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# 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] .



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



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. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$150,000 or so much  
10 thereof as may be necessary for fiscal year 2019-2020 and the  
11 same sum or so much thereof as may be necessary for fiscal year  
12 2020-2021 to the land use commission for the commission's  
13 enforcement duties pursuant to this Act.

14 The sums appropriated shall be expended by the land use  
15 commission for the purposes of this Act.

16 SECTION 4. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect on July 1, 2019.



**Report Title:**

Agricultural Lands; Subdivision; Right to Enter; Notice;  
Appropriation

**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. Appropriates funds. (SD1)

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

