

STAND. COM. REP. NO.

465

Honolulu, Hawaii

FEB 17 2023

RE: S.B. No. 287
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred S.B. No. 287 entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURAL DISTRICTS,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize, for condominium property regimes located in agricultural districts, counties to require county approval for subdivisions of land greater than ten acres prior to the effective date of the condominium property regime.

Your Committee received testimony in support of this measure from the Department of Planning and Permitting of the City and County of Honolulu. Your Committee received comments on this measure from the Department of the Attorney General, Office of Planning and Sustainable Development, and Department of Agriculture.

Your Committee finds that condominium property regimes are a legal mechanism for dividing a single property into two or more separate units of ownership, typically with attached appurtenances for exclusive use and limited common elements, such as yards. By establishing a condominium property regime, each unit has its own separate fee simple ownership, mortgage, encumbrance, and tax map key number.



Your Committee further finds that agricultural district lands are in plentiful supply with the decline of plantation agriculture. Your Committee also finds that high-value residential housing uses that are not tied to farming in the agricultural districts have proliferated, especially on the neighbor islands. Therefore, this measure authorizes, for condominium property regimes located in agricultural districts, counties to require county approval for subdivisions of land greater than ten acres prior to the effective date of the condominium property regime.

Your Committee has heard the testimony of the Department of Planning and Permitting of the City and County of Honolulu, suggesting that to ensure that a developer of an agricultural district condominium does not record a condominium map before a county has an opportunity to review and approve, an amendment to section 514B-33, Hawaii Revised Statutes (HRS), is required.

Your Committee also heard the testimony of the Department of Attorney General and the Office of Planning and Sustainable Development, noting that the intent of this measure as drafted is ambiguous, because it is unclear as to how the condominium property regime of chapter 514B, HRS, is related to the subdivision exemption in section 205-4.5(f), HRS. The Department and Office both testified that to ensure county review and approval of condominium property regimes in agricultural districts, section 514B-52(b), HRS, is the more appropriate section to amend.

Therefore, your Committee has amended this measure by:

- (1) Requiring that a condominium map for lands within an agricultural district situated in any county be accompanied by a letter signed by an appropriate county official or agency certifying that the condominium property regime will conform to county zoning laws pursuant to section 514B-5, HRS;
- (2) Establishing in section 514B-52(b), HRS, the language requiring that for condominium project regimes greater than ten acres, a county may require its approval of the subdivision of land prior to the effective date of the



condominium property regime, instead of in section 205-4.5(f), HRS;

- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 287, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 287, S.D. 1, and be referred to your Committees on Commerce and Consumer Protection and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


LORRAINE R. INOUE, Chair



