
A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 SECTION 1. The purpose of this Act is to remove exemptions
2 for certain projects and activities on agricultural lands in the
3 state agricultural district.

4 SECTION 2. Section 39-73, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§39-73 Consent of governmental agencies.** [It] (a)
7 Except as provided under subsection (b), it shall not be
8 necessary for any department proceeding pursuant to this part to
9 obtain any certificate of convenience or necessity, franchise,
10 license, permit, or other authorization from any bureau, board,
11 commission, or other like instrumentality of the State or its
12 political subdivisions in order to acquire, construct, purchase,
13 reconstruct, improve, [~~better,~~] extend, maintain, [~~and~~] or
14 operate an undertaking.

15 (b) If an undertaking is to be constructed or operated on
16 agricultural land, any department proceeding pursuant to this
17 part shall obtain any necessary district boundary amendment,
18 rezoning, or special permit from the land use commission or



1 relevant county before construction or operation. For purposes
2 of this section, "agricultural land" means land within the
3 agricultural district established under chapter 205."

4 SECTION 3. Section 49-23, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§49-23 Consent of state agencies.** [~~It~~] (a) Except as
7 provided under subsection (b), it shall not be necessary for any
8 county proceeding under this chapter to obtain any certificate
9 of convenience or necessity, franchise, license, permit, or
10 other authorization from any bureau, board, commission, or other
11 like instrumentality of the State in order to acquire,
12 construct, purchase, reconstruct, improve, [~~better,~~] extend,
13 maintain, [~~and~~] or operate an undertaking or undertake the
14 establishment of loan programs, but the powers and duties of the
15 bureau, board, commission, or instrumentality shall continue [~~as~~
16 heretofore].

17 (b) If an undertaking is to be constructed or operated on
18 agricultural land, any county proceeding pursuant to this
19 chapter shall obtain any necessary district boundary amendment,
20 rezoning, or special permit from the land use commission or
21 relevant county agency before construction or operation. For



1 purposes of this section, "agricultural land" means land within
2 the agricultural district established under chapter 205."

3 SECTION 4. Section 91-13.5, Hawaii Revised Statutes, is
4 amended by amending subsection (f) to read as follows:

5 "(f) This section shall not apply to:

6 (1) Any proceedings of the public utilities commission;

7 [~~or~~]

8 (2) Any county or county agency that is exempted by county
9 ordinance from this section~~[or]~~; or

10 (3) Any district boundary amendment involving agricultural
11 land, rezoning of agricultural land, or issuance of a
12 special permit for a use on agricultural land. For
13 purposes of this section, "agricultural land" means
14 land within the agricultural district established
15 under chapter 205."

16 SECTION 5. Section 166E-3, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The department shall administer a program to manage
19 the transferred non-agricultural park lands under rules adopted
20 by the board pursuant to chapter 91. The program and its rules
21 shall be separate and distinct from the agricultural park
22 program and its rules. Non-agricultural park lands are not the



1 same as, and shall not be selected or managed as [are] lands
2 under agricultural park leases. Notwithstanding any other law
3 to the contrary, the program shall include the following
4 conditions pertaining to encumbered non-agricultural park lands:

- 5 (1) The lessee or permittee shall perform in full
6 compliance with the existing lease or permit;
- 7 (2) The lessee or permittee shall not be in arrears in the
8 payment of taxes, rents, or other obligations owed to
9 the State or any county;
- 10 (3) The lessee's or permittee's agricultural operation
11 shall be economically viable as specified by the
12 board; and
- 13 (4) No encumbered or unencumbered non-agricultural park
14 lands [~~with soils classified by the land study~~
15 ~~bureau's detailed land classification as overall~~
16 ~~(master) productivity rating class A or B~~] within the
17 agricultural district established under chapter 205
18 shall be transferred for the use or development of
19 golf courses, golf driving ranges, and country clubs.

20 The transfer of non-agricultural park lands shall be done in a
21 manner to be determined by the board of agriculture."



