
HOUSE CONCURRENT RESOLUTION

ESTABLISHING A LAND USE WORKING GROUP TO ADDRESS ISSUES RELATING
TO NON-AGRICULTURAL ACTIVITY ON AGRICULTURALLY CLASSIFIED
LANDS.

1 WHEREAS, the State of Hawaii consists of approximately four
2 million acres, divided into four major land classifications as
3 follows:

4
5 (1) Agriculture (one million nine hundred thousand acres);

6
7 (2) Conservation (one million nine hundred thousand
8 acres);

9
10 (3) Urban (Two hundred fifty thousand acres); and

11
12 (4) Rural (twelve thousand acres); and
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14 WHEREAS, Act 183, Session Laws of Hawaii 2005, established
15 policies, procedures, standards, and criteria and a process to
16 identify important agricultural lands that will help ensure
17 their conservation and availability for long term agricultural
18 use, as well as conditions for the reclassification and rezoning
19 of agricultural lands, and provided for the development of
20 incentives to promote agricultural viability for both farmers
21 and landowners; and
22

23 WHEREAS, Act 205, Session Laws of Hawaii 2005, provided for
24 needed redefining of the State's rural district on the part of
25 the Land Use Commission, together with the Office of Planning
26 and the Planning Directors of each of the four counties, not
27 only to encompass existing residential communities on
28 agriculturally classified lands, including former plantation
29 camps, villages, and towns, but also to envision and plan for
30 acceptable rural developments to accommodate future population
31 growth; and
32



1 WHEREAS, there has been an ever-increasing number of non-
2 agricultural developments on agriculturally classified lands,
3 including luxury estates, contrary to the original intent of
4 Chapter 205, Hawaii Revised Statutes, first enacted in 1963, as
5 a result of many factors including but not limited to:

- 6
- 7 (1) The fact that the agricultural district became a
8 "catch all" into which all lands not identified as
9 urban or conservation (and subsequently rural) were
10 placed, regardless of whether those lands were
11 agriculturally viable;
- 12
- 13 (2) Both broad interpretations and misinterpretations of
14 statutory language; and
- 15
- 16 (3) Gradual and continuing expansion of such non-
17 agricultural uses without intervention by governing
18 authorities, thus establishing precedence and becoming
19 accepted practice; and
- 20

21 WHEREAS, primarily for farming convenience, efficiency, and
22 security purposes, living quarters or dwellings became permitted
23 uses on agricultural lands; and through a subsequent 1976
24 amendment, all dwellings on agricultural lands, including those
25 not involved with agricultural activity, were grandfathered,
26 with imposed restrictions, as non-conforming uses; and "farm
27 dwelling" was defined, in a effort to prevent abuses; and

28

29 WHEREAS, in 1991, section 205-2, Hawaii Revised Statutes,
30 was amended to allow:

31

- 32 (1) "Accessory uses", including but not limited to farm
33 dwellings on lands without agricultural activity,
34 provided that income is derived from agricultural
35 activity on an adjacent parcel; and
- 36
- 37 (2) Accessory agricultural uses and services described in
38 sections 205-2 and 205-4.5, Hawaii Revised Statutes,
39 to be further defined by each county by zoning
40 ordinance; and
- 41

42 WHEREAS, the preceding amendments have only served to
43 expand non-agricultural activity on agriculturally classified
44 lands to the extent that there are at least one hundred twenty-



1 four residential subdivisions on agriculturally classified
2 lands, thirty-five of which were approved during the last ten
3 years; and
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5 WHEREAS, the multitude of issues that must be addressed and
6 the far reaching impacts on landowners, farmers, and the
7 thousands who reside on agriculturally designated lands, as well
8 as interested groups and citizens, strongly suggests that this
9 critical matter be subjected to a fact-finding, decision-making
10 process in which all these stakeholders are fully engaged,
11 rather than attempting to seek resolution in the brief,
12 remaining period of this legislative session; now, therefore,
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14 BE IT RESOLVED by the House of Representatives of the
15 Twenty-third Legislature of the State of Hawaii, Regular Session
16 of 2006, the Senate concurring, that a Land Use Working Group be
17 established by the respective chairpersons of the House of
18 Representatives and Senate committees with jurisdiction over
19 land and agricultural matters to identify all the issues and
20 problems involving non-agricultural uses on agriculturally
21 classified lands; and
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23 BE IT FURTHER RESOLVED that representatives from the Land
24 Use Commission, Office of Planning, and all county planning
25 departments be members of the Land Use Working Group; and
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27 BE IT FURTHER RESOLVED that the Land Use Working Group may
28 also include but is not limited to representatives from:
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- 30 (1) The Department of Land and Natural Resources;
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- 32 (2) The Department of Agriculture;
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- 34 (3) The University of Hawaii, College of Tropical
35 Agriculture and Human Resources;
- 36
- 37 (4) Landowners and landowner groups;
- 38
- 39 (5) Farmers and farmer's organizations; and
- 40
- 41 (6) Environmental and conservation groups; and
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43 BE IT FURTHER RESOLVED that it is the intent of the
44 Legislature that the effort and actions of the Land Use Working



1 Group be combined with and not separated from other groups
 2 established under Act 183 and Act 205, provided that the
 3 Important Agricultural Lands Incentives Task Force will continue
 4 to operate independently, unless determined otherwise by the
 5 Land Use Working Group and with the concurrence of the
 6 Department of Agriculture; and
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8 BE IT FURTHER RESOLVED that the Land Use Working Group is
 9 requested to address questions and issues such as, but not
 10 limited to:
 11

12 (1) Should existing settlements and developments on
 13 agriculturally classified lands that are not engaged
 14 in bona fide agricultural activity be allowed as non-
 15 conforming use or require a land use reclassification?
 16 Should there be a simplified one-time reclassification
 17 process for such settlements that meet certain
 18 criteria? If so, what should be the criteria;
 19

20 (2) What is a bona fide agricultural activity? Should
 21 there be an income criteria and, if so, what is the
 22 criteria;
 23

24 (3) What are the specific uses allowed on lands designated
 25 "C," "D," "E," and "U" by the Land Study Bureau?
 26 Should there be reclassification for lands that have
 27 uses other than bona fide agriculture? Should there
 28 be established a fifth (open or other) major land
 29 category;
 30

31 (4) What is the definition of a "dwelling", "farm
 32 dwelling", and "accessory uses", and where should
 33 these be permitted or prohibited; and
 34

35 (5) As the counties prepare, adopt, or update their
 36 comprehensive general plans in which future uses for
 37 urban, rural, agricultural, and open space areas are
 38 identified, should there be a process in which the
 39 lands can be more readily reclassified, particularly
 40 where small landowners may not have the means to
 41 proceed through current reclassification procedures;
 42 and
 43



1 BE IT FURTHER RESOLVED that the Land Use Working Group is
2 requested to submit its findings and recommendations to the
3 Legislature, not later than twenty days prior to the convening
4 of the Regular Session of 2007; and

5
6 BE IT FURTHER RESOLVED that certified copies of this
7 Concurrent Resolution be transmitted to the Chairperson of the
8 Board of Land and Natural Resources, Chairperson of the Board of
9 Agriculture, Executive Officer of the Land Use Commission,
10 Director of the Office of Planning, Director of Planning and
11 Permitting, City and County of Honolulu, Director of the
12 Department of Planning, County of Hawaii, Director of the
13 Department of Planning, County of Kauai, Director of the
14 Department of Planning, County of Maui, and the Dean of
15 University of Hawaii, College of Tropical Agriculture and Human
16 Resources.

