

JAN 18 2019

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 SECTION 1. Section 205-4.5, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
3 "(b) Uses not expressly permitted in subsection (a) shall
4 be prohibited, except the uses permitted as provided in sections
5 205-6 and 205-8, and construction of single-family dwellings on
6 lots existing before June 4, 1976. Any other law to the
7 contrary notwithstanding, no subdivision of land within the
8 agricultural district with soil classified by the land study
9 bureau's detailed land classification as overall (master)
10 productivity rating class A or B shall be approved by a county
11 unless those A and B lands within the subdivision are made
12 subject to the restriction on uses as prescribed in this section
13 and to the condition that the uses shall be primarily in pursuit
14 of an agricultural activity.

15 Upon final subdivision, sale, or lease, the owner or
16 occupier shall provide written notice to the land use commission
17 of the agricultural uses or activities for which the



1 agricultural lands were subdivided, sold, or leased. Such
2 written notification shall be provided to the land use
3 commission within thirty days of the subdivision, sale, or
4 lease.

5 Any deed, lease, agreement of sale, mortgage, or other
6 instrument of conveyance covering any land within the
7 agricultural subdivision shall expressly contain the restriction
8 on uses and the condition, as prescribed in this section that
9 these restrictions and conditions shall be encumbrances running
10 with the land until such time that the land is reclassified to a
11 land use district other than agricultural district.

12 If the foregoing requirement of encumbrances running with
13 the land jeopardizes the owner or lessee in obtaining mortgage
14 financing from any of the mortgage lending agencies set forth in
15 the following paragraph, and the requirement is the sole reason
16 for failure to obtain mortgage financing, then the requirement
17 of encumbrances shall, insofar as such mortgage financing is
18 jeopardized, be conditionally waived by the appropriate county
19 enforcement officer; provided that the conditional waiver shall
20 become effective only in the event that the property is
21 subjected to foreclosure proceedings by the mortgage lender.



1 The mortgage lending agencies referred to in the preceding
2 paragraph are the Federal Housing Administration, Federal
3 National Mortgage Association, Department of Veterans Affairs,
4 Small Business Administration, United States Department of
5 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate
6 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any
7 other federal, state, or private mortgage lending agency
8 qualified to do business in Hawaii, and their respective
9 successors and assigns."

10 SECTION 2. Section 205-12, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§205-12 Enforcement.** [The] (a) Except with regard to
13 the enforcement of any conditions, restrictions, uses, or the
14 subdivision of agricultural land, the appropriate officer or
15 agency charged with the administration of county zoning laws
16 shall enforce within each county the use classification
17 districts adopted by the land use commission [and the
18 restriction on use and the condition relating to agricultural
19 districts under section 205 4.5 and shall report to the
20 commission all violations].



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1 (b) The land use commission shall have jurisdiction over
2 the investigation and enforcement of any violation of any
3 conditions, restrictions, or uses of agricultural lands. Any
4 person may report a violation of section 205-4.5 to the land use
5 commission.

6 (c) The land use commission may enter the property upon
7 the investigation of a violation, and upon reasonable notice to
8 the owner or occupier, to investigate for violations of and
9 noncompliance with the terms of a land use classification
10 reported under subsection (a); provided that if entry is refused
11 after reasonable notice is given, the land use commission may
12 apply to the district court of the circuit in which the property
13 is located for a warrant, directed to any police office of the
14 circuit, commanding the police officer to provide sufficient aid
15 and to assist the land use commission in gaining entry onto the
16 property to investigate exempted agricultural buildings for
17 compliance with the requirements of this section.

18 (d) If a landowner or occupier does not comply with any
19 decision and order of the land use commission, or any provision
20 thereof, the land use commission may issue a cease and desist



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1 order, subpoena the landowner or occupier before the commission
2 for further proceedings, or both.

3 (e) If the land use commission finds that any violation
4 has occurred, the land use commission may issue citations and
5 assess fines and liens on the property. The land use commission
6 shall adopt rules pursuant to chapter 91 to effectuate the
7 purposes of this section."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on July 1, 2019.

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Report Title:

Agricultural Lands; Subdivision; Right to Enter; Notice

Description:

Requires an owner or occupier of agricultural land to notify the Land Use Commission of the agricultural uses for which land was subdivided. Grants the Commission enforcement authority over conditions, restrictions, uses, and subdivision of agricultural lands, including the right to enter and inspect lands, issue orders, and impose fines or liens for violations.

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