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**IMPORTANT AGRICULTURAL LANDS: AN OVERVIEW**  
**HAWAII FARM BUREAU AND LAND USE RESEARCH FOUNDATION**  
**JANUARY 8, 2009**

STATE OF HAWAII  
LAND USE COMMISSION

- **History of IAL.** After over 25 years of attempts to fulfill the constitutional mandate to preserve and protect agriculture and important agricultural lands, the IAL law (Act 183) was finally passed by the 2005 Legislature. IAL Incentives were subsequently approved by the 2008 Legislature (Act 233). For the first time in those 25 years, the farmers and landowners agreed on a system to protect important agricultural lands—one based on the premise that the only effective way, in the long-term, to protect agricultural lands is to protect—that is, support—viable agricultural businesses on these lands. That is why we now have an IAL process.
- **IAL Paradigm.** Thus, the IAL law is about “**supporting farmers, agriculture and viable agricultural operations.**” **IAL is NOT about “land use.”** IAL is NOT about which lands or soils are better for farming vs. development. IAL is about the farmers and Agricultural land owners designating lands for viable farming - Who would know better than the farmers – regarding which lands are best to farm?
- **IAL designation does not change any land use classifications and does not change the allowed uses of the land.** As such, the IAL designation is an overlay—NOT a new land use district. All lands currently in the State Agricultural District remain in the State Agricultural District.
- **IAL Balance.** The IAL designation allows farmers and land owners access to incentives for agricultural activity on those lands, such as tax credits, loan guarantees, priority State permitting, etc. However, the new law also imposes tougher hurdles to reclassify such IAL lands to other non-agricultural uses.
- **IAL designation process.** IAL may be designated in two ways—(1) by voluntary petition to the LUC by the landowner or farmer, or (2) by County petition. The IAL law specifically called for an exclusive three-year window for landowners/farmers to volunteer lands for IAL designation BEFORE the County petitions can be considered.
- **LUC’s Role.** The LUC’s role is to determine whether the petitioned lands qualify for designation as IAL based on compliance with the standards and criteria set forth in the law and the purposes for IAL as set forth in the Constitution and Act 183. (see attached for list of standards and criteria)

- **Farmers need IAL Incentives and a simple and quick LUC process for voluntary IAL designation.**
  - Many farmers want to designate their lands as IAL as soon as possible—most of those farmers can use the incentives that would become available.
  - Particularly now -- Farmers are struggling right now, after an unprecedented prolonged drought that none of us have seen in our lifetimes.
  - The LUC process for these straightforward, voluntary IAL designations by farmers should be quick and simple.
  - Farmers do not have familiarity with government proceedings, and frankly most are intimidated by government hearings—the IAL designation process should be easy for farmers, not something they need to hire an attorney for.
  - If the lands offered up for IAL are being farmed, there really shouldn't be much of a question as to whether they should be designated as IAL!
  - Again, the LUC should ensure that voluntary IAL designations will be a simple and quick process, as was intended by the legislature.
  
- **Declaratory Order process for voluntary IAL designations.** The IAL law specifically provides for a declaratory order process to expedite the LUC approval of voluntary IAL designations.
  - The Legislature clearly intended for the voluntary IAL designation process to be different from the procedures used for reclassification petitions, hearings and deliberations.
  - The declaratory order process allows the LUC to schedule the voluntary IAL designation matter for action; allows for testimony or presentations at that meeting; and then the LUC can consider the IAL criteria and make a decision to approve or disapprove the IAL designation.
  - IAL designation does NOT change the land use classification (all land in the Agricultural district remains in the Agricultural district); does NOT change the allowed uses—thus the LUC's job is to review and weigh the standards and criteria for IAL and determine whether the Agricultural lands should be designated as IAL.
  - The LUC review of a voluntary IAL designation, was meant to be simple, uncomplicated and quick, to encourage farmers and land owners to designate their lands as IAL and to allow them to take advantage of the IAL incentives as soon as possible.
  
- **URGENT NEED for Timely Action.** Farmers are facing very difficult economic challenges and a number of farms have closed over the past few years. Prompt action by the LUC will enable farmers to access needed incentives without delay.

