

**ACT 199**

**H.B. NO. 3262-76**

**A Bill for an Act Relating to Agricultural Lands.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**“Sec. 205- Permissible uses within the agricultural districts.** (a) Within the agricultural district all lands with soil classified by the Land Study Bureau’s Detailed Land Classification as Overall (Master) Productivity Rating Class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activity or uses related to farming and animal husbandry;  
Farm dwelling as used herein shall mean a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling.
- (5) Public institutions and buildings which are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses including day camps, picnic grounds, parks and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private, and quasi-public utility lines, and roadways, transformer stations, solid waste transfer stations, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants and major storage tanks not ancillary to agricultural practices, or corporation yards or other like structures;
- (8) Retention, restoration, rehabilitation or improvement of buildings or sites of historic or scenic interest;
- (9) Roadside stands for the sale of agricultural products grown on the premises;
- (10) Buildings and uses, including but not limited to mills, storage and processing facilities, maintenance facilities that are normally considered direct accessory to the abovementioned uses; or
- (11) Agricultural parks.

(b) Uses not expressly permitted in this section 205- (a) shall be prohibited, except the uses permitted as provided in section 205-6 and section 205-8, and construction of single-family dwellings on lots existing before the effective date of this Act. Any other law to the contrary notwithstanding no subdivision of land within the agricultural district with soil classified by the Land Study Bureau’s Detailed Land Classification as Overall (Master) Productivity Rating Class A or B shall be approved by a county unless the said A and B lands within the subdivision shall be made subject to the restriction on uses as prescribed in this section and to the condition that the uses shall be primarily in pursuit of an agricultural activity.

Any deed, lease, agreement of sale, mortgage or other instrument of conveyance covering any land within the agricultural subdivision shall expressly contain the restriction on uses and the condition as prescribed in this section which restriction and condition shall be encumbrances running with the land until such time that the land is reclassified to a land use district other than agricultural district.

If the foregoing requirement of encumbrances running with the land jeopardizes the owner or lessee from obtaining mortgage financing from any of the mortgage lending agencies set forth hereinbelow, and said requirement is the sole reason for failure to obtain mortgage financing, then such requirement of encumbrances shall, insofar as such mortgage financing is so jeopardized, be conditionally waived by the appropriate county enforcement officer; provided that such conditional waiver shall thereafter become effective only in the event that the property is subjected to foreclosure proceedings by the mortgage lender.

The mortgage lending agencies mentioned hereinabove are the Federal Housing Administration, Federal National Mortgage Association, Veterans Administration, Small Business Administration, Farmers Home Administration, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any other federal, state or private mortgage lending agency qualified to do business in Hawaii, and their respective successors and assigns.

(c) Within the agricultural district all lands, with soil classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Class C, D, E, or U shall be restricted to the uses permitted for agricultural districts as set forth in section 205-5(b).

SECTION 2. Sec. 205-12, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 205-12 Enforcement.** The appropriate officer or agency charged with the administration of county zoning laws shall enforce within each county the use classification districts adopted by the land use commission and the restriction on use and the condition relating to agricultural districts under section 205- and shall report to the commission all violations.”

SECTION 3. Sec. 205-13, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 205-13 Penalty for violation.** Any person who violates any provision under section 205- , or any regulation established relating thereto, shall be fined not more than \$5,000, and any person who violates any other provision of this chapter, or any regulation established relating thereto, shall be fined not more than \$1,000.

If any person cited for a violation under this chapter fails to remove such violation within six months of such citation and the violation continues to exist, such person shall be subject to a citation for a new and separate violation. There shall be a fine not more than \$5,000 for any additional violation.

Prior to the issuance of any citation for a violation, the appropriate enforcement officer or agency shall notify the violator and the mortgagee, if any, of such violation, and the violator or the mortgagee, if any, shall have not more than

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60 days to cure the violation before citation for a violation is issued.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

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

(Approved June 4, 1976)

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\*Edited accordingly.