



1 "Bylaws" means the instruments that contain the procedures  
2 for conduct of the affairs of the association regardless of the  
3 form in which the association is organized, including any  
4 amendments to the instruments.

5 "Common expenses" means expenditures made by, or financial  
6 liabilities of, the association, including any allocations to  
7 reserves.

8 "Common infrastructure" means the structures, roads,  
9 irrigation systems, power supply, agricultural services, and  
10 installations, or other facilities within the common interest  
11 agricultural community described in the declaration that are  
12 owned or leased by the association and that are other than a  
13 farm parcel.

14 "Common interest" means the percentage of undivided  
15 interest in the common infrastructure appurtenant to each  
16 parcel, as specified in the declaration.

17 "Common interest agricultural community" means real estate  
18 in which portions are designated for separate ownership and the  
19 remainder is designated for common ownership by the owners on  
20 land classified as agricultural pursuant to chapter 205,  
21 described in a declaration with respect to which a person, by



1 virtue of the person's ownership of a farm parcel, is obligated  
2 to pay for a share of real estate taxes, insurance premiums,  
3 maintenance, or improvement of, or services or other expenses  
4 related to, common infrastructure, other units, or other real  
5 estate described in the declaration.

6 "Common interest agricultural community plat map" or "plat  
7 map" means, however denominated, a map or site plan of the  
8 common interest agricultural community containing the  
9 information required by section -13.

10 "Coordinating entrepreneur" means the developer or a  
11 qualified person capable, under a right-to-till agreement, of  
12 organizing, operating, and assuming the risk for the  
13 agricultural operation on a parcel that may include:

- 14 (1) Selecting crops;
- 15 (2) Securing capital, labor, and materials;
- 16 (3) Maintaining and operating equipment and  
17 infrastructure; and
- 18 (4) Providing for the post-harvest processing and  
19 marketing of products.



1 "Declaration" means any instrument that creates a common  
2 interest agricultural community, including any amendments to the  
3 instrument.

4 "Developer" means a person or group of persons who  
5 undertake to develop a common interest agricultural community,  
6 including a person who succeeds to the interest of the developer  
7 by acquiring a controlling interest in the developer or the  
8 common interest agricultural community.

9 "Development rights" means any right or combination of  
10 rights reserved by a developer in the declaration to:

- 11 (1) Add real estate to a common interest agricultural  
12 community;
- 13 (2) Create farm parcels, common infrastructure, or limited  
14 common infrastructure within a common interest  
15 agricultural community;
- 16 (3) Subdivide parcels, combine parcels, or convert parcels  
17 into common infrastructure or limited common  
18 infrastructure;
- 19 (4) Withdraw real estate from a common interest  
20 agricultural community;
- 21 (5) Merge projects or increments of a project; or



1 (6) Otherwise alter the common interest agricultural  
2 community.

3 "Director" means the director of commerce and consumer  
4 affairs.

5 "Farm parcel" or "parcel" means a physical portion of the  
6 common interest agricultural community designated for separate  
7 ownership or occupancy, the boundaries of which are described in  
8 the declaration or pursuant to section -13.

9 "Farm parcel owner" or "parcel owner" means the person or  
10 the persons owning the fee simple interest in a farm parcel and  
11 its appurtenant common interest, or a lessee of a farm parcel  
12 and its appurtenant common interest in a leasehold common  
13 interest agricultural community.

14 "Leasehold common interest agricultural community" means a  
15 common interest agricultural community in which all of the real  
16 estate is subject to a lease, the expiration or termination of  
17 which will terminate the common interest agricultural community.

18 "Limited common infrastructure" means a portion of the  
19 common infrastructure designated by the declaration for the  
20 exclusive use of one or more but fewer than all of the parcels.



1 "Managing agent" means any person retained, as an  
2 independent contractor, for the purpose of managing the  
3 operation of the project.

4 "Nonmaterial additions and alterations" means an addition  
5 to or alteration of the common infrastructure or a farm parcel  
6 that does not jeopardize the soundness of safety of the farm  
7 parcel, reduce the value thereof, impair any easement, detract  
8 from the appearance of the project, or directly affect any  
9 nonconsenting farm parcel owner.

10 "Project" means a common interest agricultural community  
11 project.

