



COV. MSG. NO. 1321

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 11, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

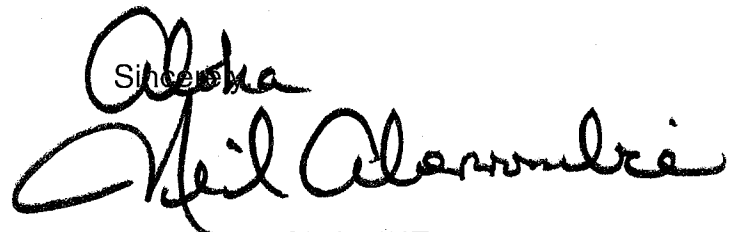
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 11, 2011, the following bill was signed into law:

SB631 SD1 HD2 CD1

RELATING TO RENEWABLE ENERGY.
Act 217 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUL 11 2011

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 217
S.B. NO.

631
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that the development of
2 renewable energy in Hawaii is crucial to the energy security and
3 energy independence of the State. Increased energy efficiency
4 and use of renewable energy resources will achieve broad
5 societal benefits, including resistance to increases in oil
6 prices, environmental sustainability, economic development, and
7 job creation.

8 The legislature also finds that Hawaii's dependence on
9 petroleum makes the State extremely vulnerable to supply
10 disruption, international market dysfunction, and many other
11 factors beyond the control of the State. Continued consumption
12 of conventional petroleum fuel and price volatility can
13 negatively impact the viability of agricultural operations.

14 The legislature further finds that allowing renewable
15 energy facilities within the agricultural district furthers and
16 is consistent with the purposes, standards, and criteria for
17 uses within agricultural lands. Renewable energy facilities



1 increase the State's energy self sufficiency and agricultural
2 sustainability.

3 The purpose of this Act is to increase, with certain
4 limitations, the areas within agricultural lands in which solar
5 energy facilities may be constructed.

6 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) Agricultural districts shall include:

- 9 (1) Activities or uses as characterized by the cultivation
10 of crops, crops for bioenergy, orchards, forage, and
11 forestry;
- 12 (2) Farming activities or uses related to animal husbandry
13 and game and fish propagation;
- 14 (3) Aquaculture, which means the production of aquatic
15 plant and animal life within ponds and other bodies of
16 water;
- 17 (4) Wind generated energy production for public, private,
18 and commercial use;
- 19 (5) Biofuel production, as described in section
20 205-4.5(a)(15), for public, private, and commercial
21 use;
- 22 (6) Solar energy facilities; provided that [~~this~~]:



- 1 (A) This paragraph shall apply only to land with soil
2 classified by the land study bureau's detailed
3 land classification as overall (master)
4 productivity rating class B, C, D or E; and
5 (B) Solar energy facilities placed within land with
6 soil classified as overall productivity rating
7 class B or C shall not occupy more than ten per
8 cent of the acreage of the parcel, or twenty
9 acres of land, whichever is lesser;
- 10 (7) Bona fide agricultural services and uses that support
11 the agricultural activities of the fee or leasehold
12 owner of the property and accessory to any of the
13 above activities, regardless of whether conducted on
14 the same premises as the agricultural activities to
15 which they are accessory, including farm dwellings as
16 defined in section 205-4.5(a)(4), employee housing,
17 farm buildings, mills, storage facilities, processing
18 facilities, agricultural-energy facilities as defined
19 in section 205-4.5(a)(16), vehicle and equipment
20 storage areas, roadside stands for the sale of
21 products grown on the premises, and plantation



- 1 community subdivisions as defined in section
2 205-4.5(a)(12);
- 3 (8) Wind machines and wind farms;
- 4 (9) Small-scale meteorological, air quality, noise, and
5 other scientific and environmental data collection and
6 monitoring facilities occupying less than one-half
7 acre of land; provided that these facilities shall not
8 be used as or equipped for use as living quarters or
9 dwellings;
- 10 (10) Agricultural parks;
- 11 (11) Agricultural tourism conducted on a working farm, or a
12 farming operation as defined in section 165-2, for the
13 enjoyment, education, or involvement of visitors;
14 provided that the agricultural tourism activity is
15 accessory and secondary to the principal agricultural
16 use and does not interfere with surrounding farm
17 operations; and provided further that this paragraph
18 shall apply only to a county that has adopted
19 ordinances regulating agricultural tourism under
20 section 205-5; and
- 21 (12) Open area recreational facilities.



1 Agricultural districts shall not include golf courses and golf
2 driving ranges, except as provided in section 205-4.5(d).
3 Agricultural districts include areas that are not used for, or
4 that are not suited to, agricultural and ancillary activities by
5 reason of topography, soils, and other related characteristics."

