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# 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 conserving 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 lands 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~~] that are in accord  
 17 with the highest use permitted under any existing zoning  
 18 ordinance in the political subdivision concerned. The board  
 19 shall not disturb existing taro-growing systems, ancient wetland  
 20 taro lands, or structural elements of ancient wetland taro-  
 21 growing 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 on July 1, 2030.



**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 structures 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 HD2)

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

