
HOUSE 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);

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

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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
33 WHEREAS, there has been an ever-increasing number of non-
34 agricultural developments on agriculturally classified lands,
35 including luxury estates, contrary to the original intent of



1 Chapter 205, Hawaii Revised Statutes, first enacted in 1963, as
2 a result of many factors including but not limited to:

- 3
- 4 (1) The fact that the agricultural district became a
5 "catch all" into which all lands not identified as
6 urban or conservation (and subsequently rural) were
7 placed, regardless of whether those lands were
8 agriculturally viable;
 - 9
 - 10 (2) Both broad interpretations and misinterpretations of
11 statutory language; and
 - 12
 - 13 (3) Gradual and continuing expansion of such non-
14 agricultural uses without intervention by governing
15 authorities, thus establishing precedence and becoming
16 accepted practice; and
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18 WHEREAS, primarily for farming convenience, efficiency, and
19 security purposes, living quarters or dwellings became permitted
20 uses on agricultural lands; and through a subsequent 1976
21 amendment, all dwellings on agricultural lands, including those
22 not involved with agricultural activity, were grandfathered,
23 with imposed restrictions, as non-conforming uses; and "farm
24 dwelling" was defined, in a effort to prevent abuses; and

25

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

- 28
- 29 (1) "Accessory uses", including but not limited to farm
30 dwellings on lands without agricultural activity,
31 provided that income is derived from agricultural
32 activity on an adjacent parcel; and
 - 33
 - 34 (2) Accessory agricultural uses and services described in
35 sections 205-2 and 205-4.5, Hawaii Revised Statutes,
36 to be further defined by each county by zoning
37 ordinance; and
 - 38

39 WHEREAS, the preceding amendments have only served to
40 expand non-agricultural activity on agriculturally classified
41 lands to the extent that there are at least one hundred twenty-
42 four residential subdivisions on agriculturally classified
43 lands, thirty-five of which were approved during the last ten
44 years; and



1
2 WHEREAS, the multitude of issues that must be addressed and
3 the far reaching impacts on landowners, farmers, and the
4 thousands who reside on agriculturally designated lands, as well
5 as interested groups and citizens, strongly suggests that this
6 critical matter be subjected to a fact-finding, decision-making
7 process in which all these stakeholders are fully engaged,
8 rather than attempting to seek resolution in the brief,
9 remaining period of this legislative session; now, therefore,

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11 BE IT RESOLVED by the House of Representatives of the
12 Twenty-third Legislature of the State of Hawaii, Regular Session
13 of 2006, that a Land Use Working Group be established by the
14 respective chairpersons of the House of Representatives
15 Committees on Water, Land, and Ocean Resources and Agriculture
16 to identify all the issues and problems involving non-
17 agricultural uses on agriculturally classified lands; and

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19 BE IT FURTHER RESOLVED that representatives from the Land
20 Use Commission, Office of Planning, and all county planning
21 departments be members of the Land Use Working Group; and

22
23 BE IT FURTHER RESOLVED that the Land Use Working Group may
24 also include but is not limited to representatives from:

- 25
26 (1) The Department of Land and Natural Resources;
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28 (2) The Department of Agriculture;
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30 (3) The University of Hawaii, College of Tropical
31 Agriculture and Human Resources;
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33 (4) Landowners and landowner groups;
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35 (5) Farmers and farmer's organizations; and
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37 (6) Environmental and conservation groups; and

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39 BE IT FURTHER RESOLVED that it is the intent of the
40 Legislature that the effort and actions of the Land Use Working
41 Group be combined with and not separated from other groups
42 established under Act 183 and Act 205, provided that the
43 Important Agricultural Lands Incentives Task Force will continue
44 to operate independently, unless determined otherwise by the



1 Land Use Working Group and with the concurrence of the
2 Department of Agriculture; and

3
4 BE IT FURTHER RESOLVED that the Land Use Working Group is
5 requested to address questions and issues such as, but not
6 limited to:

- 7
8 (1) Should existing settlements and developments on
9 agriculturally classified lands that are not engaged
10 in bona fide agricultural activity be allowed as non-
11 conforming use or require a land use reclassification?
12 Should there be a simplified one-time reclassification
13 process for such settlements that meet certain
14 criteria? If so, what should be the criteria;
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- 16 (2) What is a bona fide agricultural activity? Should
17 there be an income criteria and, if so, what is the
18 criteria;
19
- 20 (3) What are the specific uses allowed on lands designated
21 "C," "D," "E," and "U" by the Land Study Bureau?
22 Should there be reclassification for lands that have
23 uses other than bona fide agriculture? Should there
24 be established a fifth (open or other) major land
25 category;
26
- 27 (4) What is the definition of a "dwelling", "farm
28 dwelling", and "accessory uses", and where should
29 these be permitted or prohibited; and
30
- 31 (5) As the counties prepare, adopt, or update their
32 comprehensive general plans in which future uses for
33 urban, rural, agricultural, and open space areas are
34 identified, should there be a process in which the
35 lands can be more readily reclassified, particularly
36 where small landowners may not have the means to
37 proceed through current reclassification procedures;
38 and
39

40 BE IT FURTHER RESOLVED that the Land Use Working Group is
41 requested to submit its findings and recommendations to the
42 Legislature, not later than twenty days prior to the convening
43 of the Regular Session of 2007; and
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1 BE IT FURTHER RESOLVED that certified copies of this
2 Resolution be transmitted to the Chairperson of the Board of
3 Land and Natural Resources, Chairperson of the Board of
4 Agriculture, Executive Officer of the Land Use Commission,
5 Director of the Office of Planning, Director of Planning and
6 Permitting, City and County of Honolulu, Director of the
7 Department of Planning, County of Hawaii, Director of the
8 Department of Planning, County of Kauai, Director of the
9 Department of Planning, County of Maui, and the Dean of
10 University of Hawaii, College of Tropical Agriculture and Human
11 Resources.

