
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 all units restricted to
3 nonresidential uses and to be sold for \$1,000,000 or more from
4 the requirement to be registered with the real estate
5 commission. These types of projects may be of equal, if not
6 greater, concern to the counties and the communities surrounding
7 them.

8 The legislature further finds that section 205-4.5(e)(3),
9 Hawaii Revised Statutes, specifically allows agricultural land
10 developers to bypass county subdivision requirements.
11 Accordingly, this promotes the condominium property regime
12 process over the county subdivision process. The condominium
13 property regime process is a complex set of regulations and
14 restrictions that is often not easily understood at the time of
15 purchase.

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

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



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

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

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

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



1 (B) Five years.
2 Lots created and leased pursuant to this section shall be legal
3 lots of record for mortgage lending purposes [~~and shall be~~
4 ~~exempt from county subdivision standards~~]."

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

7 "§514B-5 Conformance with county land use laws. Any
8 condominium property regime established under this chapter shall
9 conform to the existing underlying county zoning and subdivision
10 or equivalent requirements for the property and all applicable
11 county permitting requirements adopted by the county in which
12 the property is located, including any supplemental rules
13 adopted by the county, pursuant to section 514B-6, to ensure the
14 conformance of condominium property regimes to the purposes and
15 provisions of county zoning, subdivision, and development
16 ordinances and rules and chapter 205, including section 205-4.6
17 where applicable. In the case of a property which includes one
18 or more existing structures being converted to condominium
19 status, the condominium property regime shall comply with
20 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-51, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The registration requirement of this section shall
14 not apply to:

15 (1) The disposition of units exempted from the developer's
16 public report requirements pursuant to section
17 514B-81(b); or

18 [~~(2) Projects in which all units are restricted to~~
19 ~~nonresidential uses and all units are to be sold for~~
20 ~~\$1,000,000 or more; or~~



1 ~~(3)]~~ (2) The sale of units in bulk, such as where a
2 developer undertakes to develop and then sells all or
3 a portion of the developer's entire inventory of units
4 to a purchaser who is a developer. The registration
5 requirements of this section and the developer's
6 amended developer's public report requirements of
7 section 514B-56 shall apply to any sale of units to
8 the public following a sale of units in bulk."

9 SECTION 6. Section 514B-52, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§514B-52 Application for registration.** (a) An
12 application for registration of a project shall:

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



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

11 (c) An application for registration of a project in a
12 county agricultural zoning district or preservation zoning
13 district shall include a verified statement, signed by an
14 appropriate county official, that the project is in compliance
15 with any supplemental county ordinances and rules adopted
16 pursuant to section 514B-6.

17 ~~[-(e)]~~ (d) The commission need not process any incomplete
18 application and may return an incomplete application to the
19 developer and require that the developer submit a new
20 application, including nonrefundable fees. If an incomplete
21 application is not completed within six months of the date of



1 the original submission, it shall be deemed abandoned and
2 registration of the project shall require the submission of a
3 new application, including nonrefundable fees.

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

8 SECTION 7. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 8. This Act shall take effect on July 1, 2018.

11



Report Title:

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

Description:

Prohibits the use of storage sheds, equipment sheds, or other structures appropriate to the agricultural activity carried on within leased agricultural lands for residential purposes for any length of time. 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 certain condominium property regimes that are to be sold for \$1,000,000 or more from mandatory registration with the real estate commission. 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 and rules. (SD1)

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