
A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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, which sets out the
3 framework for state policies to promote agriculture and the
4 conservation of productive agricultural lands in the State.
5 Article XI, section 3, reads as follows:

6 The State shall conserve and protect agricultural
7 lands, promote diversified agriculture, increase
8 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 The legislature finds that there is a compelling need to
4 provide standards, criteria, and mechanisms to fulfill the
5 intent and purpose of article XI, section 3, of the state
6 constitution and enable implementation of the constitutional
7 mandate.

8 The legislature further finds that while land is the basic
9 resource for agriculture and the supply of lands suitable for
10 agriculture is an irreplaceable resource, the long-term
11 viability of agriculture also depends on factors that affect the
12 profitability of agriculture, such as:

- 13 (1) Commodity prices;
- 14 (2) The availability of water for irrigation;
- 15 (3) Agricultural research and outreach;
- 16 (4) The application of production technologies;
- 17 (5) Marketing; and
- 18 (6) The availability and cost of transportation services.

19 Hawaii's agricultural producers face operating costs that
20 increasingly threaten the viability of their agricultural
21 operations and the sustainability of agriculture in Hawaii, and
22 the legislature further finds that opportunities should be made

1 for farmers and landowners with the ability to promote the
2 long-term viability of agricultural use of lands.

3 Thus, the intent of this Act is not only to set policies
4 for important agricultural lands and to identify important
5 agricultural lands but also to provide for the development of
6 incentives for agricultural viability in Hawaii, particularly
7 for agricultural enterprises that farm important agricultural
8 lands and for landowners of important agricultural lands. These
9 incentives would be designed to promote the retention of
10 important agricultural lands for viable agricultural use over
11 the long term.

12 The purpose of this Act is to further implement article XI,
13 section 3, of the state constitution by:

14 (1) Establishing a new part in chapter 205, Hawaii Revised
15 Statutes, that sets forth policies and procedures for
16 the identification of important agricultural lands,
17 including:

18 (A) Policies to assure the conservation and
19 availability of important agricultural lands for
20 long-term agricultural use;

21 (B) Standards and criteria for the identification of
22 important agricultural lands;



1 agricultural land resource base and assuring the long-term
2 availability of agricultural lands for agricultural use to
3 achieve the purposes of:

- 4 (1) Conserving and protecting agricultural lands;
- 5 (2) Promoting diversified agriculture;
- 6 (3) Increasing agricultural self-sufficiency; and
- 7 (4) Assuring the availability of agriculturally suitable
8 lands,

9 pursuant to article XI, section 3, of the Hawaii State
10 constitution.

11 **§205-B Important agricultural lands; definition and**
12 **objectives.** (a) As used in this part, unless the context
13 otherwise requires, "important agricultural lands" means those
14 lands, identified pursuant to this part, that:

- 15 (1) Are capable of producing sustained high agricultural
16 yields when treated and managed according to accepted
17 farming methods and technology;
- 18 (2) Contribute to the State's economic base and produce
19 agricultural commodities for export or local
20 consumption; or



1 (3) Are needed to promote the expansion of agricultural
2 activities and income for the future, even if
3 currently not in production.

4 (b) The objective for the identification of important
5 agricultural lands is to identify and plan for the maintenance
6 of a strategic agricultural land resource base that can support
7 a diversity of agricultural activities and opportunities that
8 expand agricultural income and job opportunities and increase
9 agricultural self-sufficiency for current and future
10 generations. To achieve this objective, the State shall:

11 (1) Promote agricultural development and land use planning
12 that delineates blocks of productive agricultural land
13 and areas of agricultural activity for protection from
14 the encroachment of nonagricultural uses; and

15 (2) Establish incentives that promote:

16 (A) Agricultural viability;

17 (B) Sustained growth of the agriculture industry; and

18 (C) The long-term agricultural use and protection of
19 these productive agricultural lands.

20 **§205-C Important agricultural lands; policies.** State and
21 county agricultural policies, tax policies, land use plans,
22 ordinances, and rules shall promote the long-term viability of



1 agricultural use of important agricultural lands and shall be
2 consistent with and implement the following policies:

3 (1) Promote the retention of important agricultural lands
4 in blocks of contiguous, intact, and functional land
5 units large enough to allow flexibility in
6 agricultural production and management;

7 (2) Discourage the fragmentation of important agricultural
8 lands and the conversion of these lands to
9 nonagricultural uses;

10 (3) Direct nonagricultural uses and activities from
11 important agricultural lands to other areas and ensure
12 that uses on important agricultural lands are actually
13 agricultural uses;

14 (4) Limit physical improvements on important agricultural
15 lands to maintain affordability of these lands for
16 agricultural purposes;

17 (5) Provide a basic level of infrastructure and services
18 on important agricultural lands limited to the minimum
19 necessary to support agricultural uses and activities;

20 (6) Facilitate the long-term dedication of important
21 agricultural lands for future agricultural use through
22 the use of incentives;



1 (7) Facilitate the access of farmers to important
2 agricultural lands for long-term viable agricultural
3 use; and

4 (8) Promote the maintenance of essential agricultural
5 infrastructure systems, including irrigation systems.

