
A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. Section 205-45, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§205-45 Petition by farmer or landowner.** [~~(a)~~] A farmer
4 or landowner with lands qualifying under section 205-44 may file
5 with the commission a petition for declaratory order to
6 designate the lands as important agricultural lands. The
7 petition may be filed at any time in the designation process.

8 ~~[(b) Any law to the contrary notwithstanding, within the
9 same petition for declaratory order as described in subsection
10 (a), the petitioner may seek a reclassification of land in the
11 agricultural district to the rural, urban, or conservation
12 district, or a combination thereof, provided that:~~

13 ~~(1) The land sought to be reclassified to the rural,
14 urban, or conservation district is within the same
15 county as the land sought to be designated as
16 important agricultural lands;~~

17 ~~(2) If the reclassification of the land is proposed to the
18 urban district, that reclassification to urban is~~



1 ~~consistent with the relevant county general and~~
2 ~~community, development, or community development~~
3 ~~plans; and~~

4 ~~(3) The total acreage of the land sought to be designated~~
5 ~~or reclassified in the petition complies with the~~
6 ~~following proportions:~~

7 ~~(A) At least eighty five per cent of the total~~
8 ~~acreage is sought to be designated as important~~
9 ~~agricultural land; and~~

10 ~~(B) The remainder of the acreage is sought to be~~
11 ~~reclassified to the rural, urban, or conservation~~
12 ~~district.~~

13 ~~(c) The petition for declaratory order shall be submitted~~
14 ~~in accordance with subchapter 14 of the commission's rules and~~
15 ~~shall include:~~

16 ~~(1) Tax map key numbers of the land to be designated as~~
17 ~~important agricultural lands and, if applicable, the~~
18 ~~land to be reclassified from the agricultural district~~
19 ~~to the rural, urban, or conservation district, along~~
20 ~~with verification and authorization from the~~
21 ~~applicable landowners;~~



1 ~~(2) Proof of qualification for designation as important~~
2 ~~agricultural lands under section 205-44, respecting a~~
3 ~~regional perspective;~~

4 ~~(3) The current or planned agricultural use of the area~~
5 ~~sought to be designated as important agricultural~~
6 ~~lands; and~~

7 ~~(4) If applicable, the current or planned use of the area~~
8 ~~sought to be reclassified to the rural, urban, or~~
9 ~~conservation district.~~

10 ~~(d) Prior to the commission considering a petition for a~~
11 ~~declaratory order to designate important agricultural land in~~
12 ~~combination with the reclassification of agricultural land to~~
13 ~~the rural, urban, or conservation district, the petitioner shall~~
14 ~~submit to the commission a certification issued by the~~
15 ~~department of agriculture as to the quality of the land for~~
16 ~~which designation as important agricultural land is being~~
17 ~~sought.~~

18 ~~(e) The commission shall review the petition and the~~
19 ~~accompanying submissions to evaluate the qualifications of the~~
20 ~~land for designation as important agricultural lands in~~
21 ~~accordance with section 205-44.~~



1 ~~If the petition also seeks the reclassification of land to~~
2 ~~the rural, urban, or conservation district, the commission shall~~
3 ~~review the petition and accompanying submissions to evaluate:~~

4 ~~(1) The suitability of the land for the reclassification~~
5 ~~in accordance with section 205-2;~~

6 ~~(2) If the reclassification of the land is proposed to the~~
7 ~~urban district, that reclassification to urban is~~
8 ~~consistent with the relevant county general and~~
9 ~~community, development, or community development~~
10 ~~plans; and~~

11 ~~(3) Compliance with the other provisions of subsection~~
12 ~~(b).~~

13 ~~If the commission, after its review, finds that the~~
14 ~~designation and, if applicable, reclassification sought in the~~
15 ~~petition should be approved, the commission shall vote, by a~~
16 ~~two-thirds majority of the members of the commission, to issue a~~
17 ~~declaratory order designating the petitioner's identified lands~~
18 ~~as important agricultural lands and, if applicable,~~
19 ~~reclassifying the petitioner's identified land from the~~
20 ~~agricultural district to the rural, urban, or conservation~~
21 ~~district. The commission may include reasonable conditions in~~
22 ~~the declaratory order.~~



1 ~~With respect to a petition that seeks to both designate~~
2 ~~important agricultural lands and reclassify agricultural lands~~
3 ~~to the rural, urban, or conservation district, if the commission~~
4 ~~finds that either the designation or reclassification as~~
5 ~~proposed by the petitioner should not be approved, the~~
6 ~~commission shall deny the petition in its entirety.~~