12 "Public offering statement" means a statement that fully  
13 and accurately discloses the physical characteristics of the  
14 common interest agricultural community offered and all unusual  
15 or material circumstances of features affecting the project.

16 "Real estate" means fee simple or leasehold lands, all  
17 improvements and all structures thereon, and all easements,  
18 rights, and appurtenances intended for use in connection with  
19 the common interest agricultural community.



1 "Record", "recordation", "recorded", or "recording" means  
2 to record in the bureau of conveyances in accordance with  
3 chapter 502.

4 "Right-to-till agreement" means a contract between a parcel  
5 owner and a coordinating entrepreneur establishing conditions  
6 that specify the crop or crops that are to be grown on the  
7 parcel, when the crops are to be grown, and how the crops are to  
8 be grown.

9 § -3 **Separate titles and taxation.** (a) Each farm  
10 parcel that has been created, together with its appurtenant  
11 interest in the common infrastructure, shall constitute, for all  
12 purposes, a separate parcel of real estate.

13 (b) If there is any parcel owner other than a developer,  
14 each parcel shall be separately taxed and assessed, and no  
15 separate tax or assessment may be rendered against any common  
16 infrastructure. Without limitation of the foregoing, each farm  
17 parcel and its appurtenant common infrastructure shall be deemed  
18 to be a "parcel" and shall be subject to separate assessment and  
19 taxation for all types of taxes authorized by law.

20 (c) If there is no parcel owner other than a developer,  
21 the real estate comprising the common interest agricultural



1 community may be taxed and assessed in any manner provided by  
2 law.

3 § -4 Conformance with zoning and land use laws. (a)

4 Any common interest agricultural community established under  
5 this chapter shall comply with county zoning and building  
6 ordinances.

7 (b) The permitted uses of each parcel shall be restricted  
8 to the uses described in section 205-4.5(a)(1), (2), (3), (4),  
9 and (10); provided that a use permitted under section 205-4.5  
10 may be approved by the board.

11 § -5 Right-to-till agreement. The parcel owner may  
12 enter into a right-to-till agreement with a coordinating  
13 entrepreneur to carry out the agricultural operations on the  
14 parcel.

15 § -6 Water agreement. (a) The association shall enter  
16 into a water agreement with the farm parcel owners, which shall  
17 describe:

18 (1) The responsibilities of the association for the  
19 design, construction, and maintenance of the  
20 irrigation water system facilities; and



1 (2) The quantity of water allocated to the farm parcel  
2 expressed in gallons-per-acre-per-day.

3 (b) The agreement shall authorize the association to  
4 control or limit the delivery of irrigation water when there is  
5 an equipment failure, government action, force majeure, or other  
6 reason beyond the control of the association. The association  
7 shall be authorized to coordinate the withdrawal and delivery of  
8 irrigation water when the demand exceeds the capacity of the  
9 system.

10 (c) The agreement shall list the production costs of the  
11 irrigation system, including the cost of operations, repair,  
12 maintenance, metering, pumping, transmission lines, reservoirs,  
13 appurtenances and improvements, and administrative costs. The  
14 agreement shall identify the pro rata share of the farm parcel  
15 owner and provide for the assessment and payment of the  
16 production costs.

17 **PART II. CREATION OF A COMMON INTEREST AGRICULTURAL COMMUNITY**

18 **§ -11 Creation of a common interest agricultural**  
19 **community.** (a) A common interest agricultural community may be  
20 created by recording the declaration and bylaws of the  
21 association executed in the same manner as a deed or lease



1 conveying the real estate subject to the declaration to the  
2 association. Upon recordation of the deed or lease together with  
3 the declaration and bylaws, the common interest agricultural  
4 community shall be deemed created.

5 (b) The common interest agricultural community shall be  
6 subject to any right, title, or interest existing when the  
7 declaration is recorded if the person who owns the right, title,  
8 or interest does not execute or join in the declaration or  
9 otherwise subordinate the right, title, or interest. A person  
10 with any other right, title, or interest in the land may  
11 subordinate that person's interest to the common interest  
12 agricultural community by executing the declaration, or by  
13 executing and recording a document joining in or subordinating  
14 to the declaration.

