Ag Dedication Incentives

The purpose of this incentive proposal is to

1. Identify realistic benefits to landowners that would make it worthwhile for them to voluntarily dedicate their lands (or portions thereof) to Ag for significant periods of time.
2. Identify the requirements for populating the land with serious farmers so that starting and maintaining farming operations are profitable.
3. Identify the resources on the state level that are available to help locally owned agribusiness regenerate into a significant part of the economy.
4. Identify state agencies that can assist in Ag development and assist farm operators.

The sum total of the incentives program should be an aggressive but realistic Ag development program that matures into a well financed, profitable business community with the staying power required for long term agribusiness and long term growth.

General Requirements:

1. Landowners must dedicate whole parcels of land to Ag subject to the uses allowed under the pertinent County Land Use Ordinance in effect as of the date of passage of this legislation.
2. Land Use agreements executed with tenants must be Leases or equally financeable land use agreements so that farming operators can obtain financing for their farm enterprises.
3. Ag Dedication durations shall be in increments of not less than 20 years. There shall be no maximum Ag Dedication period.
   a. The purpose of the minimum Ag Dedication period is to facilitate Ag financing which is absolutely critical to farming operations. Mortgages are typically a minimum of 15 years. Lenders double the lease term as a margin of safety for their loans (if they have to foreclose, the properties must be financeable for others who take over). Therefore, a lease must have a term of 20 to 25 years in order for lessee to obtain a 10 yr. Mortgage, or a lease term of 60 or 65 years to obtain a 30 year mortgage. There are a mix of shorter terms, which require much higher payments which are difficult for farmers to make and are largely unrealistically expensive.
4. In addition to provisions that benefit farm operators (Tenants), Landowners as landlords must derive real, meaningful benefits (in monetary terms as well as guarantees that their land ownership will be protected) from participating in any Ag Dedication program, or else it is neither prudent nor feasible for them to participate.

Specifics:

1. Leasehold Condemnation statutes notwithstanding, lands dedicated to Ag will be exempt from leasehold condemnation and conversion for the entire dedicated Ag use period.
2. During the entire period of Ag Dedication, produce from each farm on Ag Dedicated land shall deduct from its General Excise or Resale Tax an amount equal to the real property tax payable to County. After the Real Property Tax is defrayed, the general excise tax and use tax as the case may be shall be halved for the duration of the Ag dedication period.
3. Real Property Taxes paid on farm dwellings. This provision applies to farm dwellings that are built on the property. HOWEVER, any owner of a farm dwelling who subleases its land for others to farm (as in the case of a gentleman farmer or a retired farmer), shall not be entitled to deduct from its General Excise Tax returns the amount of the Real Property Taxes. The Sub-lessee shall derive the benefit described herein. There will be no Real Property Tax offsets by retired farmers or gentlemen farmers who live on their property and sub-lease the farming areas to others.
4. Lease rents collected by landowners from tenants on Ag Dedicated lands shall be entitled to defray their real property taxes by deducting that amount from their General Excise Tax returns ONLY if the lands are under a financeable land use agreement (lease) for a term of at least twenty (20) years. This applies only to leases upon the property or portions thereof, and does not apply to land use licenses and or any land use agreement that cannot be financed by a typical lender.

5. Landlords shall be entitled to:
   a. Develop their properties in a way that will encourage small farmers to lease or purchase the properties. Infrastructure shall be consistent with the infrastructure provisions described in paragraph 9 herein. Additionally, costs of development shall be deductible against the Landowner's Hawaii state income taxes over a period of up to 20 years, except if such development is funded by any state or federal grant.
   b. Depreciate that portion of all improvements that they install upon the Ag Dedicated land at their sole cost and expense over and accelerated period of 1 to 5 years at their own discretion.
   c. Market the Leasehold or Fee Simple interest in their properties, subject to an Ag Dedication term of no less than 65 years (see paragraph 11 below for more details).

6. Conflicting HRS Statutes notwithstanding, Landowners shall have the right to lease portions of any Tax Map Parcels consistent with the provisions herein, and such leases shall not be construed as subdivisions, and shall be accurately depicted on a location map and labeled and drawn to scale as the state Real Estate Commission may require. Except where the Fee Simple or Leasehold Interest in the property is being sold, no survey will be required.

7. Minimum lot sizes shall be consistent with the minimum lot sizes specified by the County Land Use Ordinances in effect as of the date of passage of this legislation. For Example, the minimum lot size in the Oahu AG-1 district is 5 acres, which would be the minimum lot size eligible for lease under the Ag dedication program, including the area required for access.

