

JAN 24 2018

A BILL FOR AN ACT

RELATING TO CONDOMINIUM PROPERTY REGIMES.

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 finds that current condominium property
10 regime laws only require that the proposed condominium property
11 regime comply with county zoning, but does 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. This current process
16 also inhibits a county's ability to plan, regulate, and enforce
17 its agricultural plans, goals, and infrastructure services.



1 Further, current law specifically exempts condominium
2 property regime projects with units to be sold for \$1,000,000 or
3 more from the requirement to be registered with the real estate
4 commission. These types of projects may be of equal, if not
5 greater, concern to the counties and the communities surrounding
6 them.

7 The legislature further finds that section 205-4.5(e)(3),
8 Hawaii Revised Statutes, specifically allows agricultural land
9 developers to bypass county subdivision requirements.

10 Accordingly, this promotes the condominium property regime
11 process over the county subdivision process. The condominium
12 property regime process is a complex set of regulations and
13 restrictions that is often not easily understood at the time of
14 purchase.

15 Accordingly, the purpose of this Act is to provide an
16 option for county participation in the approval of major
17 condominium property regimes.

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

20 "[+] (f) [+] Notwithstanding any other law to the contrary,
21 agricultural lands may be subdivided and leased for the



1 agricultural uses or activities permitted in subsection (a);

2 provided that:

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

4 (2) No permanent or temporary dwellings or farm dwellings,
5 including trailers and campers, are constructed on the
6 leased area. This restriction shall not prohibit the
7 construction of storage sheds, equipment sheds, or
8 other structures appropriate to the agricultural
9 activity carried on within the lot; and

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

12 (A) The minimum real property tax agricultural
13 dedication period of the county in which the
14 subdivided lot is located; or

15 (B) Five years.

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

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



1 "§514B-5 Conformance with county land use laws. Any
2 condominium property regime established under this chapter shall
3 conform to the existing underlying county zoning and subdivision
4 or equivalent requirements for the property and all applicable
5 county permitting requirements adopted by the county in which
6 the property is located, including any supplemental rules
7 adopted by the county, pursuant to section 514B-6, to ensure the
8 conformance of condominium property regimes to the purposes and
9 provisions of county zoning and development ordinances and
10 chapter 205, including section 205-4.6 where applicable. In the
11 case of a property which includes one or more existing
12 structures being converted to condominium status, the
13 condominium property regime shall comply with section
14 514B-32(a)(13) or 514B-84(a)."

15 SECTION 4. Section 514B-51, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) The registration requirement of this section shall
18 not apply to:

- 19 (1) The disposition of units exempted from the developer's
20 public report requirements pursuant to section
21 514B-81(b); or

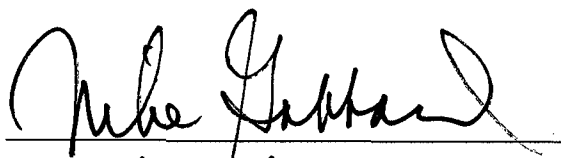
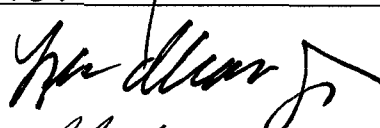


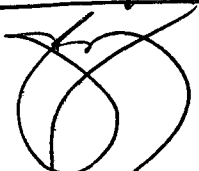
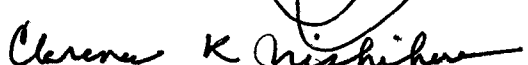
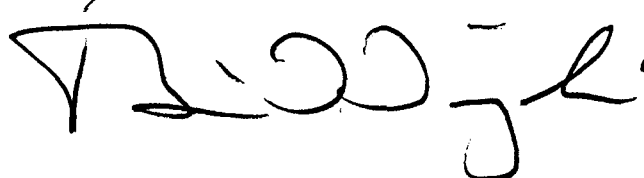


1 ~~[-2] Projects in which all units are restricted to~~
2 ~~nonresidential uses and all units are to be sold for~~
3 ~~\$1,000,000 or more; or~~
4 ~~[-3]~~ (2) The sale of units in bulk, such as where a
5 developer undertakes to develop and then sells all or
6 a portion of the developer's entire inventory of units
7 to a purchaser who is a developer. The registration
8 requirements of this section and the developer's
9 amended developer's public report requirements of
10 section 514B-56 shall apply to any sale of units to
11 the public following a sale of units in bulk."

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect on July 1, 2018.

15 INTRODUCED BY:



S.B. NO. 3032

Report Title:

Condominium Property Regimes; Agricultural Lands; Subdivisions;
County Subdivision Requirements

Description:

Repeals the exemption for agricultural lands that are subdivided and leased for agricultural uses or activities from compliance with county subdivision standards. Requires condominium property regimes to comply with county subdivision requirements. Repeals the exemption for condominium property regimes that are to be sold for \$1,000,000 or more from mandatory registration with the real estate commission.

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

