

JAN 18 2019

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# 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,  
2 section 3, of the Hawaii State Constitution makes the  
3 conservation and protection of Hawaii's agricultural lands a  
4 priority. It charges the State to "promote diversified  
5 agriculture, increase agricultural self-sufficiency and assure  
6 the availability of agriculturally suitable lands." This  
7 priority is reflected in the state plan as well, which declares  
8 self-sufficiency, social and economic mobility, and community  
9 well-being as the values guiding the state plan. The  
10 legislature finds that securing agricultural lands and promoting  
11 agriculture are essential to 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 increasing and diversifying employment opportunities,  
9 encouraging entrepreneurship, assuring basic needs of Hawaii's  
10 people in the event of overseas transportation disruptions, and  
11 encouraging economically satisfying labor-intensive employment  
12 for upward mobility. The legislature further finds that 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 However, 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  
6 indicates that buffers must be included between agricultural  
7 lands and non-agricultural operations 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 also finds that laws allowing the  
12 subdivision of agricultural lands or creation of condominium  
13 property regimes on agricultural lands must be scrutinized. In  
14 Kauai alone, four hundred thirty-one agricultural parcels,  
15 representing seventeen thousand acres, have been divided under  
16 condominium property regimes since 1993. The legislature  
17 further finds that some land dedicated for the development of  
18 agriculture is being used for unauthorized purposes. Therefore,  
19 the intent of this Act is to close loopholes that have allowed  
20 developers to maneuver land use restrictions, rather than  
21 following proper channels to rezone, resulting in the



1 urbanization of agricultural lands. The legislature concludes  
2 that agricultural lands must be protected against  
3 fractionalization and large, contiguous agricultural tracts must  
4 be conserved.

5 The purpose of this Act is to prevent the loss of large-  
6 scale agricultural parcels and to ensure that future use of  
7 agricultural lands is for bona fide agricultural operations in  
8 any county where one-third or less of the county's land is  
9 classified in the state agricultural district.

10 SECTION 2. Section 514B-31, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) To create a condominium property regime, all of the  
13 owners of the fee simple interest in land shall execute and  
14 record a declaration submitting the land to the condominium  
15 property regime. Upon recordation of the master deed together  
16 with a declaration, the condominium property regime shall be  
17 deemed created[-]; provided that in any county where one-third  
18 or less of the county's land is classified in the state  
19 agricultural district:




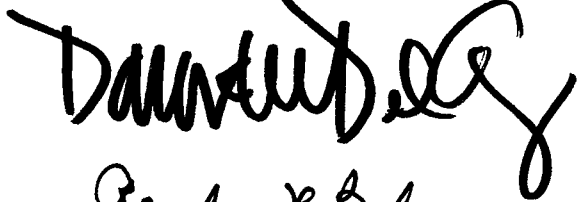
- 1        (1) No condominium property regime shall be created on any
- 2                parcel of agricultural land consisting of twenty-five
- 3                or more acres;
- 4        (2) No condominium property regime established as of the
- 5                effective date of this Act on any parcel of
- 6                agricultural land greater than twenty-five acres shall
- 7                be later amended to allow for a single-family
- 8                dwelling; and
- 9        (3) No parcel of agricultural land consisting of twenty-
- 10               five or more acres shall be subdivided for the purpose
- 11               of creating a condominium property regime."

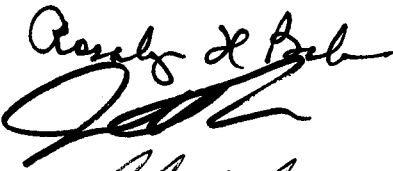
12        SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.


14        SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 







# S.B. NO. 1064

**Report Title:**

Condominium Property Regime; Agricultural Land

**Description:**

In any county where one-third or less of the county's land is classified in the state agricultural district, prohibits: the creation of a condominium property regime on agricultural land twenty-five acres or greater; an existing condominium property regime on agricultural land greater than twenty-five acres from being amended to allow a single-family dwelling; and the subdivision of agricultural land twenty-five acres or greater for the purpose of creating a condominium property regime.

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

