
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that there has been a
2 proliferation of residential dwellings within the agricultural
3 district that may not be genuinely occupied in connection with a
4 farm. The legislature finds that this Act should reduce the
5 attractiveness of agricultural land for subdivision and
6 development into "fake farms" or "gentlemen's estates" on which
7 agricultural activity is nonexistence, negligible, or
8 inauthentic. The legislature intends that this Act promote
9 actual agricultural activity on lots in the agricultural
10 district. By this effect, the legislature intends that
11 agricultural land be more available and affordable to actual
12 farmers and agribusinesses.

13 The purposes of this Act are to:

- 14 (1) Establish a maximum floor area for a farm dwelling on
15 a lot in the agricultural district; and
16 (2) Increase the minimum lot size in the agricultural
17 district.

18



1 SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Within the agricultural district, all lands with soil
4 classified by the land study bureau's detailed land
5 classification as overall (master) productivity rating class A
6 or B shall be restricted to the following permitted uses:

7 (1) Cultivation of crops, including but not limited to
8 crops for bioenergy, flowers, vegetables, foliage,
9 fruits, forage, and timber;

10 (2) Game and fish propagation;

11 (3) Raising of livestock, including but not limited to
12 poultry, bees, fish, or other animal or aquatic life
13 that are propagated for economic or personal use;

14 (4) Farm dwellings, employee housing, farm buildings, or
15 activities or uses related to farming and animal
16 husbandry. "Farm dwelling", as used in this
17 paragraph, means a single-family dwelling located on
18 and used in connection with a farm, including clusters
19 of single-family farm dwellings permitted within
20 agricultural parks developed by the State, or where
21 agricultural activity provides income to the family
22 occupying the dwelling[+]. A farm dwelling that has



1 received final governmental approval for construction
2 after June 30, 2008, shall not have a floor area
3 greater than two thousand square feet. "Floor area"
4 means the area of all floors under roof of a farm
5 dwelling, measured from the exterior faces of the
6 exterior walls of the dwelling. "Floor area" includes
7 the area under roof of any basement or any attic with
8 at least seven feet of headroom. The land use
9 commission may adopt rules to further define "floor
10 area" in a manner consistent with this definition;

11 (5) Public institutions and buildings that are necessary
12 for agricultural practices;

13 (6) Public and private open area types of recreational
14 uses, including day camps, picnic grounds, parks, and
15 riding stables, but not including dragstrips,
16 airports, drive-in theaters, golf courses, golf
17 driving ranges, country clubs, and overnight camps;

18 (7) Public, private, and quasi-public utility lines and
19 roadways, transformer stations, communications
20 equipment buildings, solid waste transfer stations,
21 major water storage tanks, and appurtenant small
22 buildings such as booster pumping stations, but not



- 1 including offices or yards for equipment, material,
2 vehicle storage, repair or maintenance, treatment
3 plants, corporation yards, or other similar
4 structures;
- 5 (8) Retention, restoration, rehabilitation, or improvement
6 of buildings or sites of historic or scenic interest;
- 7 (9) Roadside stands for the sale of agricultural products
8 grown on the premises;
- 9 (10) Buildings and uses, including but not limited to
10 mills, storage, and processing facilities, maintenance
11 facilities, and vehicle and equipment storage areas
12 that are normally considered directly accessory to the
13 above mentioned uses and are permitted under section
14 205-2(d);
- 15 (11) Agricultural parks;
- 16 (12) Plantation community subdivisions, which as used in
17 this paragraph means a subdivision or cluster of
18 employee housing, community buildings, and acreage
19 established on land currently or formerly owned,
20 leased, or operated by a sugar or pineapple plantation
21 and in residential use by employees or former
22 employees of the plantation; provided that the



1 employees or former employees shall have a property
2 interest in the land;

3 (13) Agricultural tourism conducted on a working farm, or a
4 farming operation as defined in section 165-2, for the
5 enjoyment, education, or involvement of visitors;
6 provided that the agricultural tourism activity is
7 accessory and secondary to the principal agricultural
8 use and does not interfere with surrounding farm
9 operations; and provided further that this paragraph
10 shall apply only to a county that has adopted
11 ordinances regulating agricultural tourism under
12 section 205-5;

13 (14) Wind energy facilities, including the appurtenances
14 associated with the production and transmission of
15 wind generated energy; provided that the wind energy
16 facilities and appurtenances are compatible with
17 agriculture uses and cause minimal adverse impact on
18 agricultural land;

19 (15) Biofuel processing facilities, including the
20 appurtenances associated with the production and
21 refining of biofuels that is normally considered
22 directly accessory and secondary to the growing of the



1 energy feedstock; provided that biofuels processing
2 facilities and appurtenances do not adversely impact
3 agricultural land and other agricultural uses in the
4 vicinity.