15 § -12 Contents of declaration; amendment. (a) A  
16 declaration shall describe or include the following:

17 (1) The name and address of the project, and the name,  
18 address, telephone number, and electronic mail  
19 address, if any, of the developer or the developer's  
20 agent;



- 1           (2) The land submitted to the common interest agricultural  
2           community;
- 3           (3) The common interest agricultural community plat map  
4           filed concurrently with the declaration;
- 5           (4) The number of farm parcels in the project;
- 6           (5) The farm parcel number or identification designation  
7           of each parcel, as described in the common interest  
8           agricultural community plat map, and the common  
9           interest appurtenant to each parcel;
- 10          (6) A statement that the project is in compliance with  
11          county zoning and building ordinances and the  
12          permitted uses of each parcel shall be restricted to  
13          the uses described in section 205-4.5(a)(1), (2), and  
14          (3), (4) and (10); provided that a use permitted under  
15          section 205-4.5 may be approved by the board;
- 16          (7) To the extent not shown on the common interest  
17          agricultural community plat map, a description of the  
18          location and dimensions of the boundaries of any  
19          parcel;
- 20          (8) The common interest agricultural community's common  
21          infrastructure, the fraction or percentage of the



1 common infrastructure and common expenses, and, if an  
2 equal vote is not allocated to each farm parcel, the  
3 proportional votes in the association allocated to  
4 each farm parcel and the basis for the allocations;

5 (9) The common interest agricultural community's limited  
6 common infrastructure, if any, and the parcel or  
7 parcels to which each limited common infrastructure is  
8 appurtenant;

9 (10) A water agreement as required by section -6;

10 (11) The total percentage of the parcel owners of the  
11 project that is required to approve rebuilding,  
12 repairing, or restoring the common interest  
13 agricultural community if it is damaged or destroyed;

14 (12) The total percentage of the parcel owners of the  
15 project that is required to amend the declaration.  
16 Except as otherwise specifically provided in this  
17 chapter, and except for any amendments made pursuant  
18 to reservations set forth in paragraph (12), the  
19 approval of the parcel owners of at least sixty-seven  
20 per cent of the common interest shall be required for  
21 all amendments to the declaration; and



1           (13) Any rights that the developer or others reserve  
2           regarding the common interest agricultural community,  
3           including, without limitation, any development rights,  
4           and any reservations to modify the declaration or  
5           common interest agricultural community plat map. An  
6           amendment to the declaration made pursuant to the  
7           exercise of those reserved rights shall require only  
8           the consent or approval, if any, specified in the  
9           reservation.

10           (b) The declaration may provide for a period of developer  
11 control of the association, during which a developer, or persons  
12 designated by the developer, may appoint and remove the officers  
13 and members of the board. The period of developer control shall  
14 terminate no later than the earlier of:

15           (1) Sixty days after conveyance of seventy-five per cent  
16           of the common infrastructure appurtenant to the  
17           parcels to parcel owners other than a developer or  
18           affiliate of the developer;

19           (2) Two years after the developer has ceased to offer  
20           parcels for sale in the ordinary course of business;  
21           or



1           (3) The day the developer, after giving written notice to  
 2           unit owners, records an instrument voluntarily  
 3           surrendering all rights to control any activities of  
 4           the association.

5           (c) The declaration may be amended by a vote or written  
 6 consent of the parcel owners of at least sixty-seven per cent of  
 7 the common interest, unless the declaration specifies a  
 8 different percentage for all amendments or for specific subjects  
 9 of amendment. Every amendment to the declaration shall be  
 10 recorded as provided in section -11 by any officer of the  
 11 association designated for that purpose or, in the absence of a  
 12 designation, by the president of the association.

13           (d) The declaration may contain any additional provisions  
 14 that are consistent with this chapter.

15           § -13 Common interest agricultural community plat map;  
 16 certification. (a) A common interest agricultural community  
 17 plat map shall be recorded with the declaration. The plat map  
 18 shall contain the following:

19           (1) The metes and bounds of the common interest  
 20           agricultural community and a depiction of the layout,



1 location, boundaries, farm parcel numbers, and  
2 dimensions of the farm parcels;

3 (2) A depiction of the location, layout, and access to the  
4 common infrastructure included or anticipated to be  
5 included in the project, and a depiction of access for  
6 farm parcels to a public road or to a common  
7 infrastructure road leading to a public road;

8 (3) Unless specifically described in the declaration, the  
9 layout, location, and identifying information of the  
10 common infrastructure; and

11 (4) Unless specifically described in the declaration, the  
12 layout, location, and identifying information of the  
13 limited common infrastructure.