6 **§205-D Standards and criteria for the identification of**
7 **important agricultural lands.** The standards and criteria in
8 this section shall be used to identify important agricultural
9 lands. Lands identified as important agricultural lands need
10 not meet every standard and criteria listed below. Rather,
11 lands meeting any of the criteria below shall be given initial
12 consideration; provided that the designation of important
13 agricultural lands shall be made by weighing the standards and
14 criteria with each other to meet the constitutionally mandated
15 purposes in article XI, section 3, of the state constitution and
16 the objectives and policies for important agricultural lands in
17 sections 205-B and 205-C. The standards and criteria shall be
18 as follows:

- 19 (1) Land currently used for agricultural production;
- 20 (2) Land with soil qualities and growing conditions that
21 support agricultural production of food, fiber, or
22 fuel- and energy-producing crops;

- 1 (3) Land identified under agricultural productivity rating
2 systems, such as the agricultural lands of importance
3 to the State of Hawaii (ALISH) system adopted by the
4 board of agriculture on January 28, 1977;
- 5 (4) Land types associated with traditional native Hawaiian
6 agricultural uses, such as taro cultivation, or unique
7 agricultural crops and uses, such as coffee,
8 vineyards, aquaculture, and energy production;
- 9 (5) Land with sufficient quantities of water to support
10 viable agricultural production;
- 11 (6) Land whose designation as important agricultural lands
12 is consistent with general, development, and community
13 plans of the county;
- 14 (7) Land that contributes to maintaining a critical land
15 mass important to agricultural operating productivity;
16 and
- 17 (8) Land with or near support infrastructure conducive to
18 agricultural productivity, such as transportation to
19 markets, water, or power.

20 **§205-E Petition by farmer or landowner.** (a) A farmer or
21 landowner with lands qualifying under section 205-D may file a



1 petition for declaratory ruling with the commission at any time
2 in the designation process.

3 (b) The petition for declaratory ruling shall be submitted
4 in accordance with subchapter 14 of the commission's rules and
5 shall include:

6 (1) Tax map keys of the land to be designated along with
7 verification and authorization from the applicable
8 landowners;

9 (2) Proof of qualification for designation under section
10 205-D, respecting a regional perspective; and

11 (3) The current or planned agricultural use of the area to
12 be designated.

13 (c) The commission shall review the petition and the
14 accompanying submissions to evaluate the qualifications of the
15 land for designation as important agricultural lands in
16 accordance with section 205-D. If the commission, after its
17 review and evaluation, finds that the lands qualify for
18 designation as important agricultural lands under this part, the
19 commission shall vote, by a two-thirds majority of the members
20 of the commission, to issue a declaratory order designating the
21 lands as important agricultural lands.



1 (d) Designating important agricultural lands by the
2 commission shall not be considered as an amendment to district
3 boundaries under sections 205-3.1 and 205-4 or become effective
4 prior to legislative enactment of protection and incentive
5 measures for important agricultural land and agricultural
6 viability, as provided in section 9 of Act , Session Laws of
7 Hawaii 2005.

8 (e) Farmers or landowners with lands qualifying under
9 section 205-D may file petitions for a declaratory ruling to
10 designate lands as important agricultural lands following 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 , Session Laws of Hawaii 2005.

14 **§205-F Incentives for important agricultural lands.** (a)
15 To achieve the long-term agricultural viability and use of
16 important agricultural lands, the State and each county shall
17 ensure that their:

- 18 (1) Agricultural development, land use, water use,
19 regulatory, tax, and land protection policies; and
20 (2) Permitting and approval procedures,
21 enable and promote the economic sustainability of agriculture.

1 Agricultural operations occurring on important agricultural
2 lands shall be eligible for incentives and protections provided
3 by the State and counties pursuant to this section to promote
4 the viability of agricultural enterprise on important
5 agricultural lands and to assure the availability of important
6 agricultural lands for long-term agricultural use.