5 For the purposes of this paragraph:

6 "Appurtenances" means operational infrastructure
7 of the appropriate type and scale for economic
8 commercial storage and distribution, and other similar
9 handling of feedstock, fuels, and other products of
10 biofuels processing facilities.

11 "Biofuel processing facility" means a facility
12 that produces liquid or gaseous fuels from organic
13 sources such as biomass crops, agricultural residues,
14 and oil crops, including palm, canola, soybean, and
15 waste cooking oils; grease; food wastes; and animal
16 residues and wastes that can be used to generate
17 energy[+]; or[+]

18 [+(16)+] Construction and operation of wireless communication
19 antennas; provided that, for the purposes of this
20 paragraph, "wireless communication antenna" means
21 communications equipment that is either freestanding
22 or placed upon or attached to an already existing



1 structure and that transmits and receives
2 electromagnetic radio signals used in the provision of
3 all types of wireless communications services;
4 provided further that nothing in this paragraph shall
5 be construed to permit the construction of any new
6 structure that is not deemed a permitted use under
7 this subsection."

8 SECTION 3. Section 205-5, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Within agricultural districts, uses compatible to the
11 activities described in section 205-2 as determined by the
12 commission shall be permitted; provided that accessory
13 agricultural uses and services described in sections 205-2 and
14 205-4.5 may be further defined by each county by zoning
15 ordinance. Each county shall adopt ordinances setting forth
16 procedures and requirements, including provisions for
17 enforcement, penalties, and administrative oversight, for the
18 review and permitting of agricultural tourism uses and
19 activities as an accessory use on a working farm, or farming
20 operation as defined in section 165-2; provided that
21 agricultural tourism activities shall not be permissible in the



1 absence of a bona fide farming operation. Ordinances shall
2 include but not be limited to:

- 3 (1) Requirements for access to a farm, including road
4 width, road surface, and parking;
- 5 (2) Requirements and restrictions for accessory facilities
6 connected with the farming operation, including gift
7 shops and restaurants; provided that overnight
8 accommodations shall not be permitted;
- 9 (3) Activities that may be offered by the farming
10 operation for visitors;
- 11 (4) Days and hours of operation; and
- 12 (5) Automatic termination of the accessory use upon the
13 cessation of the farming operation.

14 Each county may require an environmental assessment under
15 chapter 343 as a condition to any agricultural tourism use and
16 activity. Other uses may be allowed by special permits issued
17 pursuant to this chapter.

18 The minimum lot size in agricultural districts shall be
19 determined by each county by zoning ordinance, subdivision
20 ordinance, or other lawful means; provided that the minimum lot
21 size for any lot in the agricultural [~~use~~] district shall not be
22 less than [~~one-acre,~~] five acres, except as provided herein. If



1 the county finds that unreasonable economic hardship to the
 2 owner or lessee of land cannot otherwise be prevented or where
 3 land [~~utilization~~] use is improved, the county may allow lot
 4 sizes of less than the minimum lot size as specified by law for
 5 lots created by a consolidation of existing lots within an
 6 agricultural district and the resubdivision thereof; provided
 7 that the consolidation and resubdivision do not result in an
 8 increase in the number of lots over the number existing prior to
 9 consolidation; and provided further that in no event shall a lot
 10 [~~which~~] that is equal to or exceeds the minimum lot size of [~~one~~
 11 ~~acre~~] five be less than that minimum after the consolidation and
 12 resubdivision action. The county may also allow lot sizes of
 13 less than the minimum lot size as specified by law for lots
 14 created or used for plantation community subdivisions as defined
 15 in section 205-4.5(a)(12), for public, private, and quasi-public
 16 utility purposes, and for lots resulting from the subdivision of
 17 abandoned roadways and railroad easements."

18 SECTION 4. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on July 1, 2008.

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INTRODUCED BY:

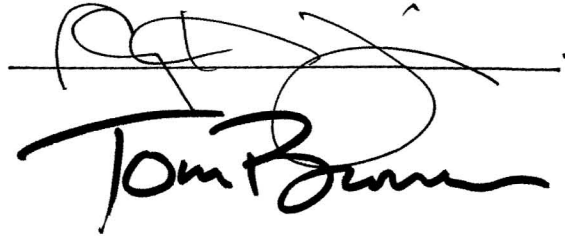
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H.B. NO. 2356


Tom Bauer



Report Title:

Agriculture; Farm Dwelling

Description:

Establishes maximum floor area for a farm dwelling in the agricultural district and increases the minimum lot size in the agricultural district to 5 acres.