14 (b) The common interest agricultural community plat map  
15 shall bear the statement of a licensed architect, engineer, or  
16 surveyor certifying that the plat map is consistent with the  
17 plans of the project filed or to be filed with the government  
18 official having jurisdiction over the issuance of permits for  
19 the construction of buildings in the county in which the project  
20 is located. If any building or buildings exist on the project  
21 at the time the plat map is recorded, the certification shall



1 state that, to the best of the architect's, engineer's, or  
2 surveyor's knowledge, the plat map depicts the layout, location,  
3 dimensions, and numbers of the buildings substantially as built.

4 (c) The common interest agricultural community plat map  
5 may contain any additional information that is consistent with  
6 this chapter.

7 § -14 Common infrastructure. Each parcel owner may use  
8 the common infrastructure in accordance with the purposes  
9 permitted under the declaration, subject to:

- 10 (1) The rights of other parcel owners to use the common  
11 infrastructure;
- 12 (2) Any owner's exclusive right to use of the limited  
13 common infrastructure as provided in the declaration;
- 14 (3) The right of the parcel owners to amend the  
15 declaration to change the permitted uses of the common  
16 infrastructure; provided that nonmaterial additions or  
17 alterations of the common infrastructure or minor  
18 additions to or alterations of the common  
19 infrastructure for the benefit of individual units  
20 shall be permitted if the additions or alterations can  
21 be accomplished without substantial impact on the



1 interests of other parcel owners in the common  
 2 infrastructure, as reasonably determined by the board;  
 3 (4) Any rights reserved in the declaration to amend the  
 4 declaration to change the permitted uses of the common  
 5 infrastructure; and  
 6 (5) The right of the board, on behalf of the association,  
 7 to lease or otherwise use for the benefit of the  
 8 association common infrastructure that the board  
 9 determines is actually used by one or more parcel  
 10 owners for a purpose permitted in the declaration.  
 11 The lease or use shall be approved by the parcel  
 12 owners of at least sixty-seven per cent of the  
 13 project, including all directly affected parcel owners  
 14 that the board reasonably determines actually use the  
 15 common infrastructure.

16 § -15 Limited common infrastructure. (a) The limited  
 17 common infrastructure designated in the declaration shall be  
 18 subject to the exclusive use of the parcel owner or parcel  
 19 owners of the parcel or parcels to which they are appurtenant,  
 20 subject to the provisions of the declaration and bylaws of the  
 21 association. No amendment of the declaration affecting any of



1 the limited common infrastructure shall be effective without the  
2 consent of the parcel owner or parcel owners of the parcel or  
3 parcels to which the limited common infrastructure is  
4 appurtenant.

5 (b) Except as provided in the declaration, any parcel  
6 owner may transfer or exchange a limited common infrastructure  
7 that is assigned to the owner's parcel to another parcel. Any  
8 transfer shall be executed and recorded as an amendment to the  
9 declaration. The amendment shall be executed by the parcel  
10 owner of the parcel whose limited common infrastructure is being  
11 transferred and the parcel owner of the parcel receiving the  
12 limited common infrastructure; provided that parcel mortgages  
13 and leases may also require the consent of mortgagees or  
14 lessors, respectively, of the parcels involved. A copy of the  
15 executed and recorded amendment shall be delivered to the  
16 association.

17 § -16 Contents of deeds or leases of parcels. (a)

18 Deeds or leases of farm parcels shall contain:

19 (1) The title and date of the declaration and the  
20 declaration's bureau of conveyances or land court  
21 document number or liber and page numbers;



- 1           (2) The farm parcel number of the parcel conveyed or  
2           leased;
- 3           (3) The common interest appurtenant to the farm parcel  
4           conveyed or leased assigned in the declaration;
- 5           (4) For a farm parcel, title to which is registered in the  
6           land court, the land court certificate of title number  
7           for the parcel, if available; and
- 8           (5) For a farm parcel, title to which is not registered in  
9           the land court, the bureau of conveyances document  
10          number or liber and page numbers for the instrument by  
11          which the grantor acquired title.
- 12          (b) Deeds or leases of parcels may contain additional  
13          information and details that are consistent with the declaration  
14          and this chapter.

