

STAND. COM. REP. NO.

648

Honolulu, Hawaii

February 17, 2017

RE: H.B. No. 1330  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Economic Development & Business, to which was referred H.B. No. 1330 entitled:

"A BILL FOR AN ACT RELATING TO COMMON INTEREST AGRICULTURAL COMMUNITIES,"

begs leave to report as follows:

The purpose of this bill is to establish the regulatory structure for the creation of "common interest agricultural communities," modifying provisions of the Uniform Common Interest Ownership Act, which is the template for the Hawaii condominium law, to distinguish these agricultural communities from residential condominiums. The bill provides; with respect to common interest agricultural communities that:

- (1) The common interest agricultural community shall be on lands classified as agricultural, and the uses that are permitted are limited to the cultivation of crops, raising of livestock, and buildings, such as storage, processing, and maintenance facilities solely for agricultural use;
- (2) Any dwelling that may be used and occupied for human habitation is prohibited; and



- (3) The community shall comply with all county zoning and building ordinances.

Aloun Farms and the Hawaii Island School Garden Network testified in support of this bill. The Hawaii Farm Bureau Federation testified in support of the bill and requested that it be amended to permit a farm dwelling as defined in section 205-4.5(a)(4), Hawaii Revised Statutes. The Office of Planning and Department of Agriculture offered comments.

Your Committee finds that the establishment of common interest agricultural communities creates the following benefits for the farm parcel owners in the project:

- (1) A properly structured association permits independence and interdependence by providing for shared costs, pooled resources, economies of scale, and a legally recognized structure, which can benefit an individual grower;
- (2) Common management and mandatory participation of farm parcel owners allow the spreading of the association responsibilities among many people, reducing the burden of the individual; and
- (3) The establishment of a farm parcel association provides a mechanism for the preservation and enforcement of the project's authorized land uses and enforcement of prohibitions.

Your Committee understands the concern raised by the Hawaii Farm Bureau that a farmer should be allowed to live on the parcel the farmer purchases. Your Committee is aware that the bill contains a safeguard against "gentleman's estates" by imposing a penalty for any violation of this law and, further, that the land use law contains penalties for the violation of that law. Accordingly, your Committee has amended this measure to incorporate the Hawaii Farm Bureau's amendment and other clarifying amendments by:

- (1) Amending the definition of "common infrastructure" to read:



"Common infrastructure" means the structures, roads, irrigation systems, power supply, agricultural services, and installations, or other facilities within the common interest agricultural community described in the declaration that are owned or leased by the association and that are other than a farm parcel.

- (2) Adding the definition of "nonmaterial additions and alterations" to read:

"Nonmaterial additions and alterations" means an addition to or alteration of the common infrastructure or a farm parcel that does not jeopardize the soundness or safety of the farm parcel, reduce the value thereof, impair any easement, detract from the appearance of the project, or directly affect any nonconsenting farm parcel owner.

- (3) Amending § 4, subsection (b) to read:

(b) The permitted uses of each parcel shall be restricted to the uses described in section 205-4.5(a)(1), (2), (3), (4), and (10); provided that a use permitted under section 205-4.5 may be approved by the board.

- (4) Amending § -12 by amending subsection (a)(6) to read:

(6) A statement that the project is in compliance with county zoning and building ordinances and the permitted uses of each parcel shall be restricted to the uses described in section 205-4.5(a)(1), (2), (3), (4) and (10); provided that a use permitted under section 205-4.5 may be approved by the board;

- (5) Amending § -12(a) relating to the contents of declaration, to include a "water agreement" to read:

(10) A water agreement as required in section 6; and renumbering the paragraphs that follow.



- (6) Deleting § -35, relating to voting and proxies;
- (7) Amending the section on Board of directors; officers, powers, and meetings, by amending subsection (a) to read:
  - (a) The board of directors of the association shall act on behalf of the association. Upon the termination of the developer's control of the board as provided in the declaration, parcel owners shall elect a board of directors, who shall be farm parcel owners. The officers of the board shall be elected by the members of the board from among its members.";
- (8) Amending the effective date to July 1, 2038, to facilitate further discussion; and
- (9) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1330, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1330, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Development & Business,



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MARK M. NAKASHIMA, Chair