## ACT 183 “STRAIGHT” IAL DESIGNATION: STANDARDS AND CRITERIA

The standards and criteria in this section shall be used to identify important agricultural lands. Lands identified as important agricultural lands need not meet every standard and criteria listed below. Rather, lands meeting any of the criteria below shall be given initial consideration; provided that the designation of important agricultural lands shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes in Article XI, Section 3, of the State Constitution and the objectives and policies for important agricultural lands in Sections 205-42 and 205-43. The standards and criteria shall be as follows:

- (1) Land currently used for agricultural production;
- (2) Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops;
- (3) Land identified under agricultural productivity rating systems, such as the Agricultural Lands of Importance to the State of Hawaii (ALISH) system adopted by the Board of Agriculture on January 28, 1977;
- (4) Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production;
- (5) Land with sufficient quantities of water to support viable agricultural production;
- (6) Land whose designation as important agricultural lands is consistent with General, Development, and Community Plans of the County;
- (7) Land that contributes to maintaining a critical land mass important to agricultural operating productivity; and
- (8) Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power.

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LAND USE COMMISSION

**[§205-49] Designation of important agricultural lands; adoption of important agricultural lands maps.** (a) After receipt of the maps of eligible important agricultural lands from the counties and the recommendations of the department of agriculture and the office of planning, the commission shall then proceed to identify and designate important agricultural lands, subject to section 205-45. The decision shall consider the county maps of eligible important agricultural lands; declaratory orders issued by the commission designating important agricultural lands during the three year period following the enactment of legislation establishing incentives and protections contemplated under section 205-46, as provided in section 9 of Act 183, Session Laws of Hawaii 2005; landowner position statements and representations; and any other relevant information.

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

- (1) The proposed lands meet the standards and criteria under section 205-44;
- (2) The proposed designation is necessary to meet the objectives and policies for important agricultural lands in sections 205-42 and 205-43; and
- (3) The commission has designated lands as important agricultural lands, pursuant to section 205-45; provided that if the majority of landowners' landholdings is already designated as important agricultural lands, excluding lands held in the conservation district, pursuant to section 205-45 or any other provision of this part, the commission shall not designate any additional lands of that landowner as important agricultural lands except by a petition pursuant to section 205-45.

SO 70  
RULE

Any decision regarding the designation of lands as important agricultural lands and the adoption of maps of those lands pursuant to this section shall be based upon written findings of fact and conclusions of law, presented in at least one public hearing conducted in the county where the land is located in accordance with chapter 91, that the subject lands meet the standards and criteria set forth in section 205-44 and shall be approved by two-thirds of the membership to which the commission is entitled.

(b) Copies of the maps of important agricultural lands adopted under this section shall be transmitted to each county planning department and county council, the department of agriculture, the agribusiness development corporation, the office of planning, and other state agencies involved in land use matters. The maps of important agricultural lands shall guide all decision-making on the proposed reclassification or rezoning of important agricultural lands, state agricultural development programs, and other state and county land use planning and decision-making.

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

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

- (1) A farmer or landowner petition for declaratory ruling under section 205-45 at any time;  
or
- (2) The county process for identifying and recommending lands for important agricultural lands under section 205-47 no sooner than three years,

VOLUNTARY  
IAL  
PETITION  
ANYTIME

after the enactment of legislation establishing incentives and protections contemplated under section 205-46, as provided in section 9 of Act 183, Session Laws of Hawaii 2005. [L 2005, c 183, pt of §2]

**Note**

**Section 9 of Act 183, Session Laws of Hawaii 2005, is printed after §205-41.**

NOT DONE!

**[§205-43] Important agricultural lands; policies.** State and county agricultural policies, tax policies, land use plans, ordinances, and rules shall promote the long-term viability of agricultural use of important agricultural lands and shall be consistent with and implement the following policies:

- (1) Promote the retention of important agricultural lands in blocks of contiguous, intact, and functional land units large enough to allow flexibility in agricultural production and management;
- (2) Discourage the fragmentation of important agricultural lands and the conversion of these lands to nonagricultural uses;
- (3) Direct nonagricultural uses and activities from important agricultural lands to other areas and ensure that uses on important agricultural lands are actually agricultural uses;
- (4) Limit physical improvements on important agricultural lands to maintain affordability of these lands for agricultural purposes;
- (5) Provide a basic level of infrastructure and services on important agricultural lands limited to the minimum necessary to support agricultural uses and activities;
- (6) Facilitate the long-term dedication of important agricultural lands for future agricultural use through the use of incentives;
- (7) Facilitate the access of farmers to important agricultural lands for long-term viable agricultural use; and
- (8) Promote the maintenance of essential agricultural infrastructure systems, including irrigation systems. [L 2005, c 183, pt of §2]

**[§205-46] Incentives for important agricultural lands.** (a) To achieve the long-term agricultural viability and use of important agricultural lands, the State and each county shall ensure that their:

NOT DONE!

