
A BILL FOR AN ACT

RELATING TO LAND USE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 205-4.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§205-4.5 Permissible uses within the agricultural**
4 **districts.** (a) Within the agricultural district, all lands
5 with soil classified by the land study bureau's detailed land
6 classification as overall (master) productivity rating class A
7 or B shall be restricted to the following permitted uses:

- 8 (1) Cultivation of crops, including but not limited to
9 flowers, vegetables, foliage, fruits, forage, and
10 timber;
- 11 (2) Game and fish propagation;
- 12 (3) Raising of livestock, including but not limited to
13 poultry, bees, fish, or other animal or aquatic life
14 that are propagated for economic or personal use;
- 15 (4) Farm dwellings, employee housing, farm buildings, or
16 activity or uses related to farming and animal
17 husbandry. Farm dwelling as used in this paragraph
18 means a single-family dwelling located on and used in

1 connection with a farm, including clusters of single-
2 family farm dwellings permitted within agricultural
3 parks developed by the State, or where agricultural
4 activity provides income to the family occupying the
5 dwelling;

6 (5) Public institutions and buildings that are necessary
7 for agricultural practices;

8 (6) Public and private open area types of recreational
9 uses including day camps, picnic grounds, parks, and
10 riding stables, but not including dragstrips,
11 airports, drive-in theaters, golf courses, golf
12 driving ranges, country clubs, and overnight camps;

13 (7) Public, private, and quasi-public utility lines and
14 roadways, transformer stations, communications
15 equipment buildings, solid waste transfer stations,
16 major water storage tanks, and appurtenant small
17 buildings such as booster pumping stations, but not
18 including offices or yards for equipment, material,
19 vehicle storage, repair or maintenance, [e] treatment
20 plants, [e] corporation yards, or other like
21 structures;



- 1 (8) Retention, restoration, rehabilitation, or improvement
2 of buildings or sites of historic or scenic interest;
- 3 (9) Roadside stands for the sale of agricultural products
4 grown on the premises;
- 5 (10) Buildings and uses, including but not limited to
6 mills, storage, and processing facilities, maintenance
7 facilities, and vehicle and equipment storage areas
8 that are normally considered directly accessory to the
9 above mentioned uses and are permitted under section
10 205-2(d);
- 11 (11) Agricultural parks; or
- 12 (12) Wind energy facilities, including the appurtenances
13 associated with the production and transmission of
14 wind generated energy; provided that such facilities
15 and appurtenances are compatible with agriculture uses
16 and cause minimal adverse impact on agricultural land.
- 17 (b) Uses not expressly permitted in subsection (a) shall
18 be prohibited, except the uses permitted as provided in sections
19 205-6 and 205-8, and construction of single-family dwellings on
20 lots existing before June 4, 1976. Any other law to the
21 contrary notwithstanding, no subdivision of land within the
22 agricultural district with soil classified by the land study



1 bureau's detailed land classification as overall (master)
2 productivity rating class A or B shall be approved by a county
3 unless [~~the said~~] those A and B lands within the subdivision
4 [~~shall be~~] are made subject to the restriction on uses as
5 prescribed in this section and to the condition that the uses
6 shall be primarily in pursuit of an agricultural activity.

7 Any deed, lease, agreement of sale, mortgage, or other
8 instrument of conveyance covering any land within the
9 agricultural subdivision shall expressly contain the restriction
10 on uses and the condition, as prescribed in this section, that
11 [~~the~~] restriction and condition shall be encumbrances
12 running with the land until such time that the land is
13 reclassified to a land use district other than agricultural
14 district.

15 If the foregoing requirement of encumbrances running with
16 the land jeopardizes the owner or lessee from obtaining mortgage
17 financing from any of the mortgage lending agencies set forth
18 [~~hereinbelow~~] in the following paragraph, and the requirement
19 is the sole reason for failure to obtain mortgage financing,
20 then [~~such~~] the requirement of encumbrances shall, insofar as
21 the mortgage financing is [~~so~~] jeopardized, be conditionally
22 waived by the appropriate county enforcement officer; provided



1 that the conditional waiver shall [~~thereafter~~] become effective
2 only in the event that the property is subjected to foreclosure
3 proceedings by the mortgage lender.

