

JAN 23 2020

A BILL FOR AN ACT

RELATING TO TRADITIONAL HAWAIIAN PRACTICES.

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

1 SECTION 1. The legislature finds that in 2015, the State
2 enacted Act 31 which encouraged, as agricultural objectives of
3 the State, the growth and development of traditional Hawaiian
4 farming systems and traditional Hawaiian crops, as well as the
5 growth and development of small-scale farms. Under Act 31
6 (2015), the legislature found that Hawai'i's traditional farming
7 systems, such as loko i'a (fishponds), māla (cultivated gardens),
8 and lo'i (irrigated patches), were important agricultural
9 technologies that once sustained a thriving and robust island
10 community.

11 The legislature further found that these traditional
12 Hawaiian farming systems still play a critical role in Hawai'i
13 and should be encouraged to promote greater self-sufficiency,
14 crop diversity, and food security. Moreover, traditional
15 Hawaiian crops like kalo, 'uala (sweet potato), limu (various
16 seaweeds), 'awa, hō'i'o (large native fern), and 'olena (turmeric)



1 that were cultivated using these traditional Hawaiian farming
2 techniques continue to be important agricultural products for
3 food, medicine, and cultural practices today. Supporting
4 traditional Hawaiian farming systems is critical towards helping
5 the State achieve food security and increasing domestic
6 production of a local food supply.

7 The legislature further finds that traditional farming and
8 the native Hawaiian culture generally play a vital role in
9 preserving and advancing the quality of life and cultural
10 vitality of Hawai'i. Additionally, the rights of native
11 Hawaiians are codified in articles IX and XII of the
12 Constitution of the State of Hawai'i, as well as other state laws
13 and judicial decisions.

14 The legislature further finds that the State of Hawaii has
15 an affirmative obligation to ensure that its regulatory actions
16 do not adversely impact the constitutionally protected rights of
17 native Hawaiians.

18 The purpose of this Act is to amend section 183C-4, Hawaii
19 Revised Statutes, to expressly protect the traditional and
20 customary rights of native Hawaiians and support traditional



1 Hawaiian farming traditions and encourage the efficient use of
2 conservations lands for food production.

3 SECTION 2. Section 183C-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§183C-4 Zoning; amendments.** (a) The department, after
6 notice and hearing as provided in this section, shall review and
7 redefine the boundaries of the zones within the conservation
8 district.

9 (b) The department shall adopt rules governing the use of
10 land within the boundaries of the conservation district that are
11 consistent with the conservation of necessary forest growth, the
12 conservation and development of land and natural resources
13 adequate for present and future needs, and the conservation and
14 preservation of open space areas for public use and enjoyment.
15 No use except a nonconforming use as defined in section 183C-5,
16 shall be made within the conservation district unless the use is
17 in accordance with a zoning rule.

18 (c) The department may allow a temporary variance from
19 zoned use where good cause is shown and where the proposed
20 temporary variance is for a use determined by the department to
21 be in accordance with good conservation practices.



1 (d) The department shall establish zones within the
2 conservation district, which shall be restricted to certain
3 uses. The department, by rules, may specify the land uses
4 permitted therein which may include, but are not limited to,
5 farming, flower gardening, operation of nurseries or orchards,
6 growth of commercial timber, grazing, recreational or hunting
7 pursuits, or residential use. The rules may control the extent,
8 manner, and times of the uses, and may specifically prohibit
9 unlimited cutting of forest growth, soil mining, or other
10 activities detrimental to good conservation practices.

11 (e) Notwithstanding this section or any other law to the
12 contrary, geothermal resources exploration and geothermal
13 resources development, as defined under section 182-1, shall be
14 permissible uses in all zones of the conservation district. The
15 rules required under subsection (b) governing the use of land
16 within the boundaries of the conservation district shall be
17 deemed to include the provisions of this section without
18 necessity of formal adoption by the department.

19 (f) Whenever any landowner or government agency whose
20 property will be directly affected makes an application to
21 change the boundaries or land uses of any zone, or to establish



1 a zone with certain land uses, or where the department proposes
2 to make the change or changes itself, the change or changes
3 shall be put in the form of a proposed rule by the applicant and
4 the department shall then give public notice thereof during
5 three successive weeks statewide and in the county in which the
6 property is located. The notice shall be given not less than
7 thirty days prior to the date set for the hearing, and shall
8 state the time and place of the hearing and the changes
9 proposed. Any proposed rules and the necessary maps shall be
10 made available for inspection by interested members of the
11 public. The hearing shall be held in the county in which the
12 land is located and may be delegated to an agent or
13 representative of the board as may otherwise be provided by law
14 and in accordance with rules adopted by the board. For the
15 purpose of its public hearing or hearings, the board may summon
16 witnesses, administer oaths, and require the giving of
17 testimony.

18 (g) Notwithstanding this section of any other law to the
19 contrary, traditional Hawaiian farming systems, such as the use
20 of loko i'a, māla, and irrigated lo'i, and growth of traditional
21 Hawaiian crops, such as kalo, 'uala, and 'ulu, as identified



1 under section 226-7, shall be permissible uses in all zones of
 2 the conservation district. The rules required under subsection
 3 (b) governing the use of land within the boundaries of the
 4 conservation district shall be deemed to include the provisions
 5 of this section without necessity of formal adoption by the
 6 department.

7 (h) A legal landowner or lessee shall be permitted to
 8 build a single "tiny home", defined as a dwelling unit with less
 9 than five hundred square feet of interior living space that is
 10 either stationary or mobile, in association with activities
 11 covered under part (g), provided the unit shall have a water
 12 source and a sewage disposal system that comply with all
 13 applicable laws, ordinances, and rules."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

[Handwritten signatures: Kurt Ferrell, [unclear], D.K., Mike Gabbard]



S.B. NO. 3019

Report Title:

Agriculture; Native Hawaiians; Traditional Farming

Description:

Allows traditional Hawaiian farming systems, traditional Hawaiian crops, and small-scale farming on lands designated as conservation districts.

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