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

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

NOT DONE!

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

NOT DONE!

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

- (1) Grant assistance;
- (2) Real property tax systems that support the needs of agriculture, including property tax assessments based on agricultural use valuation;
- (3) Reduced infrastructure requirements and facilitated building permit processes for dedicated agricultural structures;
- (4) Tax incentives to offset operational costs, promote agricultural business viability, and promote the long-term protection of important agricultural lands;
- (5) Agricultural business planning, marketing, and implementation grants;
- (6) Tax incentives and programs for equity investments and financing for agricultural operations, including agricultural irrigation systems;
- (7) Other programs and mechanisms that promote investment in agricultural businesses or agricultural land protection, such as the purchase of development rights;
- (8) State funding mechanisms to fund business viability and land protection programs;
- (9) Water regulations and policies that provide farmers of important agricultural lands access to adequate and cost-effective sources of water;
- (10) Other measures that would ensure that state capital investments, projects, programs, and rules are consistent with this part; and
- (11) Agricultural education and training for new farmers; upgrading the skills of existing farmers and other agriculture-related employees through the use of mentoring, business incubators, and public or private scholarships; and increasing the returns of farming by adding value to food processing and other tools and methods.

NOT  
DONE!

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

- (1) Determine their effectiveness in sustaining agriculture in Hawaii, assuring agricultural diversification, and increasing agricultural self-sufficiency;
- (2) Determine whether the effectiveness of tax credits or incentive programs will be enhanced by creating revolving funds or increasing rates based upon the tax revenues generated by enhanced investment and agricultural activities on important agricultural lands; and
- (3) Modify measures and programs as needed.

(e) This section shall apply only to those lands designated as important agricultural lands pursuant to sections 205-45 and 205-49. [L 2005, c 183, pt of §2]



NOT  
DONE!

**[§205-51] Important agricultural lands; county ordinances.** (a) Each county shall adopt ordinances that reduce infrastructure standards for important agricultural lands no later than the effective date of the legislative enactment of protection and incentive measures for important agricultural lands and agricultural viability, as provided in section 9 of Act 183, Session Laws of Hawaii 2005.

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

- (1) None of the resulting lots shall be used solely for residential occupancy; and
- (2) The leasehold lots shall return to the original lot of record upon expiration or termination of the lease. [L 2005, c 183, pt of §2]

**Note**

**Section 9 of Act 183, Session Laws of Hawaii 2005, is printed after §205-41.**

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LAND USE COMMISSION

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***"Encourage the viability of Hawaii's farmers and ranchers"***

April 15, 2008

Senate President Colleen Hanabusa  
The Honorable Clayton Hee  
The Honorable Jill N. Tokuda  
The Honorable Russell S. Kokubun  
The Honorable Carol Fukunaga  
The Honorable Rosalyn H. Baker  
The Honorable Paul Whalen  
The Honorable Sam Slom  
The State Senate  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Speaker of the House Calvin Say  
The Honorable Representative Ken Ito  
The Honorable Representative Clift Tsuji  
The Honorable Jon Riki Karamatsu  
The Honorable Tom Brower  
The Honorable Faye P. Hanohano  
The Honorable Colleen Rose Meyer  
The State House of Representatives  
Hawaii State Capitol  
Honolulu, Hawaii 96813

**Re: Conferences on SB 2646 HD2, relating to Important Agricultural Lands, and SB 546 SD2 HD1, relating to Land Use.**

Dear Senate President Hanabusa, Speaker Say, Conference Committee Chairs and Conference Committee Members:

On behalf of the Hawaii Farm Bureau Federation (HFBF) and the Land Use Research Foundation of Hawaii (LURF), we respectfully request your strong support for the passage of a comprehensive and meaningful incentives package for farmers, agribusiness operators and landowners who make a commitment—and sacrifice—to designate their agricultural lands as Important Agricultural Lands (IAL). These bills are based on a consensus of HFBF, LURF and other agricultural and government stakeholders, and are consistent with the goals and objectives of creating a viable agricultural industry and protecting IAL, as stated in Act 183 and the Hawaii Constitution. Act 183 and the proposed incentive legislation are based on the following principles:

- IAL is not an open space or land use initiative. It is an agricultural viability initiative;
- While land is the basic resource for agriculture, it alone will not save agriculture. The long-term viability of agriculture depends on a number of factors that affect the profitability of agriculture;
- The promotion of productive, viable agriculture and IAL are Constitutional and statutory mandates; keys to increasing Hawaii's food and energy self-sufficiency; and a major component in combating invasive species and thus should be of equal or a higher priority and importance to the people of Hawaii as the state tax benefits and funding support for the technology industry and funding of the preservation of open space on the North Shore and Central Oahu;

