

ACT 219

H.B. NO. 615

A Bill for an Act Relating to Restrictions on Agricultural Uses and Activities.

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

SECTION 1. Section 205-4.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Agricultural uses and activities as defined in sections 205-2(d) and 205-4.5(a) on lands classified as agricultural shall not be restricted by any private agreement contained in any:

- (1) Deed, agreement of sale, or other conveyance of land recorded in the bureau of conveyances after July 8, 2003, that subjects the agricultural lands to any servitude, including but not limited to covenants, easements, or equitable and reciprocal negative servitudes; provided that any private agreement contained in a conveyance of land recorded on or before July 8, 2003, that:
 - (A) Limits or prohibits agricultural use or activity; and
 - (B) Is renewed and recorded in the bureau of conveyances after July 8, 2003,

shall be considered a new private agreement that is subject to the prohibition on agricultural use and activity restrictions under this section; provided further that any provision in a private agreement contained in a conveyance of land recorded on or before July 8, 2003, that limits or prohibits agricultural use or activity and has since expired but has not been renewed and recorded in the bureau of conveyances shall be void; and

- (2) Condominium declaration, map, bylaws, and other documents executed and submitted in accordance with chapter 514B or any predecessor thereto.

Any private restriction limiting or prohibiting agricultural use or activity shall be voidable, subject to special restrictions enacted by the county ordinance pursuant to section 46-4; except that restrictions taken to protect environmental or cultural resources, agricultural leases, utility easements, and access easements shall not be subject to this section.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 5, 2023.)