8. Farm Dwellings may be built on the property in the same density as is allowed under the County Land Use Ordinance in effect as of the date of passage of this legislation.

9. Roadways and all other infrastructure upon Ag Dedicated lands shall be consistent with accepted rural standards as defined by the USDA, and if no infrastructure standard shall be prescribed by the USDA, then infrastructure shall be in accordance with the needs of the farming operations using the infrastructure. For example, the roadway surfacing recommended by the USDA upon the typical rural farm roadway includes recycled pavement ("cold plane"), recycled concrete, gravel, crushed tumbled glass (used in "glasscrete", etc.) or other suitable materials. A list of USDA recommended farm road surfaces is found in USDA literature and online. Further, infrastructure requirements on unoccupied Ag Dedicated lands shall be consistent with the needs of the activities upon that portion of the dedicated lands and shall not be subject to obtaining County building permits. However, such infrastructure shall be subject to USDA erosion control and other pertinent standards and notification to the local USDA offices shall be required prior to constructing any new roadways upon the property.
   a. Farm Dwellings shall be encouraged on Ag Dedicated lands. Access roadways shall be surfaced with materials that offer suitable dust control such as gravel, cold plane, crushed tumbled glass or other suitable surface materials in areas within 200 ft of either direction from dwellings.
   b. Farm access roadways on dedicated lands along which farm dwellings are built shall have a 20 ft. wide paved or concrete "apron" where the rural access road meets any County or State dedicated roadway, the top layer of which is either 6 inches or more of steel reinforced concrete or 2.5 inches of pavement on top of a 6 inch layer of base course or other suitable non-compactable base layer. The apron shall extend as minimum of 20 ft into the farm access roadway.
10. Farm Dwellings shall provide a minimum 10,000 gallon “fire pond” as a nearby source of water with which to fight fires in or around each farm dwelling. In no case shall dwellings on Ag Dedicated lands be required to install fire hydrants or individual fire sprinkler systems as a condition for obtaining building permits.

11. Ag Dedicated parcels shall be fully marketable at market rates subject to the Ag Dedication which runs with the land and is recorded on the title to the property. However, the sales must meet the requirements of the state of Hawaii Real Estate Commission in effect at the time of passage of this legislation (i.e. specific and unique title reports), with the exception that an Ag Dedicated property need not be improved property, and shall not be subject to review or approval by any County agency, as the Real Estate Commission takes precedence over County jurisdictions.

12. Ag Dedicated parcels shall be eligible for state loan guarantees of up to 95% of a maximum of $5,000,000 in acquisition and operating loans for agribusiness on the property, subject to the other existing conditions of the Department of Agriculture loan programs with the following exceptions:

   a. Borrower need not possess prior farming experience. However, Borrower must show the lender that he can employ the necessary agricultural personnel to run the facility or farm as the case may be, to the satisfaction of the Lender.
   b. There shall be no specific educational requirements placed upon the Borrower except that Borrower shall be a High School graduate (some USDA loans are made to individuals 10 to 20 years old under the “Youth Loan Program”).
   c. Borrower need not obtain loan denials from any lending institution as a condition of obtaining approval for a state of Hawaii Department of Agriculture loan guaranty.
   d. Borrower must have a business plan approved a lender and a Conditional Loan Commitment Letter from a lender subject to loan guaranty provided by the Hawaii Department of Agriculture.
   e. Borrower must obtain mortgage insurance at its own expense.
   f. First priority will be given to loans amortized over 30 years and possessing land leases (or land leases subject to tenant financing), of 65 years or more. Approval to lease lands Loan terms shall be for no less than 15 years at rates of interest consistent with the reduced risk associated with a guaranteed loan. The minimum land lease acceptable under this program is 30 years.
   g. The Hawaii Department of Agriculture loan guaranty may either stand by itself or shall be effective in conjunction with other loan programs, so long as the Hawaii Department of Agriculture loan guaranty shall itself be covered under another guaranty or risk reduction method in conjunction with other finds being borrowed. This includes the Special Revenue Bond powers of the Agribusiness Development Corporation.

