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# 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 major condominium property  
13 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

7 (3) The lease term for a subdivided lot shall be for at  
 8 least as long as the greater of:

9 (A) The minimum real property tax agricultural  
 10 dedication period of the county in which the  
 11 subdivided lot is located; or

12 (B) Five years.

13 Lots created and leased pursuant to this section shall be legal  
 14 lots of record for mortgage lending purposes and shall be  
 15 ~~[exempt from]~~ subject to county subdivision standards."

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

18 "§514B-5 Conformance with county ~~[land use]~~ laws. Any  
 19 condominium property regime established under this chapter shall  
 20 conform to the existing underlying county zoning and subdivision  
 21 or equivalent requirements for the property and all applicable



1 county permitting requirements adopted by the county in which  
2 the property is located, including any supplemental rules  
3 adopted by the county, pursuant to section 514B-6, to ensure the  
4 conformance of condominium property regimes to the purposes and  
5 provisions of county zoning, subdivision, and development  
6 ordinances and rules and chapter 205, including section 205-4.6  
7 where applicable. In the case of a property which includes one  
8 or more existing structures being converted to condominium  
9 status, the condominium property regime shall comply with  
10 section 514B-32(a)(13) or 514B-84(a)."

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

13 "[+]§514B-6[+] Supplemental county ordinances and rules  
14 governing a condominium property regime. Whenever any county  
15 deems it proper, the county may adopt supplemental ordinances  
16 and rules governing condominium property regimes established  
17 under this chapter in order to implement this program; provided  
18 that any of the supplemental rules adopted shall not conflict  
19 with this chapter or with any of the rules adopted by the  
20 commission to implement this chapter."



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

3 "§514B-52 Application for registration. (a) An  
4 application for registration of a project shall:

5 (1) Be accompanied by nonrefundable fees as provided in  
6 rules adopted by the director of commerce and consumer  
7 affairs pursuant to chapter 91; and

8 (2) Contain the documents and information concerning the  
9 project and the condominium property regime as  
10 required by sections 514B-54, 514B-83, and 514B-84, as  
11 applicable, and as otherwise may be specified by the  
12 commission.

13 (b) An application for registration of a project in the  
14 agricultural district classified pursuant to chapter 205 shall  
15 include a verified statement, signed by an appropriate county  
16 official, that the project as described and set forth in the  
17 project's declaration, condominium map, bylaws, and house rules  
18 does not include any restrictions limiting or prohibiting  
19 agricultural uses or activities, in compliance with section  
20 205-4.6. The commission shall not accept the registration of a



1 project where a county official has not signed a verified  
2 statement.

3 (c) An application for registration of a project in a  
4 county agricultural zoning district or preservation zoning  
5 district shall include a verified statement, signed by an  
6 appropriate county official, that the project is in compliance  
7 with any supplemental county ordinances, county subdivision  
8 standards, and other rules adopted pursuant to section 514B-6.

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

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



1 SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on July 1, 2018.

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**Report Title:**

Condominium Property Regimes; Agricultural Lands; County  
Subdivision Requirements

**Description:**

Requires agricultural lands that are subdivided and leased for agricultural uses or activities to comply with county subdivision standards. Requires condominium property regimes to comply with county subdivision or equivalent requirements. 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 supplemental county ordinances, county subdivision standards, and other rules. (SD1)

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