
A BILL FOR AN ACT

RELATING TO COUNTY LAND USE REQUIREMENTS.

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

1 SECTION 1. The legislature finds that there is a need to
2 revise laws related to agricultural property regimes. Recently,
3 there has been an increased interest in developing agricultural
4 lands through the condominium property regime process. While
5 this provides land developers with a process to reduce front-end
6 costs of selling agricultural lands, it often thwarts the long-
7 term viability of these "units", as master planning is absent,
8 particularly with respect to supporting county infrastructure.

9 The legislature further finds that current condominium
10 property regime laws only require that the proposed condominium
11 property regime comply with county zoning, but do not require
12 compliance with county subdivision requirements, which is where
13 counties can review and ensure that necessary supportive
14 infrastructure is available, including roads, water, and sewer
15 lines, prior to the sale of the property.

16 The legislature additionally finds that current condominium
17 property regime laws do not require county approval of the



1 condominium property regime. This current process inhibits a
2 county's ability to plan, regulate, and enforce its agricultural
3 plans, goals, and infrastructure services.

4 The legislature also finds that section 205-4.5(f), Hawaii
5 Revised Statutes, specifically allows agricultural land
6 developers to bypass county subdivision requirements, which
7 promotes the condominium property regime process over the county
8 subdivision process. The condominium property regime process is
9 a complex set of regulations and restrictions that are often not
10 easily understood at the time of purchase.

11 The purpose of this Act is to provide an option for county
12 participation in the approval of certain major condominium
13 property regimes.

14 SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is
15 amended by amending subsection (f) to read as follows:

16 "[+] (f) [+] Notwithstanding any other law to the contrary,
17 agricultural lands may be subdivided and leased for the
18 agricultural uses or activities permitted in subsection (a);
19 provided that:

20 (1) The principal use of the leased land is agriculture;



1 (2) No permanent or temporary dwellings or farm dwellings,
 2 including trailers and campers, are constructed on the
 3 leased area. This restriction shall not prohibit the
 4 construction of storage sheds, equipment sheds, or
 5 other structures appropriate to the agricultural
 6 activity carried on within the lot; ~~and~~ provided
 7 that no residential or congregate use of such sheds or
 8 other structures for any length of time shall be
 9 permitted, and any violation of this paragraph shall
 10 be subject to county enforcement authority and fines
 11 pursuant to sections 46-4, 205-12, and 205-13;

12 (3) No residential development is constructed on lands
 13 that were or are currently in a preservation zoning
 14 district; and

15 ~~(3)~~ (4) The lease term for a subdivided lot shall be for
 16 at least as long as the greater of:

17 (A) The minimum real property tax agricultural
 18 dedication period of the county in which the
 19 subdivided lot is located; or

20 (B) Five years.



1 Lots created and leased pursuant to this section shall be legal
2 lots of record for mortgage lending purposes and shall be exempt
3 from county subdivision standards."

4 SECTION 3. Section 514B-5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§514B-5 Conformance with county [~~land-use~~] laws. Any
7 condominium property regime established under this chapter shall
8 conform to the existing underlying county zoning and subdivision
9 or equivalent requirements, except as provided in section 205-
10 4.5(f), for the property and all applicable county permitting
11 requirements adopted by the county in which the property is
12 located, including any supplemental rules adopted by the county,
13 pursuant to section 514B-6, to ensure the conformance of
14 condominium property regimes to the purposes and provisions of
15 county zoning, subdivision, and development ordinances and rules
16 and chapter 205, including section 205-4.6 where applicable[-],
17 except as provided in section 205-4.5(f). In the case of a
18 property which includes one or more existing structures being
19 converted to condominium status, the condominium property regime
20 shall comply with section 514B-32(a)(13) or 514B-84(a)."



1 SECTION 4. Section 514B-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§514B-6[+] Supplemental county ordinances and rules
4 governing a condominium property regime. Whenever any county
5 deems it proper, the county may adopt supplemental ordinances
6 and rules governing condominium property regimes established
7 under this chapter in order to implement this program; provided
8 that any of the supplemental rules adopted shall not conflict
9 with this chapter or with any of the rules adopted by the
10 commission to implement this chapter."

11 SECTION 5. Section 514B-52, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§514B-52 Application for registration. (a) An
14 application for registration of a project shall:

- 15 (1) Be accompanied by nonrefundable fees as provided in
- 16 rules adopted by the director of commerce and consumer
- 17 affairs pursuant to chapter 91; and
- 18 (2) Contain the documents and information concerning the
- 19 project and the condominium property regime as
- 20 required by sections 514B-54, 514B-83, and 514B-84, as



1 applicable, and as otherwise may be specified by the
2 commission.

3 (b) An application for registration of a project in the
4 agricultural district classified pursuant to chapter 205 shall
5 include a verified statement, signed by an appropriate county
6 official, that the project as described and set forth in the
7 project's declaration, condominium map, bylaws, and house rules
8 does not include any restrictions limiting or prohibiting
9 agricultural uses or activities, in compliance with section
10 205-4.6. The commission shall not accept the registration of a
11 project where a county official has not signed a verified
12 statement.

13 (c) An application for registration of a project in a
14 county agricultural zoning district or preservation zoning
15 district shall include:

16 (1) A verified statement, signed by an appropriate county
17 official, that the project is in compliance with any
18 supplemental county ordinances, county subdivision
19 standards, except as provided in section 205-4.5(f),
20 and other rules adopted pursuant to section 514B-6;
21 and



1 (2) An agricultural business plan, farm plan, or
2 conservation plan, to be updated every five years
3 after submission.

4 ~~[(e)]~~ (d) The commission need not process any incomplete
5 application and may return an incomplete application to the
6 developer and require that the developer submit a new
7 application, including nonrefundable fees. If an incomplete
8 application is not completed within six months of the date of
9 the original submission, it shall be deemed abandoned and
10 registration of the project shall require the submission of a
11 new application, including nonrefundable fees.

12 ~~[(d)]~~ (e) A developer shall promptly file amendments to
13 report either any actual or expected pertinent or material
14 change, or both, in any document or information contained in the
15 application."

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on July 1, 2100.



Report Title:

Condominium Property Regimes; Agricultural Lands; County
Subdivision Requirements

Description:

Prohibits residential or congregate use of sheds or other structures on agricultural lands. Prohibits residential development on lands previously or currently in a preservation zoning district. Requires condominium property regimes to comply with county subdivision or equivalent requirements subject to exceptions. Requires that an application for registration of a project in a county agricultural zoning district or preservation zoning district include a verified statement, signed by an appropriate county official, that the project is in compliance with any applicable supplemental county ordinances, county subdivision standards, and other rules, and an agricultural business plan, farm plan, or conservation plan.
(SB2524 HD1)

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