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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 or the lessee to obtain formal



1 subdivision approval, and instead requiring approval for  
2 exemption from subdivision requirements, from the applicable  
3 county or other 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 finds that there may be other renewable energy projects that  
11 support agricultural activity on lands that were once used for  
12 sugar or pineapple production. Encouraging the use of currently  
13 fallow plantation lands for agricultural activity will support  
14 the State's efforts toward sustainability.

15       Therefore, the purpose of this Act is to extend the  
16 applicability of Act 173 to include agricultural-energy  
17 facilities on plantation community subdivisions. Further, this  
18 Act requires that any projects receiving an exemption under this  
19 Act or Act 173 apply for subdivision within two years after  
20 obtaining the exemption to alleviate any concerns that these  
21 exemptions may create an illegal lot.



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

3 "(d) The exemption from subdivision requirements  
4 authorized by this section shall only apply to leases and  
5 easements that meet the following requirements and shall be  
6 subject to the following limitations:

- 7 (1) The lease or easement shall restrict the use of the  
8 leased land or easement area to the development and  
9 operation of a renewable energy project; provided  
10 that, to comply with section 205-4.6, agricultural  
11 uses and activities shall not be restricted on  
12 agricultural land;
- 13 (2) The lease shall have an initial term of at least  
14 twenty years;
- 15 (3) With respect to leases and easements on lands within  
16 an agricultural state land use district, the exemption  
17 from subdivision requirements provided by this section  
18 shall be for [~~solar~~]:
- 19 (A) Solar energy facilities permitted under section  
20 205-2(d)(6), on land with soil classified by the  
21 land study bureau's detailed land classification



1 as overall (master) productivity rating class D  
2 or E; and

3 (B) Agricultural-energy facilities permitted under  
4 sections 205-2(d)(1) or (7) and 205-4.5(a)(16) on  
5 all or part of a plantation community  
6 subdivision, as defined in section  
7 205-4.5(a)(12);

8 (4) With respect to leases and easements on lands within a  
9 conservation state land use district, the exemption  
10 from subdivision requirements provided by this section  
11 shall be for wind energy facilities, including the  
12 appurtenances associated with the production and  
13 transmission of wind-generated energy; and

14 (5) The county agency charged with administering  
15 subdivisions in the county in which the renewable  
16 energy project is to be situated or, if the land is in  
17 a conservation state land use district, the department  
18 of land and natural resources, shall approve the  
19 exemption from subdivision requirements within ninety  
20 days after the project's developer and the owner of  
21 the land on which the renewable energy project is to  
22 be situated have submitted the conceptual schematics



1 or preliminary plans and specifications for the  
2 renewable energy project to the county agency or the  
3 department of land and natural resources, and have  
4 provided to such county agency or the department of  
5 land and natural resources, as applicable, a  
6 certification and agreement that all applicable and  
7 appropriate environmental reviews and permitting shall  
8 be completed prior to commencement of development of  
9 the renewable energy project. If, on the ninety-first  
10 day, an exemption has not been approved, it shall be  
11 deemed disapproved by the county agency or the  
12 department of land and natural resources, whichever is  
13 applicable."

14 SECTION 3. Any renewable energy project that obtains an  
15 exemption from subdivision requirements pursuant to Act 173,  
16 Session Laws of Hawaii 2009, or this Act shall apply for  
17 subdivision with the agency granting the original exemption  
18 within two years from the date of receiving that original  
19 exemption. If the renewable energy project fails to apply for  
20 subdivision within two years from the date of receiving the  
21 original exemption, the renewable energy project shall forfeit  
22 the original exemption.



1           SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 5. This Act shall take effect upon its approval,  
4 and shall be repealed on the same date as section 2 of Act 173,  
5 Session Laws of Hawaii 2009.

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**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 agricultural-energy facilities on all or part of a plantation community subdivision; requires that any exemption granted under this Act shall apply for subdivision within two years of obtaining the exemption. (SD2)

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