1 SECTION 6. Section 171-134, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) At the option of the board, and except as otherwise
4 provided under paragraph (5), the development of an industrial
5 park shall be exempt from all statutes, ordinances, charter
6 provisions, and rules of any governmental agency relating to
7 planning, zoning, construction standards for subdivision
8 development and improvement of land, and the construction of
9 buildings thereon; provided that:

10 (1) The board finds that the industrial park meets the
11 minimum requirements of health and safety;

12 (2) The development of the industrial park does not
13 contravene any safety standards or tariffs approved by
14 the public utilities commission for public utilities;

15 (3) The legislative body of the county in which the
16 industrial park is proposed to be situated approves
17 the industrial park[-];

18 (A) The legislative body shall approve or disapprove
19 the industrial park within forty-five days after
20 the department has submitted preliminary plans
21 and specifications for the industrial park to the
22 legislative body. If after the forty-fifth day,



1 an industrial park is not disapproved, it shall
2 be deemed approved by the legislative body.

3 (B) No action shall be prosecuted or maintained
4 against any county, its officials, or employees,
5 on account of actions taken by them in reviewing,
6 approving, or disapproving the plans and
7 specifications.

8 (C) The final plans and specifications for the
9 industrial park shall be deemed approved by the
10 legislative body if the final plans and
11 specifications for the industrial park do not
12 substantially deviate from the preliminary plans
13 and specifications. The determination that the
14 final plans and specifications do not
15 substantially deviate from the preliminary plans
16 and specifications of the industrial park shall
17 rest with the board. The final plans and
18 specifications for the park shall constitute the
19 planning, zoning, building, improvement,
20 construction, and subdivision standards for that
21 industrial park. For the purposes of sections
22 501-85 and 502-17, the chairperson of the board



1 or the responsible county official may certify
2 maps and plans of land connected with the
3 industrial park as having complied with
4 applicable laws and ordinances relating to
5 consolidation and subdivision of lands, and such
6 maps and plans shall be accepted for registration
7 or recordation by the land court and registrar;
8 [and]

9 (4) The board shall assume the responsibility of all
10 infrastructure within the industrial park, if the
11 infrastructure developed is exempt from applicable
12 county ordinances, charter provisions, and rules[~~+~~];
13 and

14 (5) If an industrial park is to be constructed and
15 operated under this subsection on agricultural land,
16 the board shall obtain any necessary district boundary
17 amendment and rezoning from the land use commission
18 and relevant county agency before construction or
19 operation of the industrial park. Notwithstanding
20 paragraph (3), the rezoning of land by the county
21 shall be pursuant to county ordinance. For purposes
22 of this section, "agricultural land" means land within



1 the agricultural district established under chapter
2 205."

3 SECTION 7. Section 201H-12, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The corporation may develop public land in an
6 agricultural district subject to [~~the prior approval of the land~~
7 ~~use commission, when developing lands greater than fifteen acres~~
8 ~~in size,~~] appropriate district boundary amendments and rezoning
9 laws and public land in a conservation district subject to the
10 prior approval of the board of land and natural resources. The
11 corporation shall not develop state monuments, historical sites,
12 or parks. When the corporation proposes to develop public land,
13 it shall file with the department of land and natural resources
14 a petition setting forth the purpose for the development. The
15 petition shall be conclusive proof that the intended use is a
16 public use superior to that which the land has been
17 appropriated."

18 SECTION 8. Section 201H-33, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) The corporation shall adopt, pursuant to chapter 91,
21 rules on health, safety, building, planning, zoning, and land
22 use that relate to the development, subdivision, and

1 construction of dwelling units in housing projects in which the
2 State, through the corporation, shall participate. The rules
3 shall not contravene any safety standards or tariffs approved by
4 the public utilities commission[7] and shall comply with all
5 procedures, provisions, and restrictions established under
6 chapter 205 with respect to a boundary amendment to, or use
7 within the agricultural district. The rules shall follow
8 existing law as closely as is consistent with the production of
9 lower cost housing with standards that meet minimum requirements
10 of good design, pleasant amenities, health, safety, and
11 coordinated development.

12 When adopted, the rules shall have the force and effect of
13 law and shall supersede, for all housing projects in which the
14 State, through the corporation, shall participate, all other
15 inconsistent laws, ordinances, and rules relating to the use,
16 zoning, planning, and development of land, and the construction
17 of dwelling units thereon. The rules, before becoming
18 effective, shall be presented to the legislative body of each
19 county in which they will be effective and the legislative body
20 of any county may within forty-five days approve or disapprove,
21 for that county, any or all of the rules by a majority vote of
22 its members. On the forty-sixth day after submission, any rules



1 not disapproved shall be deemed to have been approved by the
2 county."