7 (b) State and county incentive programs shall provide
8 preference to important agricultural lands and agricultural
9 businesses on important agricultural lands. The State and each
10 county shall cooperate in program development to prevent
11 duplication of and to streamline and consolidate access to
12 programs and services for agricultural businesses located on
13 important agricultural lands.

14 (c) Incentive and protection programs shall be designed to
15 provide a mutually supporting framework of programs and measures
16 that enhance agricultural viability on important agricultural
17 lands, including but not limited to:

- 18 (1) Grant assistance;
- 19 (2) Real property tax systems that support the needs of
20 agriculture, including property tax assessments based
21 on agricultural use valuation;



- 1 (3) Reduced infrastructure requirements and facilitated
2 building permit processes for dedicated agricultural
3 structures;
- 4 (4) Tax incentives to offset operational costs, promote
5 agricultural business viability, and promote the
6 long-term protection of important agricultural lands;
- 7 (5) Agricultural business planning, marketing, and
8 implementation grants;
- 9 (6) Tax incentives and programs for equity investments and
10 financing for agricultural operations, including
11 agricultural irrigation systems;
- 12 (7) Other programs and mechanisms that promote investment
13 in agricultural businesses or agricultural land
14 protection, such as the purchase of development
15 rights;
- 16 (8) State funding mechanisms to fund business viability
17 and land protection programs;
- 18 (9) Water regulations and policies that provide farmers of
19 important agricultural lands access to adequate and
20 cost-effective sources of water;

- 1 (10) Other measures that would ensure that state capital
2 investments, projects, programs, and rules are
3 consistent with this part; and
- 4 (11) Agricultural education and training for new farmers;
5 upgrading the skills of existing farmers and other
6 agriculture-related employees through the use of
7 mentoring, business incubators, and public or private
8 scholarships; and increasing the returns of farming by
9 adding value to food processing and other tools and
10 methods.

11 (d) State and county agencies shall review the protection
12 and incentive measures enacted for important agricultural lands
13 and agricultural viability pursuant to this chapter at least
14 every five years to:

- 15 (1) Determine their effectiveness in sustaining
16 agriculture in Hawaii, assuring agricultural
17 diversification, and increasing agricultural
18 self-sufficiency;
- 19 (2) Determine whether the effectiveness of tax credits or
20 incentive programs will be enhanced by creating
21 revolving funds or increasing rates based upon the tax
22 revenues generated by enhanced investment and



1 agricultural activities on important agricultural
2 lands; and

3 (3) Modify measures and programs as needed.

4 (e) This section shall apply only to those lands
5 designated as important agricultural lands pursuant to sections
6 205-E and 205-I.

7 **§205-G Identification of important agricultural lands;**
8 **county process.** (a) Each county shall identify and map
9 potential important agricultural lands within its jurisdiction
10 based on the standards and criteria in section 205-D and the
11 intent of this part, except lands that have been designated,
12 through the state land use, zoning, or county planning process,
13 for urban use by the State or county.

14 (b) Each county shall develop maps of potential lands to
15 be considered for designation as important agricultural lands in
16 consultation and cooperation with landowners, the department of
17 agriculture, agricultural interest groups, including
18 representatives from the Hawaii Farm Bureau Federation and other
19 agricultural organizations, the United States Department of
20 Agriculture - Natural Resources Conservation Service, the office
21 of planning, and other groups as necessary.



1 (c) Each county, through its planning department, shall
2 develop an inclusive process for public involvement in the
3 identification of potential lands and the development of maps of
4 lands to be recommended as important agricultural lands,
5 including a series of public meetings throughout the
6 identification and mapping process. The planning departments
7 may also establish one or more citizen advisory committees on
8 important agricultural lands to provide further public input,
9 utilize an existing process (such as general plan, development
10 plan, community plan), or employ appropriate existing and
11 adopted general plan, development plan, or community plan maps.

12 (d) The counties shall take notice of those lands that
13 have already been designated as important agricultural lands by
14 the commission.

15 Upon identification of potential lands to be recommended to
16 the county council as potential important agricultural lands,
17 the counties shall take reasonable action to notify each owner
18 of those lands by mail or posted notice on the affected lands to
19 inform them of the potential designation of their lands.

20 In formulating its final recommendations to the respective
21 county councils, the planning departments shall report on the



1 manner in which the important agricultural lands mapping relates
2 to, supports, and is consistent with the:

3 (1) Standards and criteria set forth in section 205-D;

4 (2) County's adopted land use plans, as applied to both
5 the identification and exclusion of important
6 agricultural lands from such designation;

7 (3) Comments received from government agencies and others
8 identified in subsection (b);

9 (4) Viability of existing agribusinesses; and

10 (5) Representations or position statements of the owners
11 whose lands are subject to the potential designation.