15                   **PART III. REGISTRATION AND ADMINISTRATION**

- 16           **§ -21 Registration; public offering statement;**  
17          **application.** (a) A developer shall not offer for sale any farm  
18          parcels in a project unless the project is registered in  
19          accordance with this chapter and rules adopted by the director.
- 20          (b) An application for registration of a project shall  
21          include:



- 1           (1) The developer's name, telephone number, address, and  
2           electronic mail address; or if a corporation or  
3           partnership, the telephone number, address, and  
4           electronic mail address of each of the developer's  
5           offices in the State;
- 6           (2) The common interest agricultural community plat map  
7           prepared pursuant to section -13;
- 8           (3) A copy of the deed, master lease, or other evidence  
9           that the developer holds the fee or leasehold interest  
10          in the project;
- 11          (4) A statement of all liens or encumbrances, if any, upon  
12          the developer's title to the project's real estate;
- 13          (5) A specimen of the proposed contract of sale for farm  
14          parcels;
- 15          (6) A specimen of a receipt for a written notice advising  
16          the purchaser of the purchaser's right to rescind a  
17          contract within seven days after signing the contract,  
18          without penalty to the purchaser;
- 19          (7) An executed copy of an escrow agreement with a third  
20          party escrow depository authorized to do business in  
21          the State that provides for the retention and



- 1 disposition of funds from purchasers or prospective  
2 purchasers in accordance with rules adopted by the  
3 director;
- 4 (8) A project budget showing all costs required to  
5 complete the project, and evidence of the availability  
6 of sufficient funds to pay all costs required to  
7 complete the project;
- 8 (9) A declaration by the developer that the permitted uses  
9 of the parcels in the project shall be restricted to  
10 the uses described in section 205-4.5(a)(1), (2), and  
11 (3); provided that a use permitted under section 205-  
12 4.5 may be approved by the board, except that any  
13 dwelling that may be used and occupied for human  
14 habitation is prohibited;
- 15 (10) A description of the promotional plan for the  
16 disposition of the farm parcels together with copies  
17 of all advertising material which have been prepared  
18 for public distribution by any means of communication,  
19 or a statement that no such advertising materials have  
20 been produced as of the date of application;
- 21 (11) The proposed public offering statement;



1           (12) A statement that the developer has not, or if a  
 2                   corporation, the officers, directors, and principals,  
 3                   or if a partnership, general partners, have not been  
 4                   convicted of a crime involving land dispositions or  
 5                   any aspect of the land-sales business in this State,  
 6                   the United States, or any foreign country within the  
 7                   past ten years, and have not been subject to any  
 8                   injunction or administrative order within the past ten  
 9                   years involving land dispositions; and

10           (13) Any other information that the director may require to  
 11                   assure full and fair disclosure to prospective  
 12                   purchasers.

13           (b) The application for registration shall be accompanied  
 14 by nonrefundable fees as provided in rules adopted by the  
 15 director.

16           (c) The developer shall immediately report to the director  
 17 any material changes in the information contained in any  
 18 application for registration.

19           § -22 Registration; inquiry and examination. (a) Upon  
 20 receipt of an application for registration in the proper form  
 21 prescribed by the director, and the payment of appropriate



1 registration, inspection, or consultant fees, the director shall  
2 issue a notice of filing to the applicant, and initiate an  
3 examination to determine that:

4 (1) The developer can convey or cause to be conveyed the  
5 interest in the common interest agricultural community  
6 offered for disposition if the purchaser complies with  
7 the terms of the offer, and when appropriate, the  
8 release clauses, conveyances in trust, or other  
9 safeguards provided;

10 (2) There is reasonable assurance that all of the proposed  
11 improvements will be completed as represented;

12 (3) The advertising material and the general promotional  
13 plan are not false or misleading and comply with the  
14 standards prescribed by the rules adopted by the  
15 director and afford full and fair disclosure;

16 (4) The developer has not, or if a corporation, the  
17 officers, directors, and principals, or if a  
18 partnership, general partners, have not been convicted  
19 of a crime involving land dispositions or any aspect  
20 of the land-sales business in this State, the United  
21 States, or any foreign country within the past ten



1           years, and have not been subject to any injunction or  
2           administrative order within the past ten years; and  
3           (5) Preliminary or required approvals have been granted by  
4           the county in which the land is situated.

