

JAN 23 2014

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. Section 46-4, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) This section, section 205-5, and any ordinance, rule,
4 or regulation adopted in accordance with [~~this section~~] these
5 sections shall apply to lands not [~~contained~~] within the forest
6 reserve boundaries as established on January 31, 1957, or as
7 subsequently amended.

8 Zoning in all counties shall be accomplished within the
9 framework of a long-range, comprehensive general plan prepared
10 or being prepared to guide the overall future development of the
11 county. Zoning shall be one of the tools available to the
12 county to put the general plan into effect in an orderly manner.
13 Zoning in the counties of Hawaii, Maui, and Kauai means the
14 establishment of districts of such number, shape, and area, and
15 the adoption of regulations for each district to carry out the
16 purposes of this section. In establishing or regulating the
17 districts, full consideration shall be given to all available
18 data as to soil classification and physical use capabilities of



1 the land to allow and encourage the most beneficial use of the
2 land consonant with good zoning practices. The zoning power
3 granted herein shall be exercised by ordinance which may relate
4 to:

- 5 (1) The areas within which agriculture, forestry,
6 industry, trade, and business may be conducted;
- 7 (2) The areas in which residential uses may be regulated
8 or prohibited;
- 9 (3) The areas bordering natural watercourses, channels,
10 and streams, in which trades or industries, filling or
11 dumping, erection of structures, and the location of
12 buildings may be prohibited or restricted;
- 13 (4) The areas in which particular uses may be subjected to
14 special restrictions;
- 15 (5) The location of buildings and structures designed for
16 specific uses and designation of uses for which
17 buildings and structures may not be used or altered;
- 18 (6) The location, height, bulk, number of stories, and
19 size of buildings and other structures;
- 20 (7) The location of roads, schools, and recreation areas;
- 21 (8) Building setback lines and future street lines;
- 22 (9) The density and distribution of population;



- 1 (10) The percentage of a lot that may be occupied, size of
- 2 yards, courts, and other open spaces;
- 3 (11) Minimum and maximum lot sizes; and
- 4 (12) Other regulations the boards or city council find
- 5 necessary and proper to permit and encourage the
- 6 orderly development of land resources within their
- 7 jurisdictions.

8 The council of any county shall prescribe rules,
9 regulations, and administrative procedures and provide personnel
10 it finds necessary to enforce this section and any ordinance
11 enacted in accordance with this section. The ordinances may be
12 enforced by appropriate fines and penalties, civil or criminal,
13 or by court order at the suit of the county or the owner or
14 owners of real estate directly affected by the ordinances.

15 Any civil fine or penalty provided by ordinance under this
16 section may be imposed by the district court, or by the zoning
17 agency after an opportunity for a hearing pursuant to chapter
18 91. The proceeding shall not be a prerequisite for any
19 injunctive relief ordered by the circuit court.

20 Nothing in this section shall invalidate any zoning
21 ordinance or regulation adopted by any county or other agency of



1 government pursuant to the statutes in effect prior to July 1,
2 1957.

3 The powers granted herein shall be liberally construed in
4 favor of the county exercising them, and in such a manner as to
5 promote the orderly development of each county or city and
6 county in accordance with a long-range, comprehensive general
7 plan to ensure the greatest benefit for the State as a whole.
8 This section shall not be construed to limit or repeal any
9 powers of any county to achieve these ends through zoning and
10 building regulations, except insofar as forest and water reserve
11 zones are concerned and as provided in subsections (c) and (d).

12 Neither this section nor any ordinance enacted pursuant to
13 this section shall prohibit the continued lawful use of any
14 building or premises for any trade, industrial, residential,
15 agricultural, or other purpose for which the building or
16 premises is used at the time this section or the ordinance takes
17 effect; provided that a zoning ordinance may provide for
18 elimination of nonconforming uses as the uses are discontinued,
19 or for the amortization or phasing out of nonconforming uses or
20 signs over a reasonable period of time in commercial,
21 industrial, resort, and apartment zoned areas only. In no event
22 shall such amortization or phasing out of nonconforming uses



1 apply to any existing building or premises used for residential
2 (single-family or duplex) or agricultural uses. Nothing in this
3 section shall affect or impair the powers and duties of the
4 director of transportation as set forth in chapter 262."

5 SECTION 2. Section 205-5, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Within agricultural districts, uses [~~compatible to~~
8 ~~the activities~~] described in section 205-2 [~~as determined by the~~
9 ~~commission~~] shall be permitted[+] without further limitations or
10 restrictions; provided that accessory agricultural uses and
11 services [~~described~~] as identified in sections 205-2 and 205-4.5
12 may be further defined by each county by zoning ordinance. Each
13 county shall adopt ordinances setting forth procedures and
14 requirements, including provisions for enforcement, penalties,
15 and administrative oversight, for the review and permitting of
16 agricultural tourism uses and activities as an accessory use on
17 a working farm, or farming operation as defined in section
18 165-2. Ordinances shall include but not be limited to:

19 (1) Requirements for access to a farm, including road
20 width, road surface, and parking;



- 1 (2) Requirements and restrictions for accessory facilities
2 connected with the farming operation, including gift
3 shops and restaurants;
- 4 (3) Activities that may be offered by the farming
5 operation for visitors;
- 6 (4) Days and hours of operation; and
- 7 (5) Automatic termination of the accessory use upon the
8 cessation of the farming operation.

9 Each county may require an environmental assessment under
10 chapter 343 as a condition to any agricultural tourism use and
11 activity. Other uses may be allowed by special permits issued
12 pursuant to this chapter. The minimum lot size in agricultural
13 districts shall be determined by each county by zoning
14 ordinance, subdivision ordinance, or other lawful means;
15 provided that the minimum lot size for any agricultural use
16 shall not be less than one acre, except as provided herein. If
17 the county finds that unreasonable economic hardship to the
18 owner or lessee of land cannot otherwise be prevented or where
19 land utilization is improved, the county may allow lot sizes of
20 less than the minimum lot size as specified by law for lots
21 created by a consolidation of existing lots within an
22 agricultural district and the resubdivision thereof; provided



1 that the consolidation and resubdivision do not result in an
 2 increase in the number of lots over the number existing prior to
 3 consolidation; and provided further that in no event shall a lot
 4 which is equal to or exceeds the minimum lot size of one acre be
 5 less than that minimum after the consolidation and resubdivision
 6 action. The county may also allow lot sizes of less than the
 7 minimum lot size as specified by law for lots created or used
 8 for plantation community subdivisions as defined in section
 9 205-4.5(a)(12), for public, private, and quasi-public utility
 10 purposes, and for lots resulting from the subdivision of
 11 abandoned roadways and railroad easements."

12 SECTION 3. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: *Darius W. [Signature]*
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S.B. NO. 2777

Report Title:

Zoning; Agricultural Districts; County Zoning

Description:

Clarifies that section 205-5, HRS, relating to zoning requirements applies to lands not within the forest reserve boundaries. Clarifies that land uses described in section 205-2, HRS, relating to agricultural lands shall be permitted without further limitations or restrictions, rather than as determined by the land use commission.

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