13. The ADC (Agribusiness Development Corp.) will:

   a. Conduct an audit of all arable State owned Ag lands and dedicate them to Ag for a minimum period of 65 years commencing on the date of each farm lease as described below, and make them available to farmers at nominal rates. 30% of all arable Ag lands will be made available to new farmers or beginning farmers as defined by the USDA. Priority shall go to farming incubators, locally owned R & D operations or start up farms.
   b. For state owned Ag lands in close proximity to state High Schools, allocate a reasonable amount the Ag land to Agribusiness vocation classes for high school labs where they grow produce for sale to families of their student body and/or for the local school lunch program.
   c. Aggressively seek out, recruit, and assist local farmers or locally owned cooperatives that have the potential to create profitable agribusiness ventures concentrating on
growing/producing the staples necessary for Hawaii’s Agricultural Self Sufficiency. Allocate enough state owned Ag land to raise a significant portion of those crops.

i. Conduct consumer surveys to target the most popular imported and value added Agricultural products that consumers want such as citrus fruits, mangoes, bananas, vanilla, coffee, and other staples. Investigate the feasibility of producing these products by developing realistic business plans which include financing assistance available through the ADC. Aggressively advertise for and recruit local farm operators that can produce these crops profitably, and in all respects assist the creation of viable operations therefor.

ii. Identify commodity and value added export crops such as coffee, vanilla, mangoes, jerky, dried fruits, tropical wines, liqueurs etc., and assist the development of those crops as export crops. Investigate the feasibility of producing these products by developing realistic business plans which include financing assistance available through the ADC. Aggressively advertise for and recruit local farm operators that can produce these crops profitably, and in all respects assist the creation of viable operations therefor.

iii. Identify and assist in the development of various other unique value added agricultural products and assist in the development of facilities and markets for those crops. Investigate the feasibility of producing these products by developing realistic business plans which include financing assistance available through the ADC. Aggressively advertise for and recruit local farm operators that can produce these crops profitably, and in all respects assist the creation of viable operations therefor.

iv. Only locally owned farming operations will be eligible for state land leases.

v. No General Excise Taxes and no Real Property taxes shall be payable by any tenant operating on state owned Ag Dedicated Lands for a period of 5 years from the date of the lease.

d. Conduct a complete audit of past and present operations, programs, and measure their effectiveness in realistic terms for the past 5 years. Develop an internal business plan which includes realistic but aggressive Ag development programs consistent with the provisions and execute them by

i. Exercising the powers bestowed upon the Agribusiness Development Corporation to develop Agribusiness to the fullest possible extent.

ii. Catalogue and advertise through the ADC website and other appropriate media, Ag Dedicated properties that are available for lease and under what lease duration, and lease rent rates.

iii. Catalogue and advertise through the ADC website and other appropriate media, Ag Dedicated properties that are available for sale and under what Ag Dedicated duration together with price an other information.

iv. Review all existing state Ag land leases and revoke all leases for tenants who are not actively farming the leased lands.

e. Aggressively recruit potential Ag tenants and actively assist them through any approval processes required for specialized farm enterprises.

f. Work directly with area High Schools and with the assistance of UH CATHR and the USDA Extension services if available, create an agribusiness curriculum in the vocational education.

g. Re-focusing the ADC to be consistent with the DOA, and aggressively pursue the advancement of Agribusiness statewide IN CONJUNCTION WITH The efforts of the DOA, FARM BUREAU, HARC, UH College of Tropical Agriculture and Human Resources.
Summary:
1. Landowners must have the latitude to lease all or part of their lands without the fear of forced land reform (forced fee conversion).
2. Landowners must be able to lease portions of large parcels of land to multiple lessees without the fear of triggering "subdivision" rules and restrictions.
3. Farmers must be able to finance their farm operations, or no substantive Agribusiness gets done. One of the best ways to finance farm operations is to finance with a farm dwelling – which makes the farm eligible for regular residential financing, which is much easier to obtain than farm loans in many cases.
4. The farmer must be able to live on his land, to reduce its overhead (i.e. not pay a mortgage elsewhere and also pay a mortgage on the farm) and prevent theft.
5. The farmer must have access to its land according to the needs of the Ag enterprise upon that portion of the land.
6. Costs of operating on the farm must be reasonable and to rural, not urban standards.
7. All Ag operations must be economically feasible.

PROPOSED LEGISLATIVE INITIATIVE TO INCORPORATE THE ABOVE IN A BILL TO BE INTRODUCED IN WHOLE OR IN PART AS FOLLOWS:

1. The Act to be entitled “Agricultural Incentives Act”

2. The Act to define the players under this Act. Define the land owner, the farmer, the government and the lender.

3. The dedication and marketing requirements for the agricultural zoned land.

4. The incentives for farmers and those interested in farming and assistance to be provided to them.

5. The assistance of the government at the different levels, at the State and County levels.
   a. At the County level – zoning, subdivisions and infrastructure.
   b. At the State level – land use, education, information, loans
   c. Utilization of the Agriculture Development Corporation to acquire agriculture land dedicated perpetually to agricultural purposes and to make it available to farmers.

6. The provisions for lending and government guaranty to assist farmers.