- State and County incentives and support are key to achieving a viable and sustainable agricultural industry in this state and thus ensuring the long-term use and protection of IAL for agricultural use;
- Opportunities should be made for farmers and landowners with the commitment and resources to advance and promote the long-term viability of agricultural use of lands;
- The more favorable the farmer incentives are, the higher the odds that there will be more farmers, and more successful farmers to maintain and grow viable agricultural operations on good agricultural lands; and
- The more favorable the landowner incentives are, the higher the likelihood that there will be more lands voluntarily identified by landowners—and maintained—for IAL designation.

**Background.** The genesis for IAL was a result of the 1978 Constitutional Convention, in which voters adopted Article XI, Section 3, to the Hawaii State Constitution “to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.” This Article, which was passed when sugar cane and pineapple were major industries in Hawaii, set out the framework for state policies to promote agriculture and the conservation of productive agricultural lands.

**Act 183.** In 2005, approximately 27 years later, Act 183 was passed by the Legislature—after many, many years of unsuccessful efforts—to finally implement Article XI, Section 3. Act 183 set forth the policies and procedures to identify and designate IALs. In recognition of the realities of today, Act 183 is premised on protecting the viability of agricultural businesses rather than on protecting land uses. Act 183 recognizes that the only real, long-term way to ensure lands remain in agricultural use is to support viable agricultural operations on these lands. Accordingly, the Act provides for the development of incentives to assist agricultural viability on good agricultural lands in Hawaii—incentives that will help farmers farm profitably and help landowners viably make their lands available for farming activities.

**IAL Incentives Consensus Legislation - SB 2646, HD2 relating to Important Agricultural Lands, and SB 546, SD2 HD1 relating to Land Use.** Since the enactment of Act 183, HFBF and LURF have been working together and with the Department of Agriculture, Office of Planning and Department of Taxation to develop consensus on a comprehensive IAL incentives package that promotes the retention of IAL for viable agricultural use, by offering benefits to both farmers and landowners. The elements of this comprehensive package include a wide range of incentives which address the critical areas for long-term agricultural viability in Hawaii and were developed over time based on many discussions among the agricultural stakeholders. These incentives include, but are not limited to, various tax credits, farm worker housing, loan guarantees, recognition of water needs, expedited processing of agriculture-related permits, and a streamlined land use approval process which is consistent with the current County land use process.

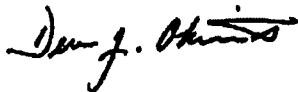
We believe that a sustainable agricultural industry needs to be nurtured and protected in our state and that the IAL incentive package is the perfect mechanism to both protect agriculture and agricultural lands. “A complete win-win.” By passing these bills, this legislature has the opportunity to take the visible lead in promoting IAL and agricultural

viability and sustainability. As such, we urge your Conference Committee to consider retaining these bills as a basis for the comprehensive IAL incentives package you will pass this session.

**Conclusion.** A comprehensive IAL incentive package is urgently needed, and if not passed this session, we may see a continuation of the recent closures of farms, dairies and poultry operations on a state-wide basis. The State's policy to promote and mandate diversified agriculture is a complex and challenging task in light of the ever-changing economic, environmental, and political landscape. Economic stimuli (incentives) have long been the method to promote, enhance and encourage industry to make commitments. For IAL to succeed, commitments from both agribusinesses/farmers and landowners will be key, and therefore a comprehensive incentive program is needed. Thus, we respectfully urge your strong support to include the above provisions in any final IAL package that the Legislature moves this session. In closing, we would also like to emphasize that the above-referenced bills are a result of input and consensus between the HFBF, LURF and other agricultural stakeholders, and that the purpose of Act 183 and this IAL legislation is to promote agricultural viability on a sustained basis, so as to achieve the long-term protection of important agricultural lands for agricultural use. While we all agree that open space has a place in land planning for our communities, that is not the purpose of these bills. We ask that you maintain the focus on the viability and sustained growth of agriculture as you consider the proposed incentives for both farmers and landowners.

We humbly thank you and look forward to your favorable and timely consideration.

Sincerely,



Dean Okimoto  
President  
Hawaii Farm Bureau Federation



David Z. Arakawa  
Executive Director  
Land Use Research Foundation