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## A BILL FOR AN ACT

RELATING TO LAND USE COMMISSION.

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

1           SECTION 1. Section 205-50, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§205-50 Standards and criteria for the reclassification**  
4 **or rezoning of important agricultural lands.** (a) Any land use  
5 district boundary amendment or change in zoning involving  
6 important agricultural lands identified pursuant to this chapter  
7 shall be subject to this section.

8           (b) Upon acceptance by the county for processing, any  
9 application for a special permit involving important  
10 agricultural lands shall be referred to the department of  
11 agriculture and the office of planning for review and comment.

12           (c) Any decision by the land use commission or county  
13 pursuant to this section shall specifically consider the  
14 following standards and criteria:

15           (1) The relative importance of the land for agriculture  
16 based on the stock of similarly suited lands in the  
17 area and the State as a whole;



- 1           (2) The proposed district boundary amendment or zone  
2           change will not harm the productivity or viability of  
3           existing agricultural activity in the area, or  
4           adversely affect the viability of other agricultural  
5           activities or operations that share infrastructure,  
6           processing, marketing, or other production-related  
7           costs or facilities with the agricultural activities  
8           on the land in question;
- 9           (3) The district boundary amendment or zone change will  
10          not cause the fragmentation of or intrusion of  
11          nonagricultural uses into largely intact areas of  
12          lands identified by the State as important  
13          agricultural lands that create residual parcels of a  
14          size that would preclude viable agricultural use;
- 15          (4) The public benefit to be derived from the proposed  
16          action is justified by a need for additional lands for  
17          nonagricultural purposes; and
- 18          (5) The impact of the proposed district boundary amendment  
19          or zone change on the necessity and capacity of state  
20          and county agencies to provide and support additional  
21          agricultural infrastructure or services in the area.



1 (d) Any decision pursuant to this section shall be based  
2 upon a determination that:

3 (1) On balance, the public benefit from the proposed  
4 district boundary amendment or zone change outweighs  
5 the benefits of retaining the land for agricultural  
6 purposes; and

7 (2) The proposed action will have no significant impact  
8 upon the viability of agricultural operations on  
9 adjacent agricultural lands.

10 (e) The standards and criteria of this section shall be in  
11 addition to:

12 (1) The decision-making criteria of section 205-17  
13 governing decisions of the land use commission under  
14 this chapter; and

15 (2) The decision-making criteria adopted by each county to  
16 govern decisions of county decision-making authorities  
17 under this chapter.

18 (f) Any decision of the land use commission and any  
19 decision of any county on a land use district boundary amendment  
20 or change in zoning involving important agricultural lands shall  
21 be approved by the body responsible for the decision by a two-  
22 thirds vote of the membership to which the body is entitled.



1 (g) A farmer or landowner with qualifying lands may also  
2 petition the land use commission to remove the [""]important  
3 agricultural lands[""] designation from lands if a sufficient  
4 supply of water is no longer available to allow profitable  
5 farming of the land due to governmental actions, acts of God, or  
6 other causes beyond the farmer's or landowner's reasonable  
7 control. If the [""]important agricultural lands[""] were  
8 designated by a declaratory order in combination with the  
9 reclassification of land in the agricultural district to the  
10 rural, urban, or conservation district pursuant to section 205-  
11 45, the commission shall not remove the designation unless the  
12 legislature provides prior authorization by adoption of a  
13 concurrent resolution in accordance with section 205-45.

14 (h) Anything to the contrary notwithstanding, lands  
15 designated important agricultural lands pursuant to this chapter  
16 shall not be reclassified from the agricultural district to  
17 another land use district if:

18 (1) The landowner or lessee of the land is actively  
19 engaged in agricultural activities on the land;

20 (2) The primary use of the land is for agricultural  
21 activities; and



1        (3) The gross income reported by the owner or lessee of  
 2        the land from agricultural activities on the land,  
 3        pursuant to chapter 237, equals or exceeds \$1,000,000  
 4        in any one of the last three previous tax years."

5        SECTION 2. This Act does not affect rights and duties that  
 6        matured, penalties that were incurred, and proceedings that were  
 7        begun, before its effective date.

8        SECTION 3. Statutory material to be repealed is bracketed  
 9        and stricken. New statutory material is underscored.

10       SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

*J. M. Karamata*  
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JAN 23 2009



**Report Title:**

Land Use Commission; Important Agricultural Lands

**Description:**

Prevents lands designated important agricultural lands from being reclassified to another classification if the primary use of the land is agriculture, the owner or lessee is a farmer, and the gross proceeds from the agricultural activities on the land exceed \$1,000,000.

