant challenges that present-day farmers face and that they are willing to help them meet those challenges so that they can succeed, remain in business and keep lands in agriculture.

It realizes that you cannot force people to farm, but you can make it easier for them to do so.

The failure of agricultural enterprises is the predominant cause for the decline in the amount of land farmed in the state. Many attribute the de-

cline to development and urban growth, but the statistics disagree. The number of acres urbanized pale in contrast to the number of acres removed from actual farming.

These agricultural enterprises had lands, but they did not succeed. They might have survived if they had financial and regulatory incentives that would have improved the economics of their businesses, improved their agricultural products or given them entrée to new markets. These are the types of opportunities that Act 183 can provide.

Farmers by no means are looking for a handout. Farmers are some of the hardest-working people in this state. But farming is a tough business, and farmers can benefit from the same kind of support provided to other industries valued by the people of Hawai'i such as tourism and high-tech.

As we move forward with the implementation of Act 183, we will fight to ensure that the true intent of this law is fulfilled. We must be prepared to help those willing to farm and to

keep lands in agriculture. This is about supporting agriculture, not about preventing development. If the focus is allowed to change, there will be many losers — the farmers, the state of Hawai'i and the general public.

There is much to do to complete the task carefully laid out in Act 183. There will be those who will want to make changes before the process has been completed. We urge you to give the law a fair chance to work, to produce results.

It's easy to criticize the performance of something that hasn't been allowed to prove itself. But please keep in mind that to us farmers, this is not a just an "issue," this is our livelihoods. We are the true stakeholders, and we ask that everyone stay the course and keep agriculture in the forefront as we proceed to fulfill the mandate of Act 183.

Those of you who have long espoused a love for agriculture, it's now time to show up.

*Dean Okimoto is president of the Hawai'i Farm Bureau Federation.*