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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1           SECTION 1. The purpose of this Act is to expand the  
2 permitted uses within agricultural and conservation districts to  
3 include certain renewable energy facilities that have relatively  
4 low impact.

5           This Act adds solar energy facilities as a permitted use in  
6 the agricultural district where wind energy facilities and  
7 biofuel production facilities are permitted uses.

8           This Act also includes lesser impact renewable energy  
9 facilities as permitted uses in the conservation district.  
10 "Lesser impact renewable energy facilities" do not include  
11 waste-to-energy or biomass conversion facilities.

12           This Act is not intended to affect existing provisions of  
13 chapter 205, Hawaii Revised Statutes, concerning geothermal  
14 subzones. The legislature intends that geothermal subzones may  
15 continue to be established and maintained in all land use  
16 districts as provided under sections 205-5.1, 205-5.2, and  
17 205.5.3, Hawaii Revised Statutes.



1 SECTION 2. Section 183C-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) The department shall establish zones within the  
4 conservation district, which shall be restricted to certain  
5 uses. The department, by rules, may specify the land uses  
6 permitted therein which may include, but are not limited to,  
7 farming, flower gardening, operation of nurseries or orchards,  
8 growth of commercial timber, grazing, recreational or hunting  
9 pursuits, lesser impact renewable energy facilities as defined  
10 under section 205-2(e), or residential use. The rules may  
11 control the extent, manner, and times of the uses, and may  
12 specifically prohibit unlimited cutting of forest growth, soil  
13 mining, or other activities detrimental to good conservation  
14 practices."

15 SECTION 3. Section 205-2, Hawaii Revised Statutes, is  
16 amended by amending subsections (d) and (e) to read as follows:

17 "(d) Agricultural districts shall include:

18 (1) Activities or uses as characterized by the cultivation  
19 of crops, crops for bioenergy, orchards, forage, and  
20 forestry;

21 (2) Farming activities or uses related to animal  
22 husbandry, and game and fish propagation;



- 1           (3) Aquaculture, which means the production of aquatic  
2           plant and animal life within ponds and other bodies of  
3           water;
- 4           (4) Wind generated energy production for public, private,  
5           and commercial use;
- 6           (5) Biofuel production as described in section  
7           205-4.5(a)(15) for public, private, and commercial  
8           use;
- 9           (6) Bona fide agricultural services and uses that support  
10          the agricultural activities of the fee or leasehold  
11          owner of the property and accessory to any of the  
12          above activities, whether or not conducted on the same  
13          premises as the agricultural activities to which they  
14          are accessory, including but not limited to farm  
15          dwellings as defined in section 205-4.5(a)(4),  
16          employee housing, farm buildings, mills, storage  
17          facilities, processing facilities, vehicle and  
18          equipment storage areas, roadside stands for the sale  
19          of products grown on the premises, and plantation  
20          community subdivisions as defined in section  
21          205-4.5(a)(12);
- 22          (7) Wind machines and wind farms;



1        (8) Solar energy facilities that produce and transmit  
2        electrical energy from insolation;

3        [~~(8)~~] (9) Small-scale meteorological, air quality, noise,  
4        and other scientific and environmental data collection  
5        and monitoring facilities occupying less than one-half  
6        acre of land; provided that these facilities shall not  
7        be used as or equipped for use as living quarters or  
8        dwellings;

9        [~~(9)~~] (10) Agricultural parks;

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

20       [~~(11)~~] (12) Open area recreational facilities.

21       Agricultural districts shall not include golf courses and golf  
22       driving ranges, except as provided in section 205-4.5(d).



1 Agricultural districts include areas that are not used for, or  
2 that are not suited to, agricultural and ancillary activities by  
3 reason of topography, soils, and other related characteristics.

4 (e) Conservation districts shall include areas necessary  
5 for ~~protecting~~:

6 (1) Protecting watersheds and water sources; ~~preserving~~

7 (2) Preserving scenic and historic areas; ~~providing~~

8 (3) Providing park lands, wilderness, and beach reserves;  
9 ~~conserving~~

10 (4) Conserving indigenous or endemic plants, fish, and  
11 wildlife, including those which are threatened or  
12 endangered; ~~preventing~~

13 (5) Preventing floods and soil erosion; ~~forestry; open~~

14 (6) Forestry;

15 (7) Open space areas whose existing openness, natural  
16 condition, or present state of use, if retained, would  
17 enhance the present or potential value of abutting or  
18 surrounding communities, or would maintain or enhance  
19 the conservation of natural or scenic resources;  
20 ~~areas~~

21 (8) Areas of value for recreational purposes; ~~ether~~

22 (9) Other related activities; and ~~ether~~



1       (10) Other permitted uses not detrimental to a multiple use  
2           conservation concept.

3 Conservation districts also may include lesser impact renewable  
4 energy facilities. For the purposes of this section, "lesser  
5 impact renewable energy facilities" means facilities that  
6 produce electrical energy from insolation, wind, hydropower,  
7 ocean thermal conversion, or ocean wave movement."

8           SECTION 4. Section 205-4.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

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

14       (1) Cultivation of crops, including but not limited to  
15           crops for bioenergy, flowers, vegetables, foliage,  
16           fruits, forage, and timber;

17       (2) Game and fish propagation;

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

21       (4) Farm dwellings, employee housing, farm buildings, or  
22           activities or uses related to farming and animal



1 husbandry. "Farm dwelling", as used in this  
2 paragraph, means a single-family dwelling located on  
3 and used in connection with a farm, including clusters  
4 of single-family farm dwellings permitted within  
5 agricultural parks developed by the State, or where  
6 agricultural activity provides income to the family  
7 occupying the dwelling;

8 (5) Public institutions and buildings that are necessary  
9 for agricultural practices;

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

15 (7) Public, private, and quasi-public utility lines and  
16 roadways, transformer stations, communications  
17 equipment buildings, solid waste transfer stations,  
18 major water storage tanks, and appurtenant small  
19 buildings such as booster pumping stations, but not  
20 including offices or yards for equipment, material,  
21 vehicle storage, repair or maintenance, treatment



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





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

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

17          (15) Biofuel processing facilities, including the  
18          appurtenances associated with the production and  
19          refining of biofuels that is normally considered  
20          directly accessory and secondary to the growing of the  
21          energy feedstock; provided that biofuels processing  
22          facilities and appurtenances do not adversely impact



1 agricultural land and other agricultural uses in the  
2 vicinity.

3 For the purposes of this paragraph:

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

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

16 (16) Solar energy facilities, including appurtenances  
17 associated with the production and transmission of  
18 electrical energy from insolation; or

19 [~~+(16)+~~] (17) Construction and operation of wireless  
20 communication antennas; provided that, for the  
21 purposes of this paragraph, "wireless communication  
22 antenna" means communications equipment that is either



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

9 SECTION 5. Statutory material to be repealed is bracketed  
 10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

*Calvin K. Lay*  
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 JAN 18 2008



**Report Title:**

Lesser Impact Renewable Energy Facility; Permitted Use;  
Agricultural and Conservation Districts

**Description:**

Designates lesser impact renewable energy facilities as  
permitted uses in state agricultural and conservation districts.

