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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY FACILITIES.

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

1           SECTION 1. Act 173, Session Laws of Hawaii 2009 (Act 173),  
2 recognized that to develop and finance renewable energy  
3 facilities, a site for the facilities and access to the site  
4 must often be leased, granted as an easement, or mortgaged to  
5 provide financing for the project. However, renewable energy  
6 projects may require site acreage or configurations that do not  
7 coincide with existing, already subdivided lot boundaries. For  
8 instance, land required for a project may constitute only a  
9 portion of a large legal lot, and it may be impractical or  
10 undesirable to lease or convey the entire legal lot for a  
11 renewable energy project, or to encumber the entire legal lot  
12 with a mortgage that provides financing for the project.

13           Therefore, the purpose of Act 173 was to facilitate the  
14 financing and development of renewable energy projects by  
15 allowing leases and easements pertaining to renewable energy  
16 projects, together with mortgages and other conveyances as  
17 security for finance, to be created, enforced, and recorded,  
18 without requiring the landowner to obtain formal subdivision



1 approval, and instead requiring approval for exemption from  
2 subdivision requirements, from the applicable county or other  
3 approving agency.

4       However, the application of Act 173 was limited to solar  
5 energy facilities permitted under section 205-2(d)(6), on land  
6 with soil classified by the land study bureau's detailed land  
7 classification as overall (master) productivity rating class D  
8 or E or wind energy facilities and related appurtenances located  
9 within a conservation state land use district. The legislature  
10 now finds that there may be other renewable energy projects that  
11 have been approved or permitted by the appropriate agencies that  
12 are required to go through the subdivision process threatening  
13 the financial viability of these projects.

14       Therefore, the purpose of this Act is to extend the  
15 applicability of Act 173 to include any renewable energy  
16 facilities approved by the land use commission or county  
17 planning commission under chapter 205, or any renewable energy  
18 facilities permitted or approved by the board of land and  
19 natural resources under chapter 183C. Further, it is the intent  
20 of the legislature that the remaining land (i.e. the portion of  
21 the original legal lot of record less the area used for the  
22 renewable energy facility) receive the same legal lot status as



1 the renewable energy parcel and be recognized as a legal lot of  
2 record by the counties, thus allowing for those remaining lands  
3 to be put to other use and receive its own mortgage financing  
4 and title insurance.

5 SECTION 2. Section 201N-14, Hawaii Revised Statutes, is  
6 amended by amending subsection (d) to read as follows:

7 "(d) The exemption from subdivision requirements  
8 authorized by this section shall only apply to leases and  
9 easements that meet the following requirements and shall be  
10 subject to the following limitations:

11 (1) The lease or easement shall restrict the use of the  
12 leased land or easement area to the development and  
13 operation of a renewable energy project; provided  
14 that, to comply with section 205-4.6, agricultural  
15 uses and activities shall not be restricted on  
16 agricultural land;

17 (2) The lease shall have an initial term of at least  
18 twenty years;

19 (3) With respect to leases and easements on lands within  
20 an agricultural state land use district, the exemption  
21 from subdivision requirements provided by this section  
22 shall be for ~~se~~lar]:



1           (A) Solar energy facilities permitted under section  
2           205-2(d)(6), on land with soil classified by the  
3           land study bureau's detailed land classification  
4           as overall (master) productivity rating class D  
5           or E; and

6           (B) Any renewable energy facilities approved by the  
7           land use commission or county planning commission  
8           under chapter 205;

9           (4) With respect to leases and easements on lands within a  
10          conservation state land use district, the exemption  
11          from subdivision requirements provided by this section  
12          shall be for [~~wind~~]:

13          (A) Wind energy facilities, including the  
14          appurtenances associated with the production and  
15          transmission of wind-generated energy; and

16          (B) Any renewable energy facilities permitted or  
17          approved by the board of land and natural  
18          resources under chapter 183C;

19          and

20          (5) The county agency charged with administering  
21          subdivisions in the county in which the renewable  
22          energy project is to be situated or, if the land is in



1 a conservation state land use district, the department  
2 of land and natural resources, shall approve the  
3 exemption from subdivision requirements within ninety  
4 days after the project's developer and the owner of  
5 the land on which the renewable energy project is to  
6 be situated have submitted the conceptual schematics  
7 or preliminary plans and specifications for the  
8 renewable energy project to the county agency or the  
9 department of land and natural resources, and have  
10 provided to such county agency or the department of  
11 land and natural resources, as applicable, a  
12 certification and agreement that all applicable and  
13 appropriate environmental reviews and permitting shall  
14 be completed prior to commencement of development of  
15 the renewable energy project. If, on the ninety-first  
16 day, an exemption has not been approved, it shall be  
17 deemed disapproved by the county agency or the  
18 department of land and natural resources, whichever is  
19 applicable."

20 SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1           SECTION 4. This Act shall take effect upon its approval,  
2 and shall be repealed on the same date as section 2 of Act 173,  
3 Session Laws of Hawaii 2009.



**Report Title:**

Renewable Energy Facilities; Subdivision Requirement; Exemptions

**Description:**

Clarifies that the exemption from subdivision requirements for leases and easements for renewable energy facilities applies to renewable energy facilities on agricultural land approved by the Land Use Commission and county planning commissions, and renewable energy facilities on conservation land permitted by the Board of Land and Natural Resources. (HB2450 HD1)

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