7 ~~(f) The designation or reclassification of land pursuant~~
8 ~~to subsection (a) or (b) shall not be subject to the district~~
9 ~~boundary amendment procedures of sections 205-3.1 and 205-4 or~~
10 ~~become effective prior to legislative enactment of protection~~
11 ~~and incentive measures for important agricultural land and~~
12 ~~agricultural viability, as provided in section 9 of Act 183,~~
13 ~~Session Laws of Hawaii 2005.~~

14 ~~(g) Farmers or landowners with lands qualifying under~~
15 ~~section 205-44 may file petitions for a declaratory order to~~
16 ~~designate lands as important agricultural lands following the~~
17 ~~legislative enactment of protection and incentive measures for~~
18 ~~important agricultural lands and agricultural viability, as~~
19 ~~provided in section 9 of Act 183, Session Laws of Hawaii 2005.~~

20 ~~(h) A petitioner granted a declaratory order that~~
21 ~~designates important agricultural land, whether or not combined~~
22 ~~with the reclassification of land to the rural, urban, or~~



1 ~~conservation district, shall earn credits if the amount of land~~
2 ~~reclassified to the rural, urban, or conservation district is~~
3 ~~less than fifteen per cent of the total acreage of land subject~~
4 ~~to the order. The "total acreage of land subject to the order"~~
5 ~~means the total acreage designated as important agricultural~~
6 ~~land and, if applicable, reclassified to the rural, urban, or~~
7 ~~conservation district by the declaratory order.~~

8 ~~The credits shall equal the difference between the~~
9 ~~following, rounded to the nearer tenth of an acre:~~

- 10 ~~(1) The number that is fifteen per cent of the total~~
11 ~~acreage of land subject to the order; less~~
12 ~~(2) The amount of the petitioner's land that is~~
13 ~~reclassified from the agricultural district to the~~
14 ~~rural, urban, or conservation district by the~~
15 ~~declaratory order.~~

16 ~~A petitioner with credits earned within a county may~~
17 ~~petition the commission for a declaratory order to reclassify~~
18 ~~any of the petitioner's other land in the same county from the~~
19 ~~agricultural district to the rural, urban, or conservation~~
20 ~~district until the credits are exhausted or expired. The~~
21 ~~"petitioner's other land in the same county" means land owned by~~
22 ~~the petitioner that is in the same county as the land designated~~



1 ~~or reclassified under the petition. The commission may issue~~
2 ~~the declaratory order if it finds that the land is suitable for~~
3 ~~reclassification in accordance with section 205-2 and that the~~
4 ~~reclassification is consistent with the relevant county general~~
5 ~~and community, development, or community development plans. The~~
6 ~~petitioner may petition for such reclassification until all of~~
7 ~~the petitioner's credits are exhausted. Any unexhausted credits~~
8 ~~shall expire and become unusable ten years after the granting of~~
9 ~~the declaratory order that designated the important agricultural~~
10 ~~land and, if applicable, reclassified land to the rural, urban,~~
11 ~~or conservation district.~~

12 ~~A petitioner with unused and unexhausted credits shall not~~
13 ~~transfer the credits to another person.~~

14 ~~(i) Notwithstanding any other law to the contrary, the~~
15 ~~land use commission may grant declaratory orders pursuant to~~
16 ~~this section before the commission receives from any county a~~
17 ~~map delineating recommended important agricultural lands.~~

18 ~~(j) Land designated as important agricultural land~~
19 ~~pursuant to a declaratory order that both designates land as~~
20 ~~important agricultural land and reclassifies land in the~~
21 ~~agricultural district to the rural, urban, or conservation~~
22 ~~district, or a combination thereof pursuant to this section~~



1 ~~shall be redesignated only with the prior authorization of the~~
 2 ~~legislature. The authorization shall be expressed by the~~
 3 ~~adoption of a concurrent resolution approved by a two thirds~~
 4 ~~vote of each house of the legislature voting separately. When~~
 5 ~~making its decision, the legislature shall consider the~~
 6 ~~standards and criteria in section 205-50.~~

7 ~~(k) The commission may adopt rules pursuant to chapter 91~~
 8 ~~to effectuate this section.] "~~

9 SECTION 2. Statutory material to be repealed is bracketed
 10 and stricken.

11 SECTION 3. This Act shall take effect upon its approval.

12

INTRODUCED BY: Rep. Hanford

09.2-
Mark
 Manig B. Lee
 Della C. Belotti
 Mel Carroll
Cindy Evans
[Signature]

Report Title:

Important Agricultural Lands

Description:

Amends the procedures for a farmer or landowner to petition the land use commission for an important agricultural land designation by deleting provisions: allowing petitioner to seek reclassification of other lands within the same petition; providing criteria for the petition for declaratory order; requiring petition to submit a certification as to the quality of the land; relating to the commission's evaluation and decision making, allowing a petitioner to earn credits, and requiring prior legislative authorization for redesignation of important agricultural lands.