5           § -23 Orders of registration and rejection. (a) Within  
6           forty-five days from the date of notice of filing, the director  
7           shall enter a preliminary or final order registering the project  
8           or rejecting the registration.

9           (b) The director may return an incomplete application to  
10          the developer and require the developer to submit an amended  
11          application.

12          (c) If the director determines, upon inquiry and  
13          examination, that the project meets the requirements for  
14          registration under section -22, the director shall enter a  
15          final order registering the project and approving the form of  
16          the public offering statement.

17          § -24 Public offering statement. (a) A public offering  
18          statement shall disclose fully and accurately to prospective  
19          purchasers all the unusual and material circumstances or  
20          features affecting the project, including but not limited to:



- 1           (1) The name and address of the project, and the name,  
2                   address, telephone number, and electronic mail  
3                   address, if any, of the developer or the developer's  
4                   agent;
- 5           (2) A general description of the common interest  
6                   agricultural community, other than any plats and  
7                   plans, and any recorded covenants, conditions,  
8                   restrictions, and reservations affecting the project;
- 9           (3) The total number of farm parcels, the common  
10                   infrastructure, and the limited common infrastructure  
11                   in the project;
- 12           (4) The sales contract for a parcel with a statement that  
13                   the purchaser has a seven-day period after signing a  
14                   contract to rescind the contract;
- 15           (5) The annual maintenance fees and the monthly estimated  
16                   cost for each parcel and when the purchaser becomes  
17                   obligated to start paying the common expenses charged  
18                   to the parcel;
- 19           (6) A description of all warranties, if any, for a parcel  
20                   and the common elements;



- 1           (7) The declaration, bylaws, and any rules of the  
2           association; any contracts and leases to be signed by  
3           purchasers at closing; and any other covenants,  
4           conditions, restrictions, and reservations affecting  
5           the common interest agricultural community;
- 6           (8) A description of any development rights reserved to  
7           the developer;
- 8           (9) The permitted uses and prohibitions on the farm  
9           parcels, and a declaration that the project complies  
10          with all land use laws and county zoning and building  
11          ordinances; and
- 12          (10) Any other information as may be required by the  
13          director.
- 14          (b) The director may require the developer to alter or  
15          amend the proposed public offering statement in order to assure  
16          full and fair disclosure of prospective purchasers, and no  
17          change in the substance of the promotional plan or plan of  
18          disposition or development of the project may be made after  
19          registration without notifying the director and without making  
20          appropriate amendment of the public offering statement.



1           §   -25 **Penalties.** Any person who wilfully violates this  
 2 chapter or a rule adopted pursuant thereto shall be guilty of a  
 3 misdemeanor punishable by a fine of not less than \$10,000 nor  
 4 more than \$           , or imprisonment for a term not exceeding  
 5 one year, or both.

6                           **PART IV. MANAGEMENT AND GOVERNANCE**

7           §   -31 **Farm parcel owners' association; membership and**  
 8 **organization.** (a) The membership of the farm parcel owners'  
 9 association shall consist exclusively of all the farm parcel  
 10 owners.

11           (b) The farm parcel owners' association shall meet and  
 12 organize not later than one hundred eighty days after  
 13 recordation of the first parcel conveyance; provided that forty  
 14 per cent or more of the project has been sold and recorded.

15           §   -32 **Farm parcel owners' association; registration.**

16 (a) Within thirty days of the association's first meeting, the  
 17 farm parcel owners' association shall register with the director  
 18 by:

- 19           (1) Submitting a completed registration application
- 20                       prepared by the director;
- 21           (2) Paying the fees established by the director by rule;



- 1           (3) Submitting the names and positions of the officers of
- 2           the association;
- 3           (4) Submitting the name of the association's managing
- 4           agent, if any;
- 5           (5) Providing the street and the postal address of the
- 6           common interest agricultural community, and the name
- 7           and current address where a designated officer of the
- 8           association can be contacted; and
- 9           (6) Any other additional information required by the
- 10          director.

11          (b) The association shall notify the director, within

12 thirty days, of any changes to the information contained in the

13 registration information of the association.

