

JAN 24 2024

A BILL FOR AN ACT

RELATING TO THE RIGHT TO GARDEN.

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

1 SECTION 1. The legislature finds that the 2023 Maui
2 wildfires interrupted food supply chains for the island. The
3 legislature notes that growing one's own food is a fundamental
4 right under the First and Fourteenth Amendments to the United
5 States Constitution and sections 4, 5, and 21 of article I of
6 the Constitution of the State of Hawaii. The legislature
7 believes that authorizing residents to grow their own food will
8 increase Hawaii's resident population and food resiliency while
9 mitigating the negative effects of future catastrophic events.

10 The legislature also finds that, according to the Lahaina
11 Wildfire interim Working Group, as "a geographically isolated
12 state with a limited local food supply and reliance upon imports
13 . . . , Hawai'i is particularly susceptible to food insecurity
14 following a disaster event." The working group recommended
15 that, because disaster events may lead to an increased reliance
16 on food assistance programs and the severity of food insecurity,
17 statutorily authorizing home gardens will improve Hawaii's food



1 security. Nevertheless, many homeowners' associations and
2 associations of apartment owners prohibit or severely restrict
3 resident gardening practices.

4 Accordingly, the purpose of this Act is to authorize the
5 cultivation of vegetable gardens on properties within
6 condominiums and planned community associations.

7 SECTION 2. Chapter 514B, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§514B- Right to garden. (a) Notwithstanding any law
11 to the contrary, no provision in any articles of incorporation,
12 declaration, bylaws, administrative rules, house rules, or
13 association documents of a condominium shall prohibit any person
14 from cultivating, or restrict any person's ability to cultivate,
15 one or more vegetable gardens within a unit that is rented,
16 owned, or leased by the person under this chapter; provided
17 that:

18 (1) No person shall cultivate any vegetable garden in a
19 unit that is owned by another without the consent of
20 the unit owner; provided further that the unit owner
21 may withdraw this consent at any time;



- 1 (2) No vegetable garden shall:
- 2 (A) Be cultivated in a common element; or
- 3 (B) Abut any building in the condominium; and
- 4 (3) If the unit is owned by another, the unit owner may
- 5 impose restrictions on water use and the types of
- 6 plants to be cultivated, including prohibiting
- 7 invasive or destructive plants.
- 8 (b) Nothing in this section shall be construed as
- 9 prohibiting the enactment of a county ordinance or regulation
- 10 addressing water use during droughts, fertilizer use, or the
- 11 control of invasive species."

12 SECTION 3. Chapter 421J, Hawaii Revised Statutes, is
 13 amended by adding a new section to be appropriately designated
 14 and to read as follows:

15 "§421J- Right to garden. (a) Notwithstanding any law
 16 to the contrary, no provision in any association documents shall
 17 prohibit any person from cultivating, or restrict any person's
 18 ability to cultivate, one or more vegetable gardens within a
 19 unit that is rented, owned, or leased by the person under this
 20 chapter; provided that:



1 (1) No person shall cultivate any vegetable garden in a
 2 unit that is owned by another without the consent of
 3 the unit owner; provided further that the unit owner
 4 may withdraw this consent at any time;

5 (2) No vegetable garden shall:

6 (A) Be cultivated in a common area; or

7 (B) Abut any building in the planned community; and

8 (3) If the unit is owned by another, the unit owner may
 9 impose restrictions on water use and the types of
 10 plants to be cultivated, including prohibiting
 11 invasive or destructive plants.

12 (b) Nothing in this section shall be construed as
 13 prohibiting the enactment of a county ordinance or regulation
 14 addressing water use during droughts, fertilizer use, or the
 15 control of invasive species."

16 SECTION 4. New statutory material is underscored.

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

18

INTRODUCED BY:  _____



S.B. NO. 3320

Report Title:

Food Security; Right to Garden; Condominiums; Planned Community Associations; Homeowners' Associations; Residential Properties

Description:

Prohibits any articles of incorporation, declaration, bylaws, administrative rules, house rules, or association documents of a condominium property regime, planned community association, or homeowners' association from prohibiting or restricting the cultivation of vegetable gardens within any of its units.

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

