
A BILL FOR AN ACT

RELATING TO DEVELOPMENT RIGHTS.

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

1 SECTION 1. The legislature finds that article XI, section
2 3, of the Hawaii state constitution requires the State to
3 conserve and protect agricultural lands, promote diversified
4 agriculture, increase agricultural self-sufficiency, and ensure
5 the future availability of agriculturally suitable lands. The
6 constitution directed the legislature to develop standards and
7 criteria to protect important agricultural lands.

8 In 2005, the legislature enacted Act 183, Session Laws of
9 Hawaii 2005, to implement the provisions of article XI, section
10 3, of the state constitution. Act 183:

11 (1) Established part III in chapter 205, Hawaii Revised
12 Statutes, that set forth policies and procedures for
13 the identification of important agricultural lands,
14 including:

15 (A) Policies to assure the conservation and
16 availability of important agricultural lands for
17 long-term agricultural use;



- 1 (B) Standards and criteria for the identification of
- 2 important agricultural lands;
- 3 (C) A process for the identification of important
- 4 agricultural lands;
- 5 (D) Standards and criteria for the reclassification
- 6 and rezoning of lands identified as important
- 7 agricultural lands; and
- 8 (E) Policies for incentives for the long-term
- 9 retention of important agricultural lands for
- 10 agricultural use; and
- 11 (2) Provided for a process to develop proposals for state
- 12 and county incentives to promote agricultural
- 13 viability, sustained growth of the agriculture
- 14 industry, and the long-term use and protection of
- 15 important agricultural lands for agricultural use.

16 The purpose of this Act is to continue to promote
17 agricultural vitality by encouraging landowners to allow their
18 lands that meet the criteria of important agricultural lands to
19 be designated as important agricultural land by allowing for the
20 transfer of development rights from the lands designated as
21 important agricultural lands to other lands.



1 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new part to be appropriately designated and to read
3 as follows:

4 "PART . TRANSFER OF DEVELOPMENT RIGHTS
5 FOR IMPORTANT AGRICULTURAL LANDS

6 §46- Definitions. As used in this part, unless the
7 context requires otherwise:

8 "Development rights" means the rights permitted under an
9 ordinance or law relating to permitted uses of a property, the
10 density or intensity of use, and the maximum height and size of
11 improvements thereon. Development rights may be calculated and
12 allocated using factors including but not limited to area or lot
13 size, floor area, floor area ratios, density, height
14 limitations, or any other criteria that will effectively
15 quantify the value for the development right in a reasonable and
16 uniform manner that will carry out the objectives of this part.

17 "Receiving district" means one or more designated districts
18 or areas of land to which development rights from one or more
19 important agricultural land sending districts may be transferred
20 and in which increased development is permitted using
21 transferred development rights.



1 "Sending district" means one or more designated important
2 agricultural land districts in which development rights may be
3 designated for use on one or more receiving districts.

4 "Transfer of development rights" means the process by which
5 development rights are transferred from a property in any
6 sending district to another property in a receiving district.

7 **§46- General authorization.** Any county council may
8 provide for the transfer of development rights from important
9 agricultural lands by adopting an ordinance establishing a
10 procedure for the transfer of development rights from important
11 agricultural lands. The ordinance shall provide:

12 (1) For the transfer of development rights only from lands
13 designated as important agricultural lands pursuant to
14 part III, chapter 205;

15 (2) That the transfer of development rights, and the
16 designation of sending and receiving districts be
17 established within the framework of the long-range,
18 comprehensive general plan of the county;

19 (3) That the receiving district, to which transfer of
20 development rights is authorized, shall be found by
21 the county council, after evaluating the effects of
22 the potential increased development, to contain



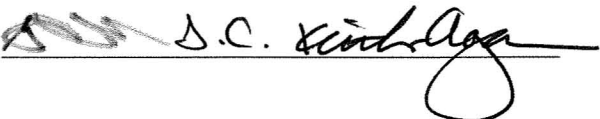
1 adequate resources and public facilities so that the
2 increased development will be compatible with the
3 development otherwise permitted by the county;

4 (4) That sending and receiving districts be designated and
5 mapped, and that the procedure for the transfer of
6 development rights be specified; and

7 (5) That development rights may be sold in the normal
8 market or through a development rights bank
9 established by the county in which development rights
10 may be retained and sold by the county.

11 **§46- Transfer of development rights instruments.** The
12 county shall establish a standard instrument to document
13 development rights that have been transferred from important
14 agricultural lands. A development right that is transferred is
15 an interest in real property evidenced by the transfer of
16 development right instrument issued by the county and recorded
17 pursuant to section 502-31."

18 SECTION 3. This Act shall take effect upon its approval.
19

INTRODUCED BY: 

JAN 27 2009



Report Title:

Important Agricultural Lands; Transfer of Development Rights

Description:

Authorizes the various counties to provide for the transfer of development rights from lands designated as important agricultural lands to other districts or parcels of land.

