

**Fact Sheet  
Act 183  
Important Agricultural Lands**

**What are Important Agricultural Lands?**

"Important agricultural lands" are those lands that:

- Are capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology;
- Contribute to the State's economic base and produce agricultural commodities for export or local consumption;
- Are needed to promote the expansion of agricultural activities and income for the future, even if currently not in production.

The identification and designation of Important Agricultural Lands (IAL) was first proposed at the 1978 Constitutional Convention and subsequently approved by voters in the same year. Enacted as Article XI, Section 3, of the Constitution of the State of Hawaii, the State is required to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

**How will Important Agricultural Lands be Identified?**

Lands meeting any of the criteria below shall be given consideration.

- Land currently used for agricultural production;
- Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops;
- 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;
- 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;
- Land with sufficient quantities of water to support viable agricultural production;
- Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county;
- Land that contributes to maintaining a critical land mass important to agricultural operating productivity;
- Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power.

**How will Important Agricultural Lands be Designated?**

Important Agricultural Lands may be designated in two ways.

In the first, a farmer or landowner may file a petition for declaratory ruling with the LUC at any time beginning July 1, 2005, the effective date of the Act. The Commission shall review the petition to

evaluate the qualifications of the land for designation as IAL. If 2/3rds of the Commission finds that the lands qualify for IAL designation, the Commission will issue a declaratory order designating the lands as IAL.

In the second, each county shall identify and map potential important agricultural lands within its jurisdiction except lands that have been designated for urban use by the State or county.

Each county shall develop an inclusive process for public involvement, including a series of public meetings, throughout the identification and mapping process. The planning departments may also establish one or more citizen advisory committees, utilize an existing process (such as general plan, development plan, and community plan), or employ appropriate existing and adopted general plan, development plan, or community plan maps.

The IAL maps shall be submitted to the county council for adoption, with or without changes, by resolution. The adopted maps shall be transmitted to the LUC for further action. The LUC shall receive the county recommendations and maps no sooner than the effective date of the legislative enactment of incentive measures for important agricultural lands.

The Department of Agriculture and the Office of Planning shall also receive and review copies of the county maps and recommendations and provide comments to the LUC within forty-five days of the receipt of the recommendations and maps by the Commission.

In reaching its decision, the LUC shall consider information submitted by the county, declaratory orders issued in the three year period following enactment of incentives, landowner position statements and other relevant information. The LUC is precluded from designating any additional lands of a landowner as IAL if that owner already has a majority of their landholdings, exclusive of conservation lands, designated as IAL.

The designation of important agricultural lands and adoption of maps submitted by the county shall take effect only after the passage of a minimum of three years following the enactment of legislation establishing incentives for important agricultural lands.

Copies of the maps of important agricultural lands adopted by the LUC 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.

### **Is There Any Review Of The IAL Maps Once They Have Been Approved?**

Yes. The maps delineating important agricultural lands shall be reviewed in conjunction with the county general plan and community and development plan revision process, or at least once every ten years following the adoption of the maps by the LUC; the maps shall not be reviewed more than once every five years. In these periodic reviews or through petitions by the farmers or landowners for declaratory rulings, the IAL designation shall be removed from those important agricultural lands where the LUC has issued a declaratory order that a sufficient supply of water is no longer available to allow profitable farming of these lands due to governmental actions, acts of God, or other causes beyond the farmer's or landowner's reasonable control.

## **Can Important Agricultural Lands be Rezoned or District Boundaries Amended?**

Yes. District boundary amendments for IAL shall be processed by the LUC. Lands less than 15 acres in rural and urban districts or in agricultural districts but not delineated as IAL may petition the county for a boundary change.

Upon acceptance by the county for processing, any application for a special permit involving important agricultural lands shall be referred to the Department of Agriculture and the Office of Planning for review and comment.

Any rezoning or boundary change decision by the LUC or county shall be based upon a determination that:

- On balance, the public benefit from the proposed district boundary amendment or zone change outweighs the benefits of retaining the land for agricultural purposes;
- The proposed action will have no significant impact upon the viability of agricultural operations on adjacent agricultural lands.
- A farmer or landowner with qualifying lands may also petition the land use commission to remove the IAL designation if a sufficient supply of water is no longer available to allow profitable farming of the land due to governmental actions, acts of God, or other causes beyond the farmer's or landowner's reasonable control.

## **What About Special Permits?**

Special permits for lands greater than fifteen acres or for lands designated as important agricultural lands shall be subject to approval by the LUC. The LUC may impose additional restrictions as may be necessary.

## **Will The Counties Receive Any Funding To Support Their Work?**

Yes. The LUC has been authorized to disburse \$75,000 for fiscal year 2005-2006, for grants-in-aid to the counties for the identification and mapping of IAL. The LUC shall submit annual reports on the progress of the counties in identifying and mapping IAL to the legislature no later than twenty days before the convening of the regular sessions of 2006 through 2009.

Each county shall submit its maps with recommendations for lands eligible for designation as IAL to the LUC no later than sixty months from the date of county receipt of state funds appropriated for the identification process.

