
A BILL FOR AN ACT

RELATING TO THE PROTECTION OF TARO.

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

1 SECTION 1. The legislature finds that section 205-41,
2 Hawaii Revised Statutes, states that there is a compelling
3 interest in preserving agricultural lands. Protecting these
4 resources for Hawaii's future food security on public, as well
5 as private, lands is in strong alignment with Governor
6 Abercrombie's 2010 *A New Day in Hawaii* plan for food and
7 agriculture. The legislature also finds that the taro security
8 and purity task force established under Act 211, Session Laws of
9 Hawaii 2008, reported to the legislature in the 2010 legislative
10 report *E ola hou ke kalo; ho'i hou ka 'āina lē'ia: The taro lives;*
11 *abundance returns to the land* and recommended improved
12 protections for taro growing lands, including lo'i (wet fields
13 and terraces), mala (dry fields and terraces), kuauna or paepae
14 pohaku (stone walls), and 'auwai (irrigation ditches). The taro
15 task force found that these key structural elements for viable
16 wetland taro production were being destroyed, severed, and built



1 upon by private and public development because of gaps in land
2 use, historic preservation, and planning laws and policies.

3 The purpose of this Act is to improve protections for
4 wetland taro lands (lo'i kalo) and ancient wetland agricultural
5 structures on undeveloped state-owned or -acquired lands.

6 SECTION 2. Section 171-1, Hawaii Revised Statutes, is
7 amended by adding a new definition to be appropriately inserted
8 and to read as follows:

9 "Taro lands" means any land in wetland taro cultivation
10 prior to statehood, or any additional taro lands that retain
11 historic structural evidence of lo'i kalo, such as 'auwai
12 irrigation ditches, terraces, and walls."

13 SECTION 3. Section 171-10, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§171-10 Classes of lands.** The board of land and natural
16 resources shall classify all public lands and in doing so be
17 guided by the following classifications:

18 1. Intensive agricultural use

19 (A) First class--Lands highly productive of intensive
20 crops such as sugarcane, pineapples, truck crops, and orchard
21 crops.



1 (B) Second class--Lands having medium productivity for
2 intensive crops.

3 (C) Third class--Lands having fair to marginal
4 productivity for intensive crops.

5 (D) Fourth class--Taro land of no particular productivity
6 determination, but having cultural, social, economic, and food
7 self-sufficiency value if preserved for wetland taro
8 cultivation. District boundary amendment of fourth class taro
9 lands shall be prohibited. Notwithstanding any other law to the
10 contrary, public land classified as fourth class taro lands
11 pursuant to this section shall not be subject to a district
12 boundary amendment.

13 2. Special livestock use

14 (A) First class--Lands highly suitable for special
15 livestock uses such as swine, dairy, and poultry production. In
16 making the determination, consideration shall be given to
17 drainage, climate, topography, proximity to market, and
18 transportation and compatibility to adjoining land use, among
19 other considerations. "Dairy" as used for disposition purposes
20 means a "dry lot" dairy without allowance for grazing.

21 (B) Second class--Lands suitable for special livestock
22 uses, but inferior to those of first class.



1 3. Pasture use

2 (A) First class--Lands having a potentially high economic
3 animal unit carrying capacity and capable of correspondingly
4 high liveweight gains per acre per year, such as, less than five
5 acres per animal unit per year and more than one hundred pounds
6 live beef gains per animal unit per acre per year.

7 (B) Second class--Lands having a potentially medium
8 economic animal unit carrying capacity and capable of moderate
9 liveweight gains per acre per year, such as, five to twenty
10 acres per animal unit per year and twenty to one hundred pounds
11 live beef gains per animal unit per acre per year.

12 (C) Third class--Lands having a relatively low animal unit
13 carrying capacity and producing correspondingly low liveweight
14 gains per acre per year, such as, more than twenty acres per
15 animal unit per year and less than twenty pounds average live
16 beef gains per animal unit per acre per year.

17 4. Commercial timber use

18 (A) First class--Lands of high suitability for growth of
19 merchantable timber having mean annual growth potential under
20 normal forest management practices with yields exceeding amounts
21 such as one thousand board feet per acre, and with location and



1 terrain presenting favorable logging, transportation, and
2 marketing conditions.

3 (B) Second class--Lands of high suitability for growth of
4 merchantable timber having mean annual growth potential under
5 normal forest management practices with yields exceeding amounts
6 such as one thousand board feet per acre, and with location and
7 terrain presenting less favorable logging, transportation, and
8 marketing conditions.

9 (C) Third class--Lands of medium suitability for growth of
10 merchantable timber having mean annual growth potential in
11 amounts such as five hundred to one thousand board feet per acre
12 under normal forest management practices, and with location and
13 terrain presenting favorable logging, transportation, and
14 marketing conditions.