3 SECTION 9. Section 201H-38, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The corporation may develop on behalf of the State or
6 with an eligible developer, or may assist under a government
7 assistance program in the development of, housing projects that
8 shall be exempt from all statutes, ordinances, charter
9 provisions, and rules of any government agency relating to
10 planning, zoning, construction standards for subdivisions,
11 development and improvement of land, and the construction of
12 dwelling units thereon; provided that:

13 (1) The corporation finds the housing project is
14 consistent with the purpose and intent of this
15 chapter, and meets minimum requirements of health and
16 safety;

17 (2) The development of the proposed housing project does
18 not contravene any safety standards, tariffs, or rates
19 and fees approved by the public utilities commission
20 for public utilities or of the various boards of water
21 supply authorized under chapter 54;



- 1 (3) The legislative body of the county in which the
2 housing project is to be situated shall have approved
3 the project with or without modifications:
- 4 (A) The legislative body shall approve, approve with
5 modification, or disapprove the project by
6 resolution within forty-five days after the
7 corporation has submitted the preliminary plans
8 and specifications for the project to the
9 legislative body. If on the forty-sixth day a
10 project is not disapproved, it shall be deemed
11 approved by the legislative body;
- 12 (B) No action shall be prosecuted or maintained
13 against any county, its officials, or employees
14 on account of actions taken by them in reviewing,
15 approving, modifying, or disapproving the plans
16 and specifications; and
- 17 (C) The final plans and specifications for the
18 project shall be deemed approved by the
19 legislative body if the final plans and
20 specifications do not substantially deviate from
21 the preliminary plans and specifications. The
22 final plans and specifications for the project



1 shall constitute the zoning, building,
2 construction, and subdivision standards for that
3 project. For purposes of sections 501-85 and
4 502-17, the executive director of the corporation
5 or the responsible county official may certify
6 maps and plans of lands connected with the
7 project as having complied with applicable laws
8 and ordinances relating to consolidation and
9 subdivision of lands, and the maps and plans
10 shall be accepted for registration or recordation
11 by the land court and registrar; and

- 12 (4) If the housing project is to be constructed on land
13 greater than fifteen acres in size in an agricultural,
14 rural, or conservation district, the corporation or
15 eligible developer shall obtain any necessary district
16 boundary amendments from the land use commission
17 before construction. The land use commission shall
18 approve, approve with modification, or disapprove [a]
19 the proposed boundary [change] amendment within forty-
20 five days after the corporation has submitted a
21 petition to the commission as provided in section
22 205-4. If, on the forty-sixth day, the petition is



1 not disapproved, it shall be deemed approved by the
 2 commission. A boundary amendment for a housing
 3 project on land of fifteen acres or less in an
 4 agricultural, rural, or conservation district shall be
 5 subject to paragraph (3)."

6 SECTION 10. Section 206M-5, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "**§206M-5 Development rules.** (a) Whenever the proceeds of
 9 special purpose revenue bonds are used to finance the cost of an
 10 industrial park, the board shall adopt rules under chapter 91 to
 11 be followed during the course of the development of any
 12 industrial park, which are to be known as development rules in
 13 connection with health, safety, building, planning, zoning, and
 14 land use. [~~The~~] Except as otherwise provided in subsection (b),
 15 the rules, upon final adoption of a development plan for an
 16 industrial park, shall supersede all other inconsistent
 17 ordinances and rules relating to the use, zoning, planning, and
 18 development of land and construction thereon within the
 19 industrial park. Rules adopted under this section shall follow
 20 existing law, rules, ordinances, and regulations as closely as
 21 is consistent with standards meeting minimum requirements of
 22 good design, pleasant amenities, health, safety, and coordinated



1 development. The corporation shall establish policies and
2 procedures for monitoring and ensuring that the operation of the
3 industrial park complies with these development rules and may
4 establish fines and penalties or take any other means available
5 under the law to eliminate any noncomplying action.

6 (b) If an industrial park is to be constructed on
7 agricultural land, the board shall obtain any necessary district
8 boundary amendment, rezoning, or special permit from the land
9 use commission or relevant county before construction. For
10 purposes of this section, "agricultural land" means land within
11 the agricultural district established under chapter 205."

12 SECTION 11. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 12. This Act shall take effect on July 1, 2010.

15 INTRODUCED BY:

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[Signature]

JAN 15 2008



Report Title:

Agricultural Lands; Policies for Districting and Protection

Description:

Amends various laws to remove exemptions for certain projects or activities on lands in the state agricultural district.

