

JAN 28 2015

---

# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

**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 makes the conservation and  
3 protection of Hawaii's agricultural lands a priority. It  
4 charges the State to "promote diversified agriculture, increase  
5 agricultural self-sufficiency and assure the availability of  
6 agriculturally suitable lands." This priority is reflected in  
7 the state plan as well, which declares self-sufficiency, social  
8 and economic mobility, and community well-being as the values  
9 guiding the state plan. The legislature finds that securing  
10 agricultural lands and promoting agriculture are essential to  
11 meet these goals.

12           The legislature has made attempts to secure agricultural  
13 lands by directing the counties to identify important  
14 agricultural lands through Act 183, Session Laws of Hawaii 2005,  
15 and providing incentives to do so in Act 233, Session Laws of  
16 Hawaii 2008. The preservation of important agricultural lands  
17 will only be effective if such lands are identified for



1 preservation before large tracts are lost to development. The  
2 State has spent thirty years attempting to identify and protect  
3 important agricultural lands, but has failed to do so, and no  
4 county council has taken up the issue since 2008.

5 One of the goals of the state plan is to achieve a strong,  
6 viable economy characterized by stability, diversity, and  
7 growth. This goal includes, among other things, objectives of  
8 increased and diversified employment opportunities, encouraging  
9 entrepreneurship, assuring basic needs of Hawaii's people in the  
10 event of overseas transportation disruptions, and encouraging  
11 economically satisfying labor-intensive employment for upward  
12 mobility. The legislature further finds that all of these  
13 objectives can be accomplished through expanded agriculture  
14 throughout the islands. Such an expansion would improve the  
15 amount of locally grown food, diversify the industries upon  
16 which the economy is built, and provide an expanded job market  
17 for labor and science.

18 These goals can only be met if large parcels of  
19 agricultural lands are preserved. Commercially viable  
20 agriculture requires large contiguous parcels for operation.  
21 Livestock operations also require large contiguous parcels for



1 pasture, operations, and buffers. The approval of a dairy on  
2 the south shore of Kauai has sparked friction with neighboring  
3 land owners -- particularly with the nearest hotel, which has  
4 concerns about possible runoff, odors, and water pollution that  
5 could be produced by the dairy. This clash of interests proves  
6 that buffers must be included between agricultural lands and  
7 non-agricultural operations in order to mitigate the concerns  
8 produced by large-scale agricultural operations. The need for  
9 buffers bolsters the need to maintain large, contiguous parcels  
10 of agricultural land.

11 The legislature finds that laws allowing the subdivision of  
12 agricultural lands, including through condominium property  
13 regimes and other means, must be scrutinized. In Kauai alone,  
14 431 agricultural parcels, representing 17,000 acres, have been  
15 divided under condominium property regimes since 1993. The  
16 intent of this Act is to fill loopholes that have allowed  
17 developers to maneuver land use restrictions, rather than  
18 following proper channels to rezone, resulting in the  
19 urbanization of agricultural lands. Agricultural lands must be  
20 protected from such subdivision in order to prevent the



# S.B. NO. 1162

1 fractionalization of agricultural parcels and promote the  
2 conservation of large agricultural tracts.

3 The purpose of this Act is to prevent the loss of large-  
4 scale agricultural parcels and to ensure that future use of  
5 agricultural lands are for bona fide agricultural operations.

6 SECTION 2. Chapter 205, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 "§205- Subdivision of certain agricultural lands  
10 prohibited. (a) Subdivision of an agricultural parcel one  
11 hundred acres or greater in size shall be prohibited if at least  
12 50 per cent of the parcel has soil classified by the land study  
13 bureau's detailed land classification as overall (master)  
14 productivity rating class A or B.

15 (b) For purposes of this section, "subdivision" means any  
16 land that is divided or is proposed to be divided for the  
17 purpose of disposition into two or more lots, parcels, units, or  
18 interests and may be accomplished through a condominium property  
19 regime, subdivision, or any other division of land."

20 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is  
21 amended by amending subsection (f) to read as follows:



1 " [+] (f) [+] Notwithstanding any other law to the contrary,  
2 agricultural lands may be subdivided and leased for the  
3 agricultural uses or activities permitted in subsection (a);  
4 provided that:

- 5 (1) The principal use of the leased land is agriculture;
- 6 (2) No permanent or temporary dwellings or farm dwellings,  
7 including trailers and campers, are constructed on the  
8 leased area. This restriction shall not prohibit the  
9 construction of storage sheds, equipment sheds, or  
10 other structures appropriate to the agricultural  
11 activity carried on within the lot; [~~and~~]
- 12 (3) The lease term for a subdivided lot shall be for at  
13 least as long as the greater of:
  - 14 (A) The minimum real property tax agricultural  
15 dedication period of the county in which the  
16 subdivided lot is located; or
  - 17 (B) Five years [~~-~~]; and
- 18 (4) Agricultural land one hundred acres or greater in size  
19 shall be subject to section 205- .



1 Lots created and leased pursuant to this section shall be legal  
2 lots of record for mortgage lending purposes and shall be exempt  
3 from county subdivision standards."

4 SECTION 4. Section 514B-52, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§514B-52 Application for registration. (a) An  
7 application for registration of a project shall:

8 (1) Be accompanied by nonrefundable fees as provided in  
9 rules adopted by the director of commerce and consumer  
10 affairs pursuant to chapter 91; and

11 (2) Contain the documents and information concerning the  
12 project and the condominium property regime as  
13 required by sections 514B-54, 514B-83, and 514B-84, as  
14 applicable, and as otherwise may be specified by the  
15 commission.

16 (b) An application for registration of a project in the  
17 agricultural district classified pursuant to chapter 205 shall  
18 include a verified statement, signed by an appropriate county  
19 official, that the project as described and set forth in the  
20 project's declaration, condominium map, bylaws, and house rules  
21 does not include any restrictions limiting or prohibiting



1 agricultural uses or activities, in compliance with section  
2 205-4.6. The commission shall not accept the registration of a  
3 project where a county official has not signed a verified  
4 statement.

5 (c) An application for registration of a project in the  
6 agricultural district upon a parcel one hundred acres or greater  
7 in size shall be prohibited if at least 50 per cent of the  
8 parcel has soil classified by the land study bureau's detailed  
9 land classification as overall (master) productivity rating  
10 class A or B.

11 [~~e~~] (d) The commission need not process any incomplete  
12 application and may return an incomplete application to the  
13 developer and require that the developer submit a new  
14 application, including nonrefundable fees. If an incomplete  
15 application is not completed within six months of the date of  
16 the original submission, it shall be deemed abandoned and  
17 registration of the project shall require the submission of a  
18 new application, including nonrefundable fees.

19 [~~d~~] (e) A developer shall promptly file amendments to  
20 report either any actual or expected pertinent or material



# S.B. NO. 1162

1 change, or both, in any document or information contained in the  
2 application."

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

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

6

INTRODUCED BY: *Rama Thakur*

*Paul E. Pugh*  
*[Signature]*

*[Signature]*





# S.B. NO. 1162

**Report Title:**

Agriculture; Agricultural Lands; Farming; Livestock; Land Use; Zoning; Subdivision; Condominium Property Regime

**Description:**

Prohibits any subdivision, including by condominium property regime, of parcels of agricultural lands one hundred acres or greater in size if at least 50 per cent of the parcel has soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B.

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

