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## A BILL FOR AN ACT

RELATING TO HOUSING.

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

1       SECTION 1. The legislature finds that there is a severe  
2 shortage of affordable and workforce rental housing in Hawaii,  
3 and that zoning and permitting restrictions can contribute to  
4 this shortage. The legislature therefore believes that amending  
5 certain land use restrictions will promote the increased supply  
6 of affordable housing.

7       The purpose of this Act is to allow affordable housing to  
8 be placed in agricultural and rural districts if certain  
9 conditions are met.

10       SECTION 2. Section 205-6, Hawaii Revised Statutes, is  
11 amended to read as follows:

12       "§205-6 Special permit. (a) Subject to this section, the  
13 county planning commission may permit certain unusual and  
14 reasonable uses within agricultural and rural districts other  
15 than those for which the district is classified. Any person who  
16 desires to use the person's land within an agricultural or rural  
17 district other than for an agricultural or rural use, as the



1 case may be, may petition the planning commission of the county  
2 within which the person's land is located for permission to use  
3 the person's land in the manner desired. Each county may  
4 establish the appropriate fee for processing the special permit  
5 petition. Copies of the special permit petition shall be  
6 forwarded to the land use commission, the office of planning,  
7 and the department of agriculture for their review and comment.

8 (b) The planning commission, upon consultation with the  
9 central coordinating agency, except in counties where the  
10 planning commission is advisory only in which case the central  
11 coordinating agency, shall establish by rule or regulation, the  
12 time within which the hearing and action on petition for special  
13 permit shall occur. The county planning commission shall notify  
14 the land use commission and such persons and agencies that may  
15 have an interest in the subject matter of the time and place of  
16 the hearing.

17 (c) The county planning commission may, under such  
18 protective restrictions as may be deemed necessary, permit the  
19 desired use, but only when the use would promote the  
20 effectiveness and objectives of this chapter; provided that a  
21 [use] :



1        (1)    Use proposed for designated important agricultural  
2            lands shall not conflict with any part of this  
3            chapter[~~—A decision~~];

4        (2)    Decision in favor of the applicant shall require a  
5            majority vote of the total membership of the county  
6            planning commission[~~—~~]; and

7        (3)    Special permit to use land within an agricultural or  
8            rural district for affordable housing shall be:

9            (A)    Valid for twenty years, with a commencement date  
10           to be determined by the land use commission  
11           pursuant to subsection (h) (1); and

12           (B)    Denied or revoked if at any time the applicant or  
13           any other owner of the land in question fails to  
14           meet the requirements of subsection (g) (2) or

15           (3).

16        (d)    Special permits for [~~land~~];

17        (1)    Land the area of which is greater than fifteen acres  
18           [or, ~~for lands~~];

19        (2)    Lands designated as important agricultural lands; or

20        (3)    Affordable housing,



1 shall be subject to approval by the land use commission. The  
2 land use commission may impose additional restrictions as may be  
3 necessary or appropriate in granting the approval, including the  
4 adherence to representations made by the applicant.

5 (e) A copy of the decision, together with the complete  
6 record of the proceeding before the county planning commission  
7 on all special permit requests involving a land area greater  
8 than fifteen acres [~~or~~], for lands designated as important  
9 agricultural lands, or for affordable housing, shall be  
10 transmitted to the land use commission within sixty days after  
11 the decision is rendered.

12 Within forty-five days after receipt of the complete record  
13 from the county planning commission, the land use commission  
14 shall act to approve, approve with modification, or deny the  
15 petition. A denial either by the county planning commission or  
16 by the land use commission, or a modification by the land use  
17 commission, as the case may be, of the desired use shall be  
18 appealable to the circuit court of the circuit in which the land  
19 is situated and shall be made pursuant to the Hawaii rules of  
20 civil procedure.



(f) Land uses substantially involving or supporting educational ecotourism, related to the preservation of native Hawaiian endangered, threatened, proposed, and candidate species, that are allowed in an approved habitat conservation plan under section 195D-21 or safe harbor agreement under section 195D-22, which are not identified as permissible uses within the agricultural district under sections 205-2 and 205-4.5, may be permitted in the agricultural district by special permit under this section, on lands with soils classified by the land study bureau's detailed land classification as overall (master) productivity rating class C, D, E, or U.

(g) The land use commission may approve a petition filed under subsection (a) to use land within an agricultural or rural district for affordable housing if the:

(1) Applicant has a valid and current affordable housing special permit issued pursuant to subsection (c) by the county in which the land is located;

(2) Development of affordable housing is consistent with the county community plan and general plan; and

(3) Applicant has demonstrated to the land use commission's satisfaction that:



1           (A) The land will be used to develop and lease  
2           affordable housing for the duration of the  
3           affordable housing special permit;

4           (B) The affordable housing will be maintained in a  
5           manner that does not interfere with adjacent  
6           agricultural activity; and

7           (C) Development of the affordable housing will not  
8           have an adverse impact on cultural practices or  
9           resources; historic artifacts; the environment;  
10          traffic; potential agricultural production,  
11          unless offset elsewhere; or any assets held in  
12          the public trust;

13 provided that the land use commission shall rescind its approval  
14 of the petition if the applicant or any other owner of the land  
15 in question fails to meet the requirements of paragraphs (1)  
16 through (3).

17          (h) If the land use commission approves a petition filed  
18 under subsection (a) to use land within an agricultural or rural  
19 district for affordable housing, the:



1       (1) Land use commission shall determine the commencement  
2       date of the affordable housing special permit issued  
3       to the applicant pursuant to subsection (c); and

4       (2) Owner of the land for which the petition was approved  
5       shall not be required to adhere to the district  
6       boundary amendment requirements of section 205-4.

7       (i) At the expiration of an affordable housing special  
8       permit issued pursuant to subsection (c), the owners of the land  
9       for which the permit was issued shall:

10       (1) Demolish and remove each housing structure constructed  
11       on the site to allow for the land to be used for  
12       agricultural purposes; or

13       (2) Apply to reclassify the land into the urban district  
14       pursuant to section 205-2.

15       (j) As used in this section:

16       "Affordable housing" means the lease of all the units  
17       within a multi-family residential structure containing four or  
18       more units, with each unit leased at a rate that is between  
19       \_\_\_\_\_ per cent and \_\_\_\_\_ per cent of the median household income  
20       in the county in which the unit is located.



1        "Unit" means a part of a multi-family residential structure  
2        that is used as a residence by one person or by two or more  
3        persons maintaining a common household, to the exclusion of all  
4        others."

5        SECTION 3. This Act does not affect rights and duties that  
6        matured, penalties that were incurred, and proceedings that were  
7        begun before its effective date.

8        SECTION 4. Statutory material to be repealed is bracketed  
9        and stricken. New statutory material is underscored.

10       SECTION 5. This Act shall take effect on July 1, 2018.

11       INTRODUCED BY:

Sen. Carl

Sen. [Signature]

Harold [Signature]  
Tom Ben

[Signature]

[Signature]

Matt Hyatt

JAN 24 2018





# H.B. NO. 2725

**Report Title:**

LUC; Affordable Housing; Agricultural and Rural Districts

**Description:**

Allows development of affordable housing in agricultural and rural districts if certain conditions are met.

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

