

JAN 22 2010

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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. Section 205-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§205-2 Districting and classification of lands.** (a)

4 There shall be four major land use districts in which all lands  
5 in the State shall be placed: urban, rural, agricultural, and  
6 conservation. The land use commission shall group contiguous  
7 land areas suitable for inclusion in one of these four major  
8 districts. The commission shall set standards for determining  
9 the boundaries of each district, provided that:

10           (1) In the establishment of boundaries of urban districts  
11           those lands that are now in urban use and a sufficient  
12           reserve area for foreseeable urban growth shall be  
13           included;

14           (2) In the establishment of boundaries for rural  
15           districts, areas of land composed primarily of small  
16           farms mixed with very low density residential lots,  
17           which may be shown by a minimum density of not more  
18           than one house per one-half acre and a minimum lot



1 size of not less than one-half acre shall be included,  
2 except as herein provided;

3 (3) In the establishment of the boundaries of agricultural  
4 districts the greatest possible protection shall be  
5 given to those lands with a high capacity for  
6 intensive cultivation; and

7 (4) In the establishment of the boundaries of conservation  
8 districts, the "forest and water reserve zones"  
9 provided in Act 234, section 2, Session Laws of Hawaii  
10 1957, are renamed "conservation districts" and,  
11 effective as of July 11, 1961, the boundaries of the  
12 forest and water reserve zones theretofore established  
13 pursuant to Act 234, section 2, Session Laws of Hawaii  
14 1957, shall constitute the boundaries of the  
15 conservation districts; provided that thereafter the  
16 power to determine the boundaries of the conservation  
17 districts shall be in the commission.

18 In establishing the boundaries of the districts in each county,  
19 the commission shall give consideration to the master plan or  
20 general plan of the county.



1           (b) Urban districts shall include activities or uses as  
2 provided by ordinances or regulations of the county within which  
3 the urban district is situated.

4           (c) Rural districts shall include activities or uses as  
5 characterized by low density residential lots of not more than  
6 one dwelling house per one-half acre, except as provided by  
7 county ordinance pursuant to section 46-4(c), in areas where  
8 "city-like" concentration of people, structures, streets, and  
9 urban level of services are absent, and where small farms are  
10 intermixed with low density residential lots except that within  
11 a subdivision, as defined in section 484-1, the commission for  
12 good cause may allow one lot of less than one-half acre, but not  
13 less than 18,500 square feet, or an equivalent residential  
14 density, within a rural subdivision and permit the construction  
15 of one dwelling on [~~such~~] the lot, provided that all other  
16 dwellings in the subdivision shall have a minimum lot size of  
17 one-half acre or 21,780 square feet. [~~Such~~] The petition for  
18 variance may be processed under the special permit procedure.  
19 These districts may include contiguous areas which are not  
20 suited to low density residential lots or small farms by reason  
21 of topography, soils, and other related characteristics. Rural



1 districts shall also include golf courses, golf driving ranges,  
2 and golf-related facilities.

3 (d) Agricultural districts shall include:

4 (1) Activities or uses as characterized by the cultivation  
5 of crops, crops for bioenergy, orchards, forage, and  
6 forestry;

7 (2) Farming activities or uses related to animal husbandry  
8 and game and fish propagation;

9 (3) Aquaculture, which means the production of aquatic  
10 plant and animal life within ponds and other bodies of  
11 water;

12 (4) Wind generated energy production for public, private,  
13 and commercial use;

14 (5) Biofuel production, as described in section 205-  
15 4.5(a)(15), for public, private, and commercial use;

16 (6) Solar energy facilities; provided that this paragraph  
17 shall apply only to land with soil classified by the  
18 land study bureau's detailed land classification as  
19 overall (master) productivity rating class D or E;

20 (7) Bona fide agricultural services and uses that support  
21 the agricultural activities of the fee or leasehold  
22 owner of the property and accessory to any of the



1 above activities, regardless of whether conducted on  
2 the same premises as the agricultural activities to  
3 which they are accessory, including farm dwellings as  
4 defined in section 205-4.5(a)(4), employee housing,  
5 farm buildings, mills, storage facilities, processing  
6 facilities, agricultural-energy facilities as defined  
7 in section 205-4.5(a)(16), vehicle and equipment  
8 storage areas, roadside stands for the sale of  
9 products grown on the premises, and plantation  
10 community subdivisions as defined in section 205-  
11 4.5(a)(12);

12 (8) Wind machines and wind farms;

13 (9) Small-scale meteorological, air quality, noise, and  
14 other scientific and environmental data collection and  
15 monitoring facilities occupying less than one-half  
16 acre of land; provided that these facilities shall not  
17 be used as or equipped for use as living quarters or  
18 dwellings;

19 (10) Agricultural parks;

20 (11) Agricultural tourism conducted on a working farm, or a  
21 farming operation as defined in section 165-2, for the  
22 enjoyment, education, or involvement of visitors;



1 provided that the agricultural tourism activity is  
2 accessory and secondary to the principal agricultural  
3 use and does not interfere with surrounding farm  
4 operations; and provided further that this paragraph  
5 shall apply only to a county that has adopted  
6 ordinances regulating agricultural tourism under  
7 section 205-5; and

8 (12) Open area recreational facilities.

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

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

14 (e) Conservation districts shall include areas necessary  
15 for protecting watersheds and water sources; preserving scenic  
16 and historic areas; providing park lands, wilderness, and beach  
17 reserves; conserving indigenous or endemic plants, fish, and  
18 wildlife, including those which are threatened or endangered;  
19 preventing floods and soil erosion; forestry; open space areas  
20 whose existing openness, natural condition, or present state of  
21 use, if retained, would enhance the present or potential value  
22 of abutting or surrounding communities, or would maintain or



1 enhance the conservation of natural or scenic resources; areas  
2 of value for recreational purposes; other related activities;  
3 and other permitted uses not detrimental to a multiple use  
4 conservation concept.

5 (f) Notwithstanding any law to the contrary, agricultural  
6 districts and conservation districts may include areas necessary  
7 for renewable energy uses; provided that the renewable energy  
8 uses are not contrary to the character of the district."

9 SECTION 2. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

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**Report Title:**

Renewable Energy; Agricultural Districts; Conservation Districts

**Description:**

Permits renewable energy uses in agricultural and conservation districts.

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