12 (e) The important agricultural lands maps shall be
13 submitted to the county council for decision-making. The county
14 council shall adopt the maps, with or without changes, by
15 resolution. The adopted maps shall be transmitted to the land
16 use commission for further action pursuant to section
17 205-H.

18 **§205-H Receipt of maps of eligible important agricultural**
19 **lands; land use commission.** (a) The land use commission shall
20 receive the county recommendations and maps delineating those
21 lands eligible to be designated important agricultural lands no
22 sooner than the effective date of the legislative enactment of



1 protection and incentive measures for important agricultural
2 lands and agricultural viability, as provided in section 9 of
3 Act , Session Laws of Hawaii 2005.

4 (b) The department of agriculture and the office of
5 planning shall review the county report and recommendations and
6 provide comments to the land use commission within forty-five
7 days of the receipt of the report and maps by the land use
8 commission. The land use commission may also consult with the
9 department of agriculture and the office of planning as needed.

10 (c) State agency review shall be based on an evaluation of
11 the degree that the:

12 (1) County recommendations result in an identified
13 resource base that meets the definition of important
14 agricultural land and the objectives and policies for
15 important agricultural lands in sections 205-B and
16 205-C; and

17 (2) County has met the minimum standards and criteria for
18 the identification and mapping process in sections
19 205-D and 205-G.

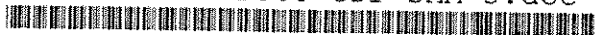
20 **§205-I Designation of important agricultural lands;**
21 **Adoption of important agricultural lands maps.** (a) After
22 receipt of the maps of eligible important agricultural lands



1 from the counties and the recommendations of the department of
2 agriculture and the office of planning, the commission shall
3 then proceed to identify and designate important agricultural
4 lands, subject to section 205-E. The decision shall consider
5 the county maps of eligible important agricultural lands;
6 declaratory orders issued by the commission designating
7 important agricultural lands during the three year period
8 following the enactment of legislation establishing incentives
9 and protections contemplated under section 205-F, as provided in
10 section 9 of Act , Session Laws of Hawaii 2005; landowner
11 position statements and representations; and any other relevant
12 information.

13 In designating important agricultural lands in the State,
14 pursuant to the recommendations of individual counties, the
15 commission shall consider the extent to which:

- 16 (1) The proposed lands meet the standards and criteria
17 under section 205-D;
- 18 (2) The proposed designation is necessary to meet the
19 objectives and policies for important agricultural
20 lands in sections 205-B and 205-C; and
- 21 (3) The commission has designated lands as important
22 agricultural lands, pursuant to section 205-E;



1 provided that if the majority of landowners'
2 landholdings is already designated as important
3 agricultural lands, excluding lands held in the
4 conservation district, pursuant to section 205-E or
5 any other provision of this part, the commission shall
6 not designate any additional lands of that landowner
7 as important agricultural lands except by a petition
8 pursuant to section 205-E.

9 Any decision regarding the designation of lands as
10 important agricultural lands and the adoption of maps of those
11 lands pursuant to this section shall be based upon written
12 findings of fact and conclusions of law, presented in at least
13 one public hearing conducted in the county where the land is
14 located in accordance with chapter 91, that the subject lands
15 meet the standards and criteria set forth in section 205-D and
16 shall be approved by two-thirds of the membership to which the
17 commission is entitled.

18 (b) Copies of the maps of important agricultural lands
19 adopted under this section shall be transmitted to each county
20 planning department and county council, the department of
21 agriculture, the agribusiness development corporation, the
22 office of planning, and other state agencies involved in land



1 use matters. The maps of important agricultural lands shall
2 guide all decision-making on the proposed reclassification or
3 rezoning of important agricultural lands, state agricultural
4 development programs, and other state and county land use
5 planning and decision-making.

6 (c) The land use commission shall have the sole authority
7 to interpret the adopted map boundaries delineating the
8 important agricultural lands.

9 (d) The land use commission may designate lands as
10 important agricultural lands and adopt maps for a designation
11 pursuant to:

12 (1) A farmer or landowner petition for declaratory ruling
13 under section 205-E at any time; or

14 (2) The county process for identifying and recommending
15 lands for important agricultural lands under section
16 205-G no sooner than three years,

17 after the enactment of legislation establishing incentives and
18 protections contemplated under section 205-F, as provided in
19 section 9 of Act , Session Laws of Hawaii 2005..