15 (D) Fourth class--Lands of medium suitability for growth
16 of merchantable timber having mean annual growth potential in
17 amounts such as five hundred to one thousand board feet per acre
18 under normal forest management practices, and with location and
19 terrain presenting less favorable logging, transportation, and
20 marketing conditions.

21 (E) Fifth class--Lands of relatively low suitability for
22 growth of merchantable timber having mean annual growth



1 potential less than an amount such as five hundred board feet
2 per acre, and with location and terrain presenting favorable
3 logging, transportation, and marketing conditions.

4 (F) Sixth class--Lands of relatively low suitability for
5 growth of merchantable timber having mean annual growth
6 potential less than an amount such as five hundred board feet
7 per acre, and with location and terrain presenting less
8 favorable logging, transportation, and marketing conditions.

9 5. Quarry use

10 Lands having sufficient quantity and quality of rock,
11 gravel, and sand for purpose of commercial use.

12 6. Mining use

13 Lands bearing sufficient quantity and quality of mineral
14 products for purpose of commercial mining and use.

15 7. Recreational use

16 Lands suitable for use and development as parks,
17 playgrounds, historical sites, natural area, camp grounds,
18 wildlife refuge, scenic sites, and other such uses.

19 8. Watershed use

20 Lands suitable for the use and development as watersheds or
21 for the development of water, and requiring necessary
22 restrictions on other uses.



1 9. Residential use

2 Lands suitable and economically feasible for residential
3 development and use.

4 10. Commercial and industrial use

5 Lands suitable and economically feasible for commercial and
6 industrial development and use.

7 11. Hotel, apartment, and motel use

8 Lands suitable and economically feasible for hotel,
9 apartment, and motel development and use.

10 12. Resort use

11 Lands suitable and economically feasible for resort
12 development and use.

13 13. Unclassified uses

14 Lands not otherwise classifiable under the foregoing
15 sections."

16 SECTION 4. Section 205-4.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Within the agricultural district, all lands with soil
19 classified by the land study bureau's detailed land
20 classification as overall (master) productivity rating class A
21 or B shall be restricted to the following permitted uses:



- 1 (1) Cultivation of crops, including crops for bioenergy,
2 flowers, vegetables, foliage, fruits, forage, and
3 timber;
- 4 (2) Game and fish propagation;
- 5 (3) Raising of livestock, including poultry, bees, fish,
6 or other animal or aquatic life that are propagated
7 for economic or personal use;
- 8 (4) Farm dwellings, employee housing, farm buildings, or
9 activities or uses related to farming and animal
10 husbandry. "Farm dwelling", as used in this
11 paragraph, means a single-family dwelling located on
12 and used in connection with a farm, including clusters
13 of single-family farm dwellings permitted within
14 agricultural parks developed by the State, or where
15 agricultural activity provides income to the family
16 occupying the dwelling;
- 17 (5) Public institutions and buildings that are necessary
18 for agricultural practices;
- 19 (6) Public and private open area types of recreational
20 uses, including day camps, picnic grounds, parks, and
21 riding stables, but not including dragstrips,



- 1 airports, drive-in theaters, golf courses, golf
- 2 driving ranges, country clubs, and overnight camps;
- 3 (7) Public, private, and quasi-public utility lines and
- 4 roadways, transformer stations, communications
- 5 equipment buildings, solid waste transfer stations,
- 6 major water storage tanks, and appurtenant small
- 7 buildings such as booster pumping stations, but not
- 8 including offices or yards for equipment, material,
- 9 vehicle storage, repair or maintenance, treatment
- 10 plants, corporation yards, or other similar
- 11 structures;
- 12 (8) Retention, restoration, rehabilitation, or improvement
- 13 of [~~buildings~~]:
- 14 (A) Buildings or sites of historic or scenic
- 15 interest; and
- 16 (B) Walls, terraces, or supporting structures for lo'i
- 17 taro fields;
- 18 (9) Agricultural-based commercial operations as described
- 19 in section [+]205-2(d)(15)[+];
- 20 (10) Buildings and uses, including mills, storage, and
- 21 processing facilities, maintenance facilities,
- 22 photovoltaic, biogas, and other small-scale renewable



1 energy systems producing energy solely for use in the
2 agricultural activities of the fee or leasehold owner
3 of the property, and vehicle and equipment storage
4 areas that are normally considered directly accessory
5 to the above-mentioned uses and are permitted under
6 section 205-2(d);

7 (11) Agricultural parks;

8 (12) Plantation community subdivisions, which as used in
9 this chapter means an established subdivision or
10 cluster of employee housing, community buildings, and
11 agricultural support buildings on land currently or
12 formerly owned, leased, or operated by a sugar or
13 pineapple plantation; provided that the existing
14 structures may be used or rehabilitated for use, and
15 new employee housing and agricultural support
16 buildings may be allowed on land within the
17 subdivision as follows:

18 (A) The employee housing is occupied by employees or
19 former employees of the plantation who have a
20 property interest in the land;



1 (B) The employee housing units not owned by their
2 occupants shall be rented or leased at affordable
3 rates for agricultural workers; or

4 (C) The agricultural support buildings shall be
5 rented or leased to agricultural business
6 operators or agricultural support services;

7 (13) Agricultural tourism conducted on a working farm, or a
8 farming operation as defined in section 165-2, for the
9 enjoyment, education, or involvement of visitors;
10 provided that the agricultural tourism activity is
11 accessory and secondary to the principal agricultural
12 use and does not interfere with surrounding farm
13 operations; and provided further that this paragraph
14 shall apply only to a county that has adopted
15 ordinances regulating agricultural tourism under
16 section 205-5;

17 (14) Agricultural tourism activities, including overnight
18 accommodations of twenty-one days or less, for any one
19 stay within a county; provided that this paragraph
20 shall apply only to a county that includes at least
21 three islands and has adopted ordinances regulating
22 agricultural tourism activities pursuant to section

1 205-5; provided further that the agricultural tourism
2 activities coexist with a bona fide agricultural
3 activity. For the purposes of this paragraph, "bona
4 fide agricultural activity" means a farming operation
5 as defined in section 165-2;

6 (15) Wind energy facilities, including the appurtenances
7 associated with the production and transmission of
8 wind generated energy; provided that the wind energy
9 facilities and appurtenances are compatible with
10 agriculture uses and cause minimal adverse impact on
11 agricultural land;

12 (16) Biofuel processing facilities, including the
13 appurtenances associated with the production and
14 refining of biofuels that is normally considered
15 directly accessory and secondary to the growing of the
16 energy feedstock; provided that biofuel processing
17 facilities and appurtenances do not adversely impact
18 agricultural land and other agricultural uses in the
19 vicinity.

20 For the purposes of this paragraph:

21 "Appurtenances" means operational infrastructure
22 of the appropriate type and scale for economic



1 commercial storage and distribution, and other similar
2 handling of feedstock, fuels, and other products of
3 biofuel processing facilities.

4 "Biofuel processing facility" means a facility
5 that produces liquid or gaseous fuels from organic
6 sources such as biomass crops, agricultural residues,
7 and oil crops, including palm, canola, soybean, and
8 waste cooking oils; grease; food wastes; and animal
9 residues and wastes that can be used to generate
10 energy;

11 (17) Agricultural-energy facilities, including
12 appurtenances necessary for an agricultural-energy
13 enterprise; provided that the primary activity of the
14 agricultural-energy enterprise is agricultural
15 activity. To be considered the primary activity of an
16 agricultural-energy enterprise, the total acreage
17 devoted to agricultural activity shall be not less
18 than ninety per cent of the total acreage of the
19 agricultural-energy enterprise. The agricultural-
20 energy facility shall be limited to lands owned,
21 leased, licensed, or operated by the entity conducting
22 the agricultural activity.



1 As used in this paragraph:

2 "Agricultural activity" means any activity
3 described in paragraphs (1) to (3) of this subsection.

4 "Agricultural-energy enterprise" means an
5 enterprise that integrally incorporates an
6 agricultural activity with an agricultural-energy
7 facility.

8 "Agricultural-energy facility" means a facility
9 that generates, stores, or distributes renewable
10 energy as defined in section 269-91 or renewable fuel
11 including electrical or thermal energy or liquid or
12 gaseous fuels from products of agricultural activities
13 from agricultural lands located in the State.

14 "Appurtenances" means operational infrastructure
15 of the appropriate type and scale for the economic
16 commercial generation, storage, distribution, and
17 other similar handling of energy, including equipment,
18 feedstock, fuels, and other products of agricultural-
19 energy facilities;

20 (18) Construction and operation of wireless communication
21 antennas; provided that, for the purposes of this
22 paragraph, "wireless communication antenna" means



1 communications equipment that is either freestanding
2 or placed upon or attached to an already existing
3 structure and that transmits and receives
4 electromagnetic radio signals used in the provision of
5 all types of wireless communications services;
6 provided further that nothing in this paragraph shall
7 be construed to permit the construction of any new
8 structure that is not deemed a permitted use under
9 this subsection;

10 (19) Agricultural education programs conducted on a farming
11 operation as defined in section 165-2, for the
12 education and participation of the general public;
13 provided that the agricultural education programs are
14 accessory and secondary to the principal agricultural
15 use of the parcels or lots on which the agricultural
16 education programs are to occur and do not interfere
17 with surrounding farm operations. For the purposes of
18 this section, "agricultural education programs" means
19 activities or events designed to promote knowledge and
20 understanding of agricultural activities and practices
21 conducted on a farming operation as defined in section
22 165-2;



1 (20) Solar energy facilities that do not occupy more than
 2 ten per cent of the acreage of the parcel, or twenty
 3 acres of land, whichever is lesser; provided that this
 4 use shall not be permitted on lands with soil
 5 classified by the land study bureau's detailed land
 6 classification as overall (master) productivity rating
 7 class A; or

8 [+](21)[+] Geothermal resources exploration and geothermal
 9 resources development, as defined under section
 10 182-1."

