

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO DEVELOPMENT RIGHTS.

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

1           SECTION 1. The legislature finds that article XI, section  
2   3, of the Hawaii State Constitution requires the State to  
3   conserve and protect agricultural lands, promote diversified  
4   agriculture, increase agricultural self-sufficiency, and ensure  
5   the future availability of agriculturally suitable lands. The  
6   constitution directed the legislature to develop standards and  
7   criteria to protect important agricultural lands.

8           In 2005, the legislature enacted Act 183, Session Laws of  
9   Hawaii 2005, to implement the provisions of article XI, section  
10  3, of the state constitution. Act 183:

11           (1) Established part III in chapter 205, Hawaii Revised  
12           Statutes, which set forth policies and procedures for  
13           the identification of important agricultural lands,  
14           including:

15           (A) Policies to ensure the conservation and  
16           availability of important agricultural lands for  
17           long-term agricultural use;



- 1 (B) Standards and criteria for the identification of
- 2 important agricultural lands;
- 3 (C) A process for the identification of important
- 4 agricultural lands;
- 5 (D) Standards and criteria for the reclassification
- 6 and rezoning of lands identified as important
- 7 agricultural lands; and
- 8 (E) Policies for incentives for the long-term
- 9 retention of important agricultural lands for
- 10 agricultural use; and
- 11 (2) Provided for a process to develop proposals for state
- 12 and county incentives to promote agricultural
- 13 viability, sustained growth of the agriculture
- 14 industry, and the long-term use and protection of
- 15 important agricultural lands for agricultural use.

16 The purpose of this Act is to continue to promote  
17 agricultural vitality by allowing owners of land designated as  
18 important agricultural lands to transfer development rights from  
19 the important agricultural lands to other lands.

20 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
21 by adding a new part to be appropriately designated and to read  
22 as follows:



1                   "PART     .   TRANSFER OF DEVELOPMENT RIGHTS

2                                 FOR IMPORTANT AGRICULTURAL LANDS

3           §46-         Definitions.  As used in this part, unless the  
4 context requires otherwise:

5           "Development rights" means the rights permitted under an  
6 ordinance or law relating to permitted uses of a property, the  
7 density or intensity of use, and the maximum height and size of  
8 improvements thereon.  Development rights may be calculated and  
9 allocated using factors including but not limited to area or lot  
10 size, floor area, floor area ratios, density, height  
11 limitations, or any other criteria that will effectively  
12 quantify the value for the development right in a reasonable and  
13 uniform manner that will carry out the objectives of this part.

14           "Receiving district" means one or more designated districts  
15 or areas of land to which development rights from one or more  
16 important agricultural land sending districts may be transferred  
17 and in which increased development is permitted using  
18 transferred development rights.

19           "Sending district" means one or more designated important  
20 agricultural land districts in which development rights may be  
21 designated for use on one or more receiving districts.



1 "Transfer of development rights" means the process by which  
2 development rights are transferred from a property in any  
3 sending district to another property in a receiving district.

4 §46- General authorization. The legislative body of a  
5 county may provide for the transfer of development rights from  
6 important agricultural lands by adopting an ordinance  
7 establishing a procedure for the transfer of development rights  
8 from important agricultural lands. The ordinance shall provide:

- 9 (1) For the transfer of development rights only from lands  
10 designated as important agricultural lands pursuant to  
11 part III, chapter 205;
- 12 (2) That the transfer of development rights, and the  
13 designation of sending districts and receiving  
14 districts, be established within the framework of the  
15 long-range, comprehensive general plan of the county;
- 16 (3) That the receiving district, to which transfer of  
17 development rights is authorized, shall be found by  
18 the legislative body of the county, after evaluating  
19 the effects of the potential increased development, to  
20 contain adequate resources and public facilities to  
21 ensure that the increased development will be



1 compatible with the development otherwise permitted by  
2 the county;

3 (4) That sending districts and receiving districts be  
4 designated and mapped, and that the procedure for the  
5 transfer of development rights be specified; and

6 (5) That development rights may be sold in the normal  
7 market or through a development rights bank  
8 established by the county in which development rights  
9 may be retained and sold by the county.

10 §46- Transfer of development rights instruments. The  
11 county shall establish a standard instrument to document  
12 development rights that have been transferred from important  
13 agricultural lands. A development right that is transferred is  
14 an interest in real property evidenced by the transfer of a  
15 development right instrument issued by the county and recorded  
16 pursuant to section 502-31."

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

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INTRODUCED BY:

*Malame J.A.*  
*Amir J. J.*  
*Cleane A. Nishihara*

*[Signature]*  
*[Signature]*  
*11/11/11*



**Report Title:**

Important Agricultural Lands; Transfer of Development Rights

**Description:**

Authorizes the various counties to provide for the transfer of development rights from lands designated as important agricultural lands to other districts or parcels of land.

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