## **How will State and County Agriculture, Tax, and Land Use Policies be affected by the Act?**

Policies must:

- 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;
- Discourage the fragmentation of important agricultural lands and the conversion of these lands to nonagricultural uses;
- Direct nonagricultural uses and activities from important agricultural lands to other areas and ensure that uses on important agricultural lands are actually agricultural uses;
- Limit physical improvements on important agricultural lands to maintain affordability of these lands for agricultural purposes;
- Provide a basic level of infrastructure and services on important agricultural lands limited to the minimum necessary to support agricultural uses and activities;

- Facilitate the long-term dedication of important agricultural lands for future agricultural use through the use of incentives;
- Facilitate the access of farmers to important agricultural lands for long-term viable agricultural use;
- Promote the maintenance of essential agricultural infrastructure systems, including irrigation systems.

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.

For counties without ordinances, important agricultural lands may be subdivided without county processing or standards; provided that:

- None of the resulting lots shall be used solely for residential occupancy;
- The leasehold lots shall return to the original lot of record upon expiration or termination of the lease.

### **What are the Incentives Mentioned in the Act?**

State and county incentive programs shall provide preference to IAL and agricultural businesses on IAL. They will support and enhance the policies described above. Incentives may include but are not limited to:

- Assistance in identifying federal, state, and private grant and loan resources for agricultural business planning and operations, assistance with grant and loan application processes, and the processing of grants and loans;
- Property tax assessment of land and improvements used or held only for use in agriculture based on agricultural use value rather than fair market value;
- Tax incentives to offset operational costs, promote agricultural business viability, and promote the long-term protection of important agricultural lands;
- Tax incentives and programs for equity investments and financing for agricultural operations and value-added agricultural development, including agricultural irrigation systems;
- Reduced infrastructure requirements and facilitated building permit processes for the construction of dedicated agricultural structures;
- Tax credits for the sale or donation of agricultural easements on IAL;
- General excise tax exemption for retail sales of farm produce;
- Programs and mechanisms that promote investment in agricultural businesses or agricultural land protection, such as the purchase of development rights;
- State funding mechanisms to fund business viability and land protection programs;
- Water regulations and policies that provide farmers of IAL access to adequate and cost-effective sources of water;
- Establishment of a permanent state revolving fund, escalating tax credits based on the tax revenues generated by increased investment or agricultural activities conducted on IAL, and dedicated funding sources to provide moneys for incentives and other programs;
- Establishment of a means to analyze the conformity of state-funded projects with the intent and purposes of this Act, and a mechanism for mitigation measures when projects are not in conformance;
- Institution of a requirement for the preparation of an agricultural impact statement that would include mitigation measures for adverse impacts for proposed state or county rulemaking that may affect agricultural activities,
- 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.

State and county agencies shall review the incentive measures at least every five years.

**What will the Department of Agriculture do to Assist in the Implementation of the Act?**

The DOA is directly or indirectly involved in the entire Act. Our primary responsibility is in the development of incentives.

The DOA, with the assistance of the Department of Taxation, shall contract meeting facilitation and cost-benefit analysis services to develop and recommend a package of proposals for agricultural incentives. The meeting facilitators shall ensure that stakeholder discussions are inclusive and use a consistent voting procedure.

The DOA shall report stakeholder findings and recommendations, including proposed legislation and recommended minimum criteria for determining when the "enactment of legislation establishing incentives and protection" has occurred no later than twenty days before the convening of the regular session of 2007. The report shall include an analysis of the impacts and benefits of its recommendations, a record of the stakeholder group's process and deliberations, and shall provide the supporting rationale for the incentives being proposed.

Within one year of the adoption of maps of important agricultural lands by the LUC, all state agencies shall report to the Department of Agriculture on the impact of projects and programs on the designated important agricultural lands and sustained agricultural use of these lands.

\$75,000 has been appropriated for disbursement by the DOA for fiscal year 2005-2006 for the development of proposals for incentives. Funds shall not lapse until June 30, 2007.

**Important Agricultural Lands  
Implementation Timeline**

	2005	2006	2007	2008	2009	2010	2011	2012	2015	2016	2020	2021
Estimated Effective Date of Act	July 1											
Earliest Estimated Date for Submittal of Petition for Declaratory Ruling	July 1											
Earliest Estimated date for DOA to hire consultants	Sept.											
Counties' Progress Reports Due to Legislature from LUC	Dec.	Dec.	Dec.	Dec.								
Incentives Report Due from DOA		Dec.										
Earliest Estimated Date Incentives Approved by Legislature			May									
Earliest Estimated Effective Date of Incentives			July									
Earliest Estimated Date Declaratory Ruling Petitioners Eligible for Incentives			July									
Earliest Estimated Start of Exclusive Period for Approved Declaratory Ruling Petitioners			July			June						
Earliest Estimated Acceptance Date for County Maps			July									
Earliest Estimated Approval Date for County Maps						June						
Earliest Final Date for Acceptance of County Maps & Recommendations. <u>Approval</u> may not occur until 2011 dependant on LUC processing time*						Oct.						
Earliest Date for State Agencies to Report on Impact of Incentives (May not occur until 2012 depending on date of LUC approval of maps)							July					
Earliest Date for Review of Maps. (May not occur until 2016 depending on LUC approval date of maps)									July			
Earliest Date for 2nd Review of Maps. (May not occur until 2021 depending on LUC approval date)											July	

\*Assume funds disbursed 11/1/05