20 §205-J Standards and criteria for the reclassification or
21 rezoning of important agricultural lands. (a) Any land use
22 district boundary amendment or change in zoning involving

1 important agricultural lands identified pursuant to this chapter
2 shall be subject to this section.

3 (b) Upon acceptance by the county for processing, any
4 application for a special permit involving important
5 agricultural lands shall be referred to the department of
6 agriculture and the office of planning for review and comment.

7 (c) Any decision by the land use commission or county
8 pursuant to this section shall specifically consider the
9 following standards and criteria:

- 10 (1) The relative importance of the land for agriculture
11 based on the stock of similarly suited lands in the
12 area and the State as a whole;
- 13 (2) The proposed district boundary amendment or zone
14 change will not harm the productivity or viability of
15 existing agricultural activity in the area, or
16 adversely affect the viability of other agricultural
17 activities or operations that share infrastructure,
18 processing, marketing, or other production-related
19 costs or facilities with the agricultural activities
20 on the land in question;
- 21 (3) The district boundary amendment or zone change will
22 not cause the fragmentation of or intrusion of



1 nonagricultural uses into largely intact areas of
2 lands identified by the State as important
3 agricultural lands that create residual parcels of a
4 size that would preclude viable agricultural use;

5 (4) The public benefit to be derived from the proposed
6 action is justified by a need for additional lands for
7 nonagricultural purposes; and

8 (5) The impact of the proposed district boundary amendment
9 or zone change on the necessity and capacity of state
10 and county agencies to provide and support additional
11 agricultural infrastructure or services in the area.

12 (d) Any decision pursuant to this section shall be based
13 upon a determination that:

14 (1) On balance, the public benefit from the proposed
15 district boundary amendment or zone change outweighs
16 the benefits of retaining the land for agricultural
17 purposes; and

18 (2) The proposed action will have no significant impact
19 upon the viability of agricultural operations on
20 adjacent agricultural lands.

21 (e) The standards and criteria of this section shall be in
22 addition to:



1 (1) The decision-making criteria of section 205-17
2 governing decisions of the land use commission under
3 this chapter; and

4 (2) The decision-making criteria adopted by each county to
5 govern decisions of county decision-making authorities
6 under this chapter.

7 (f) Any decision of the land use commission and any
8 decision of any county on a land use district boundary amendment
9 or change in zoning involving important agricultural lands shall
10 be approved by the body responsible for the decision by a
11 two-thirds vote of the membership to which the body is entitled.

12 (g) A farmer or landowner with qualifying lands may also
13 petition the land use commission to remove the "important
14 agricultural lands" designation from lands if a sufficient
15 supply of water is no longer available to allow profitable
16 farming of the land due to governmental actions, acts of God, or
17 other causes beyond the farmer's or landowner's reasonable
18 control.

19 **§205-K Important agricultural lands; county ordinances.**

20 (a) Each county shall adopt ordinances that reduce
21 infrastructure standards for important agricultural lands no
22 later than the effective date of the legislative enactment of



1 protection and incentive measures for important agricultural
2 lands and agricultural viability, as provided in section 9 of
3 Act , Session Laws of Hawaii 2005.

4 (b) For counties without ordinances adopted pursuant to
5 subsection (a), important agricultural lands designated pursuant
6 to this part may be subdivided without county processing or
7 standards; provided that:

8 (1) None of the resulting lots shall be used solely for
9 residential occupancy; and

10 (2) The leasehold lots shall return to the original lot of
11 record upon expiration or termination of the lease.

12 **§205-L Periodic review and amendment of important**
13 **agricultural lands maps.** The maps delineating important
14 agricultural lands shall be reviewed in conjunction with the
15 county general plan and community and development plan revision
16 process, or at least once every ten years following the adoption
17 of the maps by the land use commission; provided that the maps
18 shall not be reviewed more than once every five years. Any
19 review and amendment of the maps of important agricultural lands
20 shall be conducted in accordance with this part. In these
21 periodic reviews or petitions by the farmers or landowners for
22 declaratory rulings, the "important agricultural lands"



1 designation shall be removed from those important agricultural
2 lands where the commission has issued a declaratory order that a
3 sufficient supply of water is no longer available to allow
4 profitable farming of these lands due to governmental actions,
5 acts of God, or other causes beyond the farmer's or landowner's
6 reasonable control."

7 PART II

8 SECTION 3. Section 205-3.1, Hawaii Revised Statutes, is
9 amended by amending subsections (a), (b), and (c) to read as
10 follows:

11 "(a) District boundary amendments involving lands in the
12 conservation district, land areas greater than fifteen acres, or
13 lands delineated as important agricultural lands shall be
14 processed by the land use commission pursuant to section 205-4.

