

---

---

## A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1           SECTION 1. Between 1969 and 2006, the amount of land zoned  
2 for agriculture declined by over twenty-five thousand acres  
3 statewide, according to the Hawai'i Data Book. On O'ahu, land  
4 under cultivation went from one hundred twenty-five thousand  
5 acres in 1982 to seventy thousand acres in 2005, according to  
6 the Statistics of Hawai'i Agriculture compiled by the state  
7 department of agriculture. Throughout the State, prime  
8 agriculture lands are being developed. On O'ahu, there is  
9 particular concern regarding housing projects projected to be  
10 built on prime agriculture lands in Mokule'ia, Kahuku, and the  
11 Ewa plain.

12           The legislature further finds that the State's land use law  
13 was enacted to "preserve and protect land best suited for . . .  
14 agricultural purposes and to facilitate sound and economical  
15 urban development" (Senate Stand. Com. Rep. No. 580; 1961 Senate  
16 Journal). Since that time, lands classified by the land study  
17 bureau as class A and class B lands, the lands most suited for  
18 intensive agricultural use, have declined from 359,690 acres



1 (class A, 125,160 acres; class B, 234,530 acres) in 1960 to  
2 172,094 acres (class A, 56,653 acres; class B, 115,441 acres) in  
3 2007. These agricultural lands are a resource that cannot be  
4 replaced once they are lost to development.

5 The inventory of lands that are suitable for agriculture is  
6 essentially fixed. Agricultural lands cannot be manufactured  
7 when the demand for these lands increases. In 1960, the land  
8 study bureau estimated that there were nearly 360,000 acres of  
9 class A and B lands on the six major islands. These were the  
10 lands upon which the State depended for profitable, competitive  
11 agricultural production. By 2007, the inventory of class A and  
12 B lands had declined to slightly more than 172,000 acres. Thus,  
13 it is more important than ever to conserve Hawai'i's most  
14 productive agricultural lands, especially in counties with a  
15 population of over five hundred thousand residents.

16 The purpose of this Act is to carry out the mandate of  
17 article XI, section 3, of the Hawai'i constitution to conserve  
18 and protect agricultural lands and assure availability of  
19 agriculturally suitable lands in counties with a population of  
20 over five hundred thousand residents.



1 SECTION 2. Chapter 519, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§519- Agricultural leases of real property. (a)  
5 Whenever any agreement or document for the lease of private  
6 agricultural lands with soil classified by the land study  
7 bureau's detailed land classification as overall (master)  
8 productivity rating class A or B for agricultural use in  
9 counties with populations of over five hundred thousand  
10 residents provides for the renegotiation of the rental amount  
11 and the term of the lease, and the lessee has made substantial  
12 improvements or is seeking to make substantial improvements on  
13 the land, the renegotiated term of the lease shall include an  
14 extension of the lease for a period of not less than seventy-  
15 five per cent of the original term of the lease.

16 (b) As used in this section, "lease" means a conveyance  
17 leasing privately-owned land by a fee simple owner as lessor, to  
18 any person or entity for consideration of a return of rent or  
19 other compensation."

20 SECTION 3. Section 205-3.1, Hawaii Revised Statutes, is  
21 amended by amending subsections (a) and (b) to read as follows:

1           "(a) District boundary amendments involving lands in the  
2 conservation district, land areas greater than fifteen acres,  
3 agricultural lands with soil classified by the land study  
4 bureau's detailed land classification as overall (master)  
5 productivity rating class A or B, or lands delineated as  
6 important agricultural lands shall be processed by the land use  
7 commission pursuant to section 205-4.

8           (b) Any department or agency of the State, and department  
9 or agency of the county in which the land is situated, or any  
10 person with a property interest in the land sought to be  
11 reclassified, may petition the appropriate county land use  
12 decision-making authority of the county in which the land is  
13 situated for a change in the boundary of a district involving  
14 lands less than fifteen acres presently in the rural and urban  
15 districts and lands less than fifteen acres in the agricultural  
16 district that are not agricultural lands with soil classified by  
17 the land study bureau's detailed land classification as overall  
18 (master) productivity rating class A or B, and are not  
19 designated as important agricultural lands."

20           SECTION 4. Section 205-4, Hawaii Revised Statutes, is  
21 amended as follows:

22           1. By amending subsection (a) to read:



1           "(a) Any department or agency of the State, any department  
2 or agency of the county in which the land is situated, or any  
3 person with a property interest in the land sought to be  
4 reclassified, may petition the land use commission for a change  
5 in the boundary of a district. This section applies to all  
6 petitions for changes in district boundaries of lands within  
7 conservation districts, agricultural lands with soil classified  
8 by the land study bureau's detailed land classification as  
9 overall (master) productivity rating class A or B, lands  
10 designated or sought to be designated as important agricultural  
11 lands, and lands greater than fifteen acres in the agricultural,  
12 rural, and urban districts, except as provided in section 201H-  
13 38. The land use commission shall adopt rules pursuant to  
14 chapter 91 to implement section 201H-38."

15           2. By amending subsection (h) to read:

16           "(h) No amendment of a land use district boundary shall be  
17 approved unless the commission finds upon [~~the~~] clear  
18 preponderance of the evidence that the proposed boundary is  
19 reasonable, not violative of section 205-2 and part II of this  
20 chapter, and consistent with the policies and criteria  
21 established pursuant to sections 205-16 and 205-17[-]; provided  
22 that for a boundary amendment for agricultural lands with soil



1 classified by the land study bureau's detailed land  
2 classification as overall (master) productivity rating class A  
3 or B, no amendment of a land use district boundary shall be  
4 approved in counties with a population of over five hundred  
5 thousand where:

6 (1) A farming operation as defined in section 165-2 is  
7 being conducted on the land;

8 (2) The land is important for agriculture based on the  
9 stock of similarly suited lands in the area;

10 (3) The district boundary amendment will harm the  
11 productivity or viability of existing agricultural  
12 activity in the area; and

13 (4) The district boundary amendment will cause  
14 fragmentation of or intrusion of nonagricultural uses  
15 into largely intact areas of agricultural lands with  
16 soil classification by the land study bureau's  
17 detailed land classification as overall (master)  
18 productivity rating class A or B."

19 SECTION 5. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY:

*J. Phil. Kusenbender*

JAN 25 2010

**Report Title:**

Agricultural Lands

**Description:**

Protects agriculturally suitable lands on Oahu (lands with productivity ratings of "A" or "B"). Provides for mandatory extension of agricultural leases.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