4 The mortgage lending agencies [~~mentioned hereinabove~~]
5 referred to in the preceding paragraph are the Federal Housing
6 Administration, Federal National Mortgage Association, Veterans
7 Administration, Small Business Administration, United States
8 Department of Agriculture, Federal Land Bank of Berkeley,
9 Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for
10 Cooperatives, and any other federal, state, or private mortgage
11 lending agency qualified to do business in Hawaii, and their
12 respective successors and assigns.

13 (c) Within the agricultural district, all lands[~~7~~] with
14 soil classified by the land study bureau's detailed land
15 classification as overall (master) productivity rating class C,
16 D, E, or U shall be restricted to the uses permitted for
17 agricultural districts as set forth in section 205-5(b).

18 (d) Notwithstanding any other provision of this chapter to
19 the contrary, golf courses and golf driving ranges approved by a
20 county before July 1, 2005, for development within the
21 agricultural district shall be permitted uses within the
22 agricultural district.



1 (e) Notwithstanding any other law to the contrary,
2 agricultural lands may be subdivided and leased for the
3 agricultural uses or activities permitted in subsection (a);
4 provided that:

- 5 (1) The principal use of the leased land is agriculture;
6 (2) No permanent or temporary dwellings or farm dwellings,
7 including trailers and campers, are constructed on the
8 leased area. This restriction shall not prohibit the
9 construction of storage sheds, equipment sheds, or
10 other structures appropriate to the agricultural
11 activity carried on within the lot;
12 (3) The terms for subdivided lot leases shall be for ten
13 or more years; and
14 (4) The subdivided lots shall be automatically
15 reconsolidated to the original lot of record upon the
16 expiration or termination of the leases.

17 Lots created and leased pursuant to this section are considered
18 legal lots of record for mortgage lending purposes and are
19 exempt from county subdivision standards."

20 SECTION 2. Section 484-3, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) Unless the method of disposition is adopted for the
2 purpose of evasion of this chapter, or unless the subdivider
3 files in writing with the director that this chapter shall apply
4 to the subdivider's subdivision, this chapter shall not apply to
5 offers or dispositions of an interest in land:

6 (1) By a purchaser of subdivided lands for the purchaser's
7 own account in a single or isolated transaction;

8 (2) If fewer than twenty separate lots, parcels, units, or
9 interests in subdivided lands are offered by a person
10 in a period of twelve months;

11 (3) Where the subdivided lot is a leasehold agricultural
12 lot located within state agricultural districts on
13 which no dwelling structures are constructed as
14 provided in section 205-4.5(e);

15 ~~(3)~~ (4) On which there is a residential, commercial, or
16 industrial building, or as to which there is a legal
17 obligation on the part of the seller to construct a
18 building on the land within two years from the date of
19 disposition; provided that the obligation to construct
20 shall not be, directly or indirectly, transferred to
21 or otherwise imposed upon the purchaser;



1 [~~(4)~~] (5) To persons who are engaged in, and are duly
2 licensed to engage in, the business of construction of
3 buildings for resale, or to persons who acquire an
4 interest in subdivided lands for the purpose of
5 engaging, and do engage in, and are duly licensed to
6 engage in, the business of construction of buildings
7 for resale;

8 [~~(5)~~] (6) Pursuant to court order;

9 [~~(6)~~] (7) By any government or government agency;

10 [~~(7)~~] (8) As cemetery lots or interests; or

11 [~~(8)~~] (9) Registered as a condominium property regime
12 pursuant to chapter [~~514A~~] 514B."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect on July 1, 2096;
16 provided that section 2 shall take effect on July 1, 2006 to
17 comply with the changes of Act 93, Session Laws of Hawaii 2005.



Report Title:

Agriculture; Lease; County Exemption

Description:

Allows agricultural lands used for certain activities to be subdivided and leased without having to satisfy county subdivision ordinances or the Uniform Land Sales Practice Act; provided that the land shall be used for agricultural uses only.
(SD1)