11 SECTION 5. Section 206-7, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 **"§206-7 Property which shall not be acquired for**
 14 **development projects.** In declaring development areas, and
 15 acquiring land therein, the board of land and natural resources
 16 shall avoid disturbing existing uses which are in accord with
 17 the highest use permitted under any existing zoning ordinance in
 18 the political subdivision concerned. The board shall not
 19 disturb existing taro-growing systems, ancient wetland taro
 20 lands, or structural elements of ancient wetland taro-growing
 21 systems on undeveloped lands.

22 The board shall not acquire for development projects:



- 1 (1) Lands already developed and improved as business or
2 industrial areas where use of the lands for
3 residential purposes or as a part of a development
4 project would be economically unsound or where an
5 undue hardship would be suffered by the community
6 through loss of service because of the acquisition;
- 7 (2) Lands already in use for residential purposes by the
8 owner thereof or by a lessee holding a lease with an
9 original term of twenty years or more, except where
10 the acquisition of parts of the lands is reasonably
11 necessary for the proper development of a project, but
12 in no case shall any part of the lands be taken where
13 the taking will reduce the parcel to less than three
14 acres in extent;
- 15 (3) Lands in the process of subdivision and development
16 where the owner or the owner's agent has provided that
17 at least fifty per cent of the lots to be sold shall
18 be sold in fee simple, prepared subdivision and
19 construction plans, arranged for financing, and
20 applied to government agencies and otherwise taken
21 such steps as may be appropriate for the construction



1 of the proposed development in good faith and filed an
2 affidavit with the board to that effect;

3 (4) Lands used or to be used as sites for churches,
4 private or parochial schools, clubs, meeting houses,
5 other private uses of a community, civic, social, or
6 religious nature; and

7 (5) Undeveloped lands and infrastructure used or to be
8 used for wetland taro-growing, including ancient
9 wetland taro lands and structural elements of ancient
10 wetland taro-growing systems;

11 provided that portions of the lands mentioned under (1), (2),
12 (3), and (4) of this section, or interests therein, may be taken
13 to provide access and utility easements where no other
14 reasonable means of access or utility easements are available.

15 In acquiring agricultural land for a development project,
16 where the land though used for agricultural purposes is not
17 being used in accord with the highest use permitted under any
18 existing zoning ordinance, the board shall exercise all
19 reasonable care not to jeopardize the agricultural enterprise
20 concerned. If, however, the board finds that the land is
21 necessary for a development project, it may provide assistance,
22 monetary or otherwise, in relocating the enterprise elsewhere or



1 pay such damages to the owner or operator of such enterprise as
2 will reasonably compensate the owner or operator for the owner's
3 or operator's loss, if the owner or operator has not already
4 been so compensated under a lease agreement, or both."

5 SECTION 6. Section 226-7, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Planning for the State's economy with regard to
8 agriculture shall be directed towards achievement of the
9 following objectives:

- 10 (1) Viability of Hawaii's sugar and pineapple industries.
- 11 (2) Growth and development of diversified agriculture
12 throughout the State.
- 13 (3) An agriculture industry that continues to constitute a
14 dynamic and essential component of Hawaii's strategic,
15 economic, and social well-being.
- 16 (4) Growth and perpetuation of traditional Hawaiian
17 crops."

18 SECTION 7. The board of land and natural resources, in
19 conjunction with the taro security and purity task force, may
20 create an inventory, pursuant to chapter 91, Hawaii Revised
21 Statutes, identifying lands classified as fourth class taro
22 lands under section 171-10, Hawaii Revised Statutes.



1 SECTION 8. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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



Report Title:

Agricultural Lands; Taro Land Protection

Description:

Prohibits the Board of Land and Natural Resources, in declaring residential development areas and acquiring lands therein, from disturbing wetland taro lands and infrastructure on undeveloped lands. Establishes a fourth class--taro lands classification for public lands. Permits structure for lo'i taro fields in the agricultural district. Establishes growth and perpetuation of traditional Hawaiian crops as a goal of the State Planning Act. Authorizes BLNR, with the Taro Security and Purity Task Force, to create an inventory of taro lands. (SB2241 HD1)

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

