
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 Hawaii Data Book. On Oahu, 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 Hawaii Agriculture compiled by the state
7 department of agriculture. Throughout the State, prime
8 agriculture lands are being developed. On Oahu, there is
9 particular concern regarding housing projects projected to be
10 built on prime agriculture lands in Mokuleia, 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
16 Senate Journal). Since that time, lands classified by the land
17 study bureau as class A and class B lands, the lands most suited

1 for intensive agricultural use, have declined from 359,690 acres
2 (class A, 125,160 acres; class B, 234,530 acres) in 1960 to
3 172,094 acres (class A, 56,653 acres; class B, 115,441 acres) in
4 2007. These agricultural lands are a resource that cannot be
5 replaced once they are lost to development.

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

17 The purpose of this Act is to carry out the mandate of
18 article XI, section 3, of the Hawaii constitution to conserve
19 and protect agricultural lands and assure availability of
20 agriculturally suitable lands in counties with a population of
21 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) For
5 any agreement or document for the lease of private agricultural
6 lands, with soil classified by the land study bureau's detailed
7 land classification as overall (master) productivity rating
8 class A or B for agricultural use in counties with populations
9 of over five hundred thousand residents, that:

10 (1) Is entered into after July 1, 2010; and

11 (2) Provides for the renegotiation of the rental amount
12 and the term of the lease,

13 if the lessee has made substantial improvements or is seeking to
14 make substantial improvements on the land, the renegotiated term
15 of the lease shall include an extension of the lease for a
16 period of not less than seventy-five per cent of the original
17 term of the lease; provided that the lessor may agree to a
18 shorter term or to termination of the agreement only if so
19 offered by the lessee; provided further that any additional
20 terms and conditions shall be mutually agreed upon by the lessor
21 and lessee and shall be reasonable.

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

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

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

14 (b) Any department or agency of the State, and department
15 or agency of the county in which the land is situated, or any
16 person with a property interest in the land sought to be
17 reclassified may petition the appropriate county land use
18 decision-making authority of the county in which the land is
19 situated for a change in the boundary of a district involving
20 lands less than fifteen acres presently in the rural and urban
21 districts and lands less than fifteen acres in the agricultural
22 district that are not agricultural lands with soil classified by

1 the land study bureau's detailed land classification as overall
2 (master) productivity rating class A or B, and are not
3 designated as important agricultural lands."

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

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

7 "(a) Any department or agency of the State, any department
8 or agency of the county in which the land is situated, or any
9 person with a property interest in the land sought to be
10 reclassified, may petition the land use commission for a change
11 in the boundary of a district. This section applies to all
12 petitions for changes in district boundaries of lands within
13 conservation districts, agricultural lands with soil classified
14 by the land study bureau's detailed land classification as
15 overall (master) productivity rating class A or B, lands
16 designated or sought to be designated as important agricultural
17 lands, and lands greater than fifteen acres in the agricultural,
18 rural, and urban districts, except as provided in section
19 201H-38. The land use commission shall adopt rules pursuant to
20 chapter 91 to implement section 201H-38."

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

1 "(h) No amendment of a land use district boundary shall be
2 approved unless the commission finds upon ~~the~~ a clear
3 preponderance of the evidence that the proposed boundary is
4 reasonable, not violative of section 205-2 and part III of this
5 chapter, and consistent with the policies and criteria
6 established pursuant to sections 205-16 and 205-17~~[-]~~; provided
7 that for a boundary amendment for agricultural lands with soil
8 classified by the land study bureau's detailed land
9 classification as overall (master) productivity rating class A
10 or B, no amendment of a land use district boundary shall be
11 approved in counties with a population of over five hundred
12 thousand where:

- 13 (1) A farming operation as defined in section 165-2 is
14 being conducted on the land;
15 (2) The land is important for agriculture based on the
16 stock of similarly suited lands in the area;
17 (3) The district boundary amendment will harm the
18 productivity or viability of existing agricultural
19 activity in the area; and
20 (4) The district boundary amendment will cause
21 fragmentation of or intrusion of nonagricultural uses
22 into largely intact areas of agricultural lands with

1 soil classification by the land study bureau's
2 detailed land classification as overall (master)
3 productivity rating class A or B.

4 Six affirmative votes of the commission shall be necessary
5 for any boundary amendment under this section."

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

9 SECTION 6. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect on July 1, 2050.

12

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. (SD1)

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