14          § -33 Association powers and duties. (a) Except as

15 provided in the declaration, the bylaws, and this chapter, the

16 association may:

- 17          (1) Adopt and amend the declaration, bylaws, and rules of
- 18          the association;
- 19          (2) Adopt and amend budgets for revenues, expenditures,
- 20          and reserves and collect assessments for common
- 21          expenses from parcel owners;



- 1           (3) Hire and discharge managing agents and other
- 2                   independent contractors, agents, and employees;
- 3           (4) Institute, defend, or intervene in litigation or
- 4                   administrative proceedings in its own name on behalf
- 5                   of itself or two or more parcel owners on matters
- 6                   affecting the common interest agricultural community;
- 7           (5) Make contracts and incur liabilities;
- 8           (6) Regulate the use, maintenance, repair, replacement,
- 9                   and modification of common infrastructure;
- 10          (7) Cause additional improvements to the common
- 11                   infrastructure and made a part thereof;
- 12          (8) Acquire, hold, encumber, and convey in its own name
- 13                   any right, title, or interest to real estate or
- 14                   personal property; provided that any conveyance of or
- 15                   security interest in any common infrastructure shall
- 16                   be subject to the provisions of section     -14;
- 17          (9) Subject to section     -15, grant easements, leases,
- 18                   licenses, and concessions through or over the common
- 19                   infrastructure;
- 20          (10) Impose and receive any payments, fees, or charges for
- 21                   the use, rental, or operation of the common



- 1            infrastructure, other than limited common  
2            infrastructure, and for services provided for parcel  
3            owners;
- 4            (11) Impose charges and penalties for any late payment of  
5            assessments after notice and opportunity to be heard,  
6            and levy reasonable fines for violations of the  
7            declaration, bylaws, and rules of the association;
- 8            (12) Impose reasonable charges for the preparation and  
9            recordation of amendments to the declaration,  
10           documents requested for resale of parcels, or  
11           statements of unpaid assessments;
- 12           (13) Provide for indemnification of its officers and  
13           executive board and maintain directors' and officers'  
14           liability insurance;
- 15           (14) Assign its right to future income subject to the  
16           limitations in the declaration or bylaws;
- 17           (15) With the written approval of parcel owners  
18           representing fifty per cent of the common interest,  
19           authorize the board to borrow money for the repair,  
20           replacement, maintenance, operation, or administration



1 of the common infrastructure and personal property of  
2 the project;

3 (16) Require that disputes between the association and  
4 parcel owners or between two or more parcel owners  
5 regarding the common interest agricultural community  
6 be submitted to nonbinding alternative dispute  
7 resolution as a prerequisite to commencement of a  
8 judicial proceeding; and

9 (17) Exercise any other powers necessary and proper for the  
10 governance and operation of the association.

11 (b) A parcel owner and the tenant of the parcel owner  
12 shall be jointly and severally responsible and liable for any  
13 violation of the declaration, bylaws, or rules of the  
14 association by the tenant, including any reasonable fines levied  
15 by the association and any reasonable attorney's fees and costs  
16 incurred by the association relating to the violations. The  
17 association shall provide the violators with notice of the  
18 violations and a hearing prior to levying any fines therefor.

19 § -34 Association annual meetings and notice. (a) An  
20 annual meeting of farm parcel owners shall be held by the  
21 association at a time, date, and place stated in the bylaws.



1 Special meetings of the association may be called by the  
2 president, a majority of the board, or by a petition to the  
3 board signed by not less than the percentage of the parcel  
4 owners specified in the bylaws.

5 (b) The notice for each annual and special meeting of the  
6 association shall be:

- 7 (1) Hand delivered;
- 8 (2) Sent postage prepaid by United States mail to the  
9 mailing address designated by the parcel owner; or
- 10 (3) Sent by electronic mail to the electronic mail address  
11 designated by the parcel owner.

12 The time, date, place of the meeting, and items on the agenda  
13 shall be set by the board in accordance with the requirements  
14 established in the bylaws.

15 **§ -35 Board of directors; officers, powers, and**  
16 **meetings.** (a) The board of directors of the association shall  
17 act on behalf of the association. Upon the termination of the  
18 developer's control of the board as provided in the declaration,  
19 parcel owners shall elect a board of directors, who shall be  
20 farm parcel owners. The officers of the board shall be elected  
21 among the members of the board.



