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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1           SECTION 1. Article XI, section 3 of the state constitution  
2 provides, in relevant part, that:

3           "The State shall conserve and protect agricultural lands,  
4 promote diversified agriculture, increase agricultural self-  
5 sufficiency and assure the availability of agriculturally  
6 suitable lands. The legislature shall provide standards and  
7 criteria to accomplish the foregoing."

8           The purpose of this Act is to remove the provision of law  
9 that allows a landowner to designate up to fifteen per cent of  
10 the landowner's property as urban, rural, or conservation land  
11 regardless of its suitability as important agricultural land.

12           This Act also removes the restriction that prevents the  
13 land use commission from designating land as important  
14 agricultural land if the majority of landowners' landholdings  
15 are already designated as important agricultural lands.

16           The legislature finds that the provisions being deleted are  
17 contrary to the policy set forth in article XI, section 3 of the  
18 state constitution, and the removal of these provisions is



1 therefore supported by and consistent with the policy of  
2 conserving and protecting agricultural land established in  
3 article XI, section 2 of the state constitution.

4 SECTION 2. Section 205-45, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

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

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

15 (2) If the reclassification of the land is proposed to the  
16 urban district, that reclassification to urban is  
17 consistent with the relevant county general and  
18 community, development, or community development  
19 plans; ~~and~~

20 ~~(3) The total acreage of the land sought to be designated~~  
21 ~~or reclassified in the petition complies with the~~  
22 ~~following proportions:~~



- 1           ~~(A) At least eighty-five per cent of the total~~
- 2           ~~acreage is sought to be designated as important~~
- 3           ~~agricultural land; and~~
- 4           ~~(B) The remainder of the acreage is sought to be~~
- 5           ~~reclassified to the rural, urban, or conservation~~
- 6           ~~district]."~~

7           SECTION 3. Section 205-49, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9           "(a) After receipt of the maps of eligible important  
10 agricultural lands from the counties and the recommendations of  
11 the department of agriculture and the office of planning, the  
12 commission shall then proceed to identify and designate  
13 important agricultural lands, subject to section 205-45. The  
14 decision shall consider the county maps of eligible important  
15 agricultural lands; declaratory orders issued by the commission  
16 designating important agricultural lands during the three year  
17 period following the enactment of legislation establishing  
18 incentives and protections contemplated under section 205-46, as  
19 provided in section 9 of Act 183, Session Laws of Hawaii 2005;  
20 landowner position statements and representations; and any other  
21 relevant information.



1           In designating important agricultural lands in the State,  
2 pursuant to the recommendations of individual counties, the  
3 commission shall consider the extent to which:

4           (1) The proposed lands meet the standards and criteria  
5           under section 205-44;

6           (2) The proposed designation is necessary to meet the  
7           objectives and policies for important agricultural  
8           lands in sections 205-42 and 205-43; and

9           (3) The commission has designated lands as important  
10          agricultural lands, pursuant to section 205-45[~~+~~  
11          ~~provided that if the majority of landowners'~~  
12          ~~landholdings is already designated as important~~  
13          ~~agricultural lands, excluding lands held in the~~  
14          ~~conservation district, pursuant to section 205-45 or~~  
15          ~~any other provision of this part, the commission shall~~  
16          ~~not designate any additional lands of that landowner~~  
17          ~~as important agricultural lands except by a petition~~  
18          ~~pursuant to section 205-45].~~

19          Any decision regarding the designation of lands as  
20 important agricultural lands and the adoption of maps of those  
21 lands pursuant to this section shall be based upon written  
22 findings of fact and conclusions of law, presented in at least



1 one public hearing conducted in the county where the land is  
2 located in accordance with chapter 91, that the subject lands  
3 meet the standards and criteria set forth in section 205-44 and  
4 shall be approved by two-thirds of the membership to which the  
5 commission is entitled."

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.

9 INTRODUCED BY:                     *SM* (BR)                    

JAN 26 2011



**Report Title:**

Agricultural Lands

**Description:**

Eliminate provision allowing landowners in the agricultural district to designate part of their property as urban, rural, or conservation regardless of its suitability for agricultural production. Allows the LUC to designate lands as important agricultural lands if the majority of a landowners' holdings are already designated as such.

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