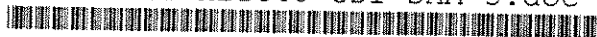
15 (b) Any department or agency of the State, and department
16 or agency of the county in which the land is situated, or any
17 person with a property interest in the land sought to be
18 reclassified may petition the appropriate county land use
19 decision-making authority of the county in which the land is
20 situated for a change in the boundary of a district involving
21 lands less than fifteen acres presently in the [~~agricultural~~]
22 rural[~~7~~] and urban districts[~~7~~] and lands less than fifteen



1 acres in the agricultural district that are not designated as
2 important agricultural lands.

3 (c) District boundary amendments involving land areas of
4 fifteen acres or less, except [~~in conservation districts,~~] as
5 provided in subsection (b), shall be determined by the
6 appropriate county land use decision-making authority for [~~said~~]
7 the district and shall not require consideration by the land use
8 commission pursuant to section 205-4 [~~. District boundary~~
9 ~~amendments involving land areas of fifteen acres or less in~~
10 ~~conservation districts shall be processed by the land use~~
11 ~~commission pursuant to section 205-4.~~]; provided that such
12 boundary amendments and approved uses are consistent with this
13 chapter. The appropriate county land use decision-making
14 authority may consolidate proceedings to amend state land use
15 district boundaries pursuant to this subsection, with county
16 proceedings to amend the general plan, development plan, zoning
17 of the affected land, or such other proceedings. Appropriate
18 ordinances and rules to allow consolidation of such proceedings
19 may be developed by the county land use decision-making
20 authority."

21 SECTION 4. Section 205-4, Hawaii Revised Statutes, is
22 amended as follows:



1 1. By amending subsection (a) to read:

2 "(a) Any department or agency of the State, any department
3 or agency of the county in which the land is situated, or any
4 person with a property interest in the land sought to be
5 reclassified, may petition the land use commission for a change
6 in the boundary of a district. This section applies to all
7 petitions for changes in district boundaries of lands within
8 conservation districts, lands designated or sought to be
9 designated as important agricultural lands, and [all petitions
10 for changes in district boundaries involving] lands greater than
11 fifteen acres in the agricultural, rural, and urban districts,
12 except as provided in section 201G-118. The land use commission
13 shall adopt rules pursuant to chapter 91 to implement section
14 201G-118."

15 2. By amending subsection (h) to read:

16 "(h) No amendment of a land use district boundary shall be
17 approved unless the commission finds upon the clear
18 preponderance of the evidence that the proposed boundary is
19 reasonable, not violative of section 205-2 and part of this
20 chapter, and consistent with the policies and criteria
21 established pursuant to sections 205-16 and 205-17. Six



1 affirmative votes of the commission shall be necessary for any
2 boundary amendment under this section."

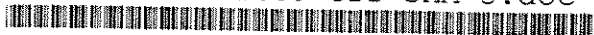
3 SECTION 5. Section 205-6, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

6 "(a) [The] Subject to this section, the county planning
7 commission may permit certain unusual and reasonable uses within
8 agricultural and rural districts other than those for which the
9 district is classified. Any person who desires to use the
10 person's land within an agricultural or rural district other
11 than for an agricultural or rural use, as the case may be, may
12 petition the planning commission of the county within which the
13 person's land is located for permission to use the person's land
14 in the manner desired. Each county may establish the
15 appropriate fee for processing the special permit petition.
16 Copies of the special permit petition shall be forwarded to the
17 land use commission, the office of planning, and the department
18 of agriculture for their review and comment."

19 2. By amending subsections (c), (d), and (e) to read:

20 "(c) The county planning commission may, under such
21 protective restrictions as may be deemed necessary, permit the
22 desired use, but only when the use would promote the



1 effectiveness and objectives of this chapter~~(-)~~; provided that a
2 use proposed for designated important agricultural lands shall
3 not conflict with any part of this chapter. A decision in favor
4 of the applicant shall require a majority vote of the total
5 membership of the county planning commission.

6 (d) Special permits for land the area of which is greater
7 than fifteen acres or for lands designated as important
8 agricultural lands shall be subject to approval by the land use
9 commission. The land use commission may impose additional
10 restrictions as may be necessary or appropriate in granting
11 [~~such~~] the approval, including the adherence to representations
12 made by the applicant.

13 (e) A copy of the decision, together with the complete
14 record of the proceeding before the county planning commission
15 on all special permit requests involving a land area greater
16 than fifteen acres or for lands designated as important
17 agricultural lands, shall be transmitted to the land use
18 commission within sixty days after the decision is rendered.