- 1 (b) The board, as provided in the bylaws, shall:
- 2 (1) Develop the policies, procedures, and rules necessary
- 3 and appropriate for the operation and management of
- 4 the association; and
- 5 (2) Enter into contracts and agreements necessary for the
- 6 performance and responsibilities of the association.
- 7 (c) Meetings of the board shall be open to the parcel
- 8 owners, except during executive sessions. An executive session
- 9 may be held only to:
- 10 (1) Consult with the association's attorney concerning
- 11 legal matters;
- 12 (2) Discuss existing or potential litigation or mediation,
- 13 arbitration, or administrative proceedings;
- 14 (3) Discuss labor or personnel matters;
- 15 (4) Discuss contracts, leases, and other commercial
- 16 transactions to purchase or provide goods or services
- 17 currently being negotiated; or
- 18 (5) Prevent public knowledge of the matter to be discussed
- 19 if the board determines that public knowledge would
- 20 violate the privacy of any person.



1           § -36 **Bylaws.** (a) The bylaws of the association shall  
2 provide:

3           (1) For:

4           (A) The number of members of the board of directors  
5                 and the titles of the officers of the  
6                 association; and

7           (B) The qualifications, powers and duties, terms of  
8                 office, the manner of electing and removing of  
9                 directors and officers, and filing of vacancies;

10          (2) Requirements for the meetings, quorums, voting, and  
11             other activities of the association;

12          (3) The process for the preparation, execution,  
13             certification, and recordation of amendments to the  
14             declaration of the association;

15          (4) For the amendment of the bylaws by the association;

16          (5) The process for the preparation, amendment, and  
17             execution of the association's budget; and

18          (6) Any other matters the association deems necessary and  
19             appropriate.

20          (b) The bylaws may be amended by a vote or written consent  
21 of parcel owners representing at least sixty-seven per cent of



1 the common interest. Every amendment to the bylaws shall be  
2 recorded as provided in section -11 by any officer of the  
3 association designated for that purpose or, in the absence of a  
4 designation, by the president of the association."

5 SECTION 2. Section 484-3, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) Unless the method of disposition is adopted for the  
8 purpose of evasion of this chapter, or unless the subdivider  
9 files in writing with the director that this chapter shall apply  
10 to the subdivider's subdivision, this chapter shall not apply to  
11 offers or dispositions of an interest in land:

- 12 (1) By a purchaser of subdivided lands for the purchaser's  
13 own account in a single or isolated transaction;
- 14 (2) If fewer than twenty separate lots, parcels, units, or  
15 interests in subdivided lands are offered by a person  
16 in a period of twelve months;
- 17 (3) Where the division of lands is a leasehold  
18 agricultural lot within state agricultural districts  
19 on which no dwelling structures are constructed as  
20 provided in section 205-4.5(f);



- 1 (4) On which there is a residential, commercial, or  
2 industrial building, or as to which there is a legal  
3 obligation on the part of the seller to construct a  
4 building on the land within two years from the date of  
5 disposition; provided that the obligation to construct  
6 shall not be, directly or indirectly, transferred to  
7 or otherwise imposed upon the purchaser;
- 8 (5) To persons who are engaged in, and are duly licensed  
9 to engage in, the business of construction of  
10 buildings for resale, or to persons who acquire an  
11 interest in subdivided lands for the purpose of  
12 engaging, and do engage in, and are duly licensed to  
13 engage in, the business of construction of buildings  
14 for resale;
- 15 (6) Pursuant to court order;
- 16 (7) By any government or government agency;
- 17 (8) As cemetery lots or interests;
- 18 (9) Registered as a condominium property regime pursuant  
19 to chapter 514A or 514B; [~~or~~]
- 20 (10) Registered as a common interest agricultural community  
21 pursuant to chapter ; or



1        [~~10~~] (11) Registered as a time share plan pursuant to  
2                    chapter 514E."

3            SECTION 3. The revisor of statutes shall insert the  
4 effective date of this Act in the appropriate locations in  
5 section 1 of this Act.

6            SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8            SECTION 5. This Act shall take effect on July 1, 2038.



**Report Title:**

Common Interest Agricultural Communities

**Description:**

Establishes common interest agricultural communities. (HB1330  
HD1)

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

