

JAN 19 2018

A BILL FOR AN ACT

RELATING TO COUNTY LAND USE REQUIREMENTS.

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

1 SECTION 1. The legislature finds that there is a need to
2 revise laws related to agricultural property regimes. Recently,
3 there has been an increased interest in developing agricultural
4 lands through the condominium property regime process. While
5 this provides land developers with a process to reduce front-end
6 costs of selling agricultural lands, it often thwarts the long-
7 term viability of these "units", as master planning is absent,
8 particularly with respect to supporting county infrastructure.

9 Current condominium property regime laws only require that
10 the proposed condominium property regime comply with county
11 zoning, but do not require compliance with county subdivision
12 requirements, which is where counties can review and ensure that
13 necessary supportive infrastructure is available, including
14 roads, water, and sewer lines, prior to the sale of the
15 property.

16 The legislature finds that current condominium property
17 regime laws do not require county approval of the condominium



1 property regime. This current process inhibits a county's
2 ability to plan, regulate, and enforce its agricultural plans,
3 goals, and infrastructure services.

4 The legislature further finds that section 205-4.5(f),
5 Hawaii Revised Statutes, specifically allows agricultural land
6 developers to bypass county subdivision requirements, which
7 promotes the condominium property regime process over the county
8 subdivision process. The condominium property regime process is
9 a complex set of regulations and restrictions that are often not
10 easily understood at the time of purchase.

11 The purpose of this Act is to provide an option for county
12 participation in the approval of major condominium property
13 regimes.

14 SECTION 2. Section 514B-5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§514B-5 Conformance with county land use laws.** Any
17 condominium property regime established under this chapter shall
18 conform to the existing underlying county zoning for the
19 property and all applicable county permitting requirements
20 adopted by the county in which the property is located,
21 including any supplemental rules adopted by the county, pursuant



1 to section 514B-6, to ensure the conformance of condominium
2 property regimes to the purposes and provisions of county zoning
3 and development ordinances and chapter 205, including section
4 205-4.6 where applicable. Any condominium property regime
5 established under this chapter and located on land zoned for
6 agricultural use, but outside of the urban growth boundary
7 designated by the applicable county, shall conform to the
8 existing underlying county zoning and subdivision requirements
9 for the property and all applicable county permitting
10 requirements adopted by the county in which the property is
11 located, including any supplemental rules adopted by the county,
12 pursuant to section 514B-6, to ensure the conformance of
13 condominium property regimes to the purposes and provisions of
14 county zoning and development ordinances and chapter 205,
15 including section 205-4.6 where applicable. In the case of a
16 property which includes one or more existing structures being
17 converted to condominium status, the condominium property regime
18 shall comply with section 514B-32(a)(13) or 514B-84(a)."

19 SECTION 3. Section 514B-51, Hawaii Revised Statutes, is
20 amended to read as follows:



1 " ~~[+]~~ §514B-51 ~~[+]~~ Registration required; exceptions. (a) A
2 developer may not offer for sale any units in a project unless
3 the project is registered with the commission and an effective
4 date for the developer's public report is issued by the
5 commission.

6 (b) The registration requirement of this section shall not
7 apply to:

8 (1) The disposition of units exempted from the developer's
9 public report requirements pursuant to section
10 514B-81(b);

11 (2) Projects in which all units are restricted to
12 nonresidential uses and all units are to be sold for
13 \$1,000,000 or more; or

14 (3) The sale of units in bulk, such as where a developer
15 undertakes to develop and then sells all or a portion
16 of the developer's entire inventory of units to a
17 purchaser who is a developer. The registration
18 requirements of this section and the developer's
19 amended developer's public report requirements of
20 section 514B-56 shall apply to any sale of units to
21 the public following a sale of units in bulk.



1 (c) For significant projects located on land zoned for
2 agricultural use but outside of the urban growth boundary
3 designated by the applicable county, the commission may adopt
4 rules, pursuant to chapter 91, that require a developer to
5 obtain county council approval by resolution prior to
6 registration of the project with the commission required under
7 this section. The rules shall include criteria to determine
8 whether a project is significant, which may include:

- 9 (1) The size of the total project compared with the
10 applicable county minimum lot size for agricultural
11 purposes;
12 (2) The presence of environmentally important or
13 culturally significant resources, such as wetlands and
14 archaeological resources;
15 (3) Potential negative impacts to existing and adjacent
16 uses;
17 (4) Adequacy of infrastructure and utility services; and
18 (5) Consistency with county zoning and long-range
19 planning."

20 SECTION 4. Section 205-4.5, Hawaii Revised Statutes, is
21 amended by amending subsection (f) to read as follows:



1 "[+] (f) [+] Notwithstanding any other law to the contrary,
2 agricultural lands may be subdivided and leased for the
3 agricultural uses or activities permitted in subsection (a);
4 provided that:

- 5 (1) The principal use of the leased land is agriculture;
- 6 (2) No permanent or temporary dwellings or farm dwellings,
7 including trailers and campers, are constructed on the
8 leased area. This restriction shall not prohibit the
9 construction of storage sheds, equipment sheds, or
10 other structures appropriate to the agricultural
11 activity carried on within the lot; and
- 12 (3) The lease term for a subdivided lot shall be for at
13 least as long as the greater of:
 - 14 (A) The minimum real property tax agricultural
15 dedication period of the county in which the
16 subdivided lot is located; or
 - 17 (B) Five years.

18 Lots created and leased pursuant to this section shall be legal
19 lots of record for mortgage lending purposes and shall be
20 ~~[exempt from]~~ subject to county subdivision standards."

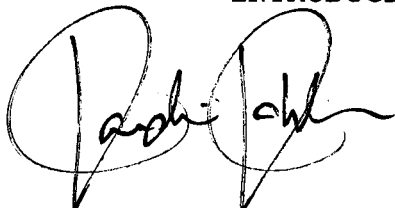


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1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2018.
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INTRODUCED BY:


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S.B. NO. 2524

Report Title:

Condominium Property Regimes; Agricultural Lands; Real Estate Commission; County Subdivision Requirements

Description:

Requires condominium property regimes to comply with county subdivision requirements. Allows the real estate commission to adopt rules that require a developer to seek county council approval for significant projects. Requires agricultural lands that are subdivided and leased for agricultural uses or activities to comply with county subdivision standards.

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