19 Within forty-five days after receipt of the complete record
20 from the county planning commission, the land use commission
21 shall act to approve, approve with modification, or deny the
22 petition. A denial either by the county planning commission or



1 by the land use commission, or a modification by the land use
2 commission, as the case may be, of the desired use shall be
3 appealable to the circuit court of the circuit in which the land
4 is situated and shall be made pursuant to the Hawaii rules of
5 civil procedure."

6 SECTION 6. Section 205-17, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§205-17 Land use commission decision-making criteria.** In
9 its review of any petition for reclassification of district
10 boundaries pursuant to this chapter, the commission shall
11 specifically consider the following:

12 (1) The extent to which the proposed reclassification
13 conforms to the applicable goals, objectives, and
14 policies of the Hawaii state plan and relates to the
15 applicable priority guidelines of the Hawaii state
16 plan and the adopted functional plans;

17 (2) The extent to which the proposed reclassification
18 conforms to the applicable district standards; ~~and~~

19 (3) The impact of the proposed reclassification on the
20 following areas of state concern:

21 (A) Preservation or maintenance of important natural
22 systems or habitats;



- 1 (B) Maintenance of valued cultural, historical, or
- 2 natural resources;
- 3 (C) Maintenance of other natural resources relevant
- 4 to Hawaii's economy, including [~~but not limited~~
- 5 ~~to~~] agricultural resources;
- 6 (D) Commitment of state funds and resources;
- 7 (E) Provision for employment opportunities and
- 8 economic development; and
- 9 (F) Provision for housing opportunities for all
- 10 income groups, particularly the low,
- 11 low-moderate, and gap groups; [~~and~~]

12 (4) The standards and criteria for the reclassification or
 13 rezoning of important agricultural lands in section
 14 205-J; and

15 [~~4~~] (5) The representations and commitments made by the
 16 petitioner in securing a boundary change."

17 SECTION 7. Each county shall submit its report and maps
 18 with recommendations for lands eligible for designation as
 19 important agricultural lands to the land use commission no later
 20 than sixty months from the date of county receipt of state funds
 21 appropriated for the identification process. Upon receipt of
 22 the county maps, the land use commission shall review and adopt



1 maps designating important agricultural lands to the State in
2 accordance with section 205-I.

3 SECTION 8. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$75,000, or so much
5 thereof as may be necessary for fiscal year 2005-2006, for
6 grants-in-aid to the counties for the identification and mapping
7 of important agricultural lands pursuant to section 2 of this
8 Act.

9 The sum appropriated shall be expended by the department of
10 business, economic development, and tourism for the disbursement
11 of funds by the land use commission to each county for the
12 identification of important agricultural lands pursuant to this
13 Act.

14 The land use commission shall submit annual reports on the
15 progress of the counties in identifying and mapping important
16 agricultural lands to the legislature no later than twenty days
17 before the convening of the regular sessions of 2006 through
18 2009.

19 . PART III

20 SECTION 9. (a) It is the intent of this Act:

21 (1) That agricultural incentive programs to promote
22 agricultural viability, sustained growth of the



1 agricultural industry, and the long-term use and
2 protection of important agricultural lands for
3 agricultural use shall be developed concurrently with
4 the process of identifying important agricultural
5 lands as required under section 2 of this Act; and

6 (2) That the designation of important agricultural lands
7 and adoption of maps by the land use commission
8 pursuant to section 2 of this Act shall take effect
9 only upon the enactment of legislation establishing
10 incentives and protections for important agricultural
11 lands contemplated by section 205-F and shall be
12 satisfied by:

13 (A) Providing a declaration of satisfaction within
14 the Act that establishes incentives for important
15 agricultural lands; or

16 (B) Having the legislature adopt a concurrent
17 resolution declaring the satisfaction of
18 implementing incentives for important
19 agricultural lands by identifying the specific
20 measures or Acts that establish incentives for
21 important agricultural lands.



1 (b) Pursuant to section 205-F, Hawaii Revised Statutes,
2 the department of agriculture, with the assistance of the
3 department of taxation, shall contract appropriate meeting
4 facilitation and cost-benefit analysis services to develop and
5 recommend a package of proposals for agricultural incentives and
6 other measures that promote agricultural viability, sustained
7 growth of the agricultural industry, and the long-term use and
8 protection of important agricultural lands.

9 The department of agriculture, in consultation with the
10 department of taxation, shall use consultants to promote a
11 facilitated meeting process and deliberation and seek the
12 assistance and input from the Hawaii Farm Bureau Federation,
13 landowners, affected state and county agencies, other
14 stakeholders, and persons with relevant expertise that are
15 necessary to develop and implement a comprehensive and
16 integrated framework of incentives and programs that will
17 promote agricultural viability, sustained growth of the
18 agricultural industry, and the long-term use and protection of
19 important agricultural lands for agricultural use in Hawaii,
20 including tax policy, agricultural business development and
21 financing, marketing, and agricultural land use techniques. The



1 meeting facilitators shall ensure that stakeholder discussions
2 are inclusive and use a consistent voting procedure.

3 The department of agriculture shall report stakeholder
4 findings and recommendations, including proposed legislation and
5 a recommended minimum criteria for determining when the
6 "enactment of legislation establishing incentives and
7 protection" has occurred for the purposes of this Act, to the
8 legislature no later than twenty days before the convening of
9 the regular session of 2007. The report shall include an
10 analysis of the impacts and benefits of its recommendations, a
11 record of the stakeholder group's process and deliberations, and
12 shall provide the supporting rationale for the incentives being
13 proposed.

14 (c) Incentives and other programs to promote agricultural
15 viability, sustained growth of the agricultural industry, and
16 the long-term use and protection of important agricultural lands
17 for agricultural use in Hawaii by farmers and landowners to be
18 considered by the department of agriculture shall include but
19 not be limited to the following:

20 (1) Assistance in identifying federal, state, and private
21 grant and loan resources for agricultural business
22 planning and operations, assistance with grant and



- 1 loan application processes, and the processing of
2 grants and loans;
- 3 (2) Real property tax systems that support the needs of
4 agriculture, including property tax assessment of land
5 and improvements used or held only for use in
6 agriculture based on agricultural use value rather
7 than fair market value;
- 8 (3) Reduced infrastructure requirements and facilitated
9 building permit processes for the construction of
10 dedicated agricultural structures;
- 11 (4) Tax incentives that include but are not limited to:
12 (A) Tax credits for the sale or donation of
13 agricultural easements on important agricultural
14 lands; and
15 (B) General excise tax exemption for retail sales of
16 farm produce;
- 17 (5) Incentives that promote investment in agricultural
18 businesses or value-added agricultural development,
19 and other agricultural financing mechanisms;
- 20 (6) Incentives and programs that promote long-term or
21 permanent agricultural land protection, and the

1 establishment of a dedicated funding source for these
2 programs;

3 (7) Establishment of a permanent state revolving fund,
4 escalating tax credits based on the tax revenues
5 generated by increased investment or agricultural
6 activities conducted on important agricultural lands,
7 and dedicated funding sources to provide moneys for
8 incentives and other programs;

9 (8) Establishment of a means to analyze the conformity of
10 state-funded projects with the intent and purposes of
11 part I of this Act, and a mechanism for mitigation
12 measures when projects are not in conformance;

13 (9) Institution of a requirement for the preparation of an
14 agricultural impact statement that would include
15 mitigation measures for adverse impacts for proposed
16 state or county rulemaking that may affect
17 agricultural activities, operations, and agricultural
18 businesses on important agricultural lands; and

19 (10) Other programs to carry out the intent of part I of
20 this Act.

21 SECTION 10. Within one year of the adoption of maps of
22 important agricultural lands by the land use commission for the



1 lands within the jurisdiction of each county, all state agencies
2 shall report to the department of agriculture on the impact of
3 projects and programs on the designated important agricultural
4 lands and sustained agricultural use of these lands. State
5 agencies shall develop implementation programs, as needed, to
6 ensure that their programs are supportive of agriculture and
7 consistent with the intent and purposes of this Act.

8 SECTION 11. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$75,000, or so much
10 thereof as may be necessary for fiscal year 2005-2006, for the
11 development of proposals for incentives and other programs for
12 agricultural development and agricultural land protection
13 pursuant to section 9 of this Act; provided that any unexpended
14 or unencumbered funds at the close of fiscal year 2005-2006 may
15 be expended or encumbered during fiscal year 2006-2007 and shall
16 not lapse until June 30, 2007.

17 The sum appropriated shall be expended by the department of
18 agriculture for the purposes of this Act.

19 PART IV

20 SECTION 12. In codifying the new sections added by section
21 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 13. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 14. This Act shall take effect on July 1, 2005;
6 provided that designations made pursuant to:

- 7 (1) Section 205-E shall take effect at any time; and
8 (2) Section 205-G shall take effect three years,
9 after the enactment of legislation establishing incentives and
10 protections for important agricultural lands and agricultural
11 viability, as provided in section 9 of this Act.

APPROVED BY THE
GOVERNOR ON
JUL 01 2005