6 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

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

12 (1) Cultivation of crops, including crops for bioenergy,
13 flowers, vegetables, foliage, fruits, forage, and
14 timber;

15 (2) Game and fish propagation;

16 (3) Raising of livestock, including poultry, bees, fish,
17 or other animal or aquatic life that are propagated
18 for economic or personal use;

19 (4) Farm dwellings, employee housing, farm buildings, or
20 activities or uses related to farming and animal
21 husbandry. "Farm dwelling", as used in this
22 paragraph, means a single-family dwelling located on



1 and used in connection with a farm, including clusters
2 of single-family farm dwellings permitted within
3 agricultural parks developed by the State, or where
4 agricultural activity provides income to the family
5 occupying the dwelling;

6 (5) Public institutions and buildings that are necessary
7 for agricultural practices;

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

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



- 1 (8) Retention, restoration, rehabilitation, or improvement
2 of buildings or sites of historic or scenic interest;
3 (9) Roadside stands for the sale of agricultural products
4 grown on the premises;
5 (10) Buildings and uses, including mills, storage, and
6 processing facilities, maintenance facilities, and
7 vehicle and equipment storage areas that are normally
8 considered directly accessory to the above-mentioned
9 uses and are permitted under section 205-2(d);
10 (11) Agricultural parks;
11 (12) Plantation community subdivisions, which as used in
12 this chapter means an established subdivision or
13 cluster of employee housing, community buildings, and
14 agricultural support buildings on land currently or
15 formerly owned, leased, or operated by a sugar or
16 pineapple plantation; provided that the existing
17 structures may be used or rehabilitated for use, and
18 new employee housing and agricultural support
19 buildings may be allowed on land within the
20 subdivision as follows:



- 1 (A) The employee housing is occupied by employees or
2 former employees of the plantation who have a
3 property interest in the land;
- 4 (B) The employee housing units not owned by their
5 occupants shall be rented or leased at affordable
6 rates for agricultural workers; or
- 7 (C) The agricultural support buildings shall be
8 rented or leased to agricultural business
9 operators or agricultural support services;
- 10 (13) Agricultural tourism conducted on a working farm, or a
11 farming operation as defined in section 165-2, for the
12 enjoyment, education, or involvement of visitors;
13 provided that the agricultural tourism activity is
14 accessory and secondary to the principal agricultural
15 use and does not interfere with surrounding farm
16 operations; and provided further that this paragraph
17 shall apply only to a county that has adopted
18 ordinances regulating agricultural tourism under
19 section 205-5;
- 20 (14) Wind energy facilities, including the appurtenances
21 associated with the production and transmission of
22 wind generated energy; provided that the wind energy



1 facilities and appurtenances are compatible with
2 agriculture uses and cause minimal adverse impact on
3 agricultural land;

4 (15) Biofuel processing facilities, including the
5 appurtenances associated with the production and
6 refining of biofuels that is normally considered
7 directly accessory and secondary to the growing of the
8 energy feedstock; provided that biofuels processing
9 facilities and appurtenances do not adversely impact
10 agricultural land and other agricultural uses in the
11 vicinity.

12 For the purposes of this paragraph:

13 "Appurtenances" means operational infrastructure
14 of the appropriate type and scale for economic
15 commercial storage and distribution, and other similar
16 handling of feedstock, fuels, and other products of
17 biofuels processing facilities.

18 "Biofuel processing facility" means a facility
19 that produces liquid or gaseous fuels from organic
20 sources such as biomass crops, agricultural residues,
21 and oil crops, including palm, canola, soybean, and
22 waste cooking oils; grease; food wastes; and animal



1 residues and wastes that can be used to generate
2 energy;
3 (16) Agricultural-energy facilities, including
4 appurtenances necessary for an agricultural-energy
5 enterprise; provided that the primary activity of the
6 agricultural-energy enterprise is agricultural
7 activity. To be considered the primary activity of an
8 agricultural-energy enterprise, the total acreage
9 devoted to agricultural activity shall be not less
10 than ninety per cent of the total acreage of the
11 agricultural-energy enterprise. The agricultural-
12 energy facility shall be limited to lands owned,
13 leased, licensed, or operated by the entity conducting
14 the agricultural activity.

15 As used in this paragraph:

16 "Agricultural activity" means any activity
17 described in paragraphs (1) to (3) of this subsection.

18 "Agricultural-energy enterprise" means an
19 enterprise that integrally incorporates an
20 agricultural activity with an agricultural-energy
21 facility.



1 "Agricultural-energy facility" means a facility
2 that generates, stores, or distributes renewable
3 energy as defined in section 269-91 or renewable fuel
4 including electrical or thermal energy or liquid or
5 gaseous fuels from products of agricultural activities
6 from agricultural lands located in the State.

7 "Appurtenances" means operational infrastructure
8 of the appropriate type and scale for the economic
9 commercial generation, storage, distribution, and
10 other similar handling of energy, including equipment,
11 feedstock, fuels, and other products of agricultural-
12 energy facilities;

13 (17) Construction and operation of wireless communication
14 antennas; provided that, for the purposes of this
15 paragraph, "wireless communication antenna" means
16 communications equipment that is either freestanding
17 or placed upon or attached to an already existing
18 structure and that transmits and receives
19 electromagnetic radio signals used in the provision of
20 all types of wireless communications services;
21 provided further that nothing in this paragraph shall
22 be construed to permit the construction of any new



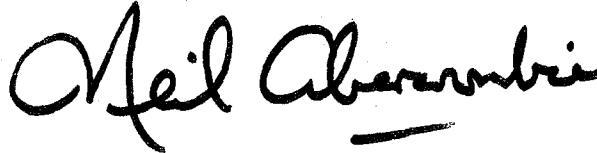
1 structure that is not deemed a permitted use under
2 this subsection; [~~ex~~]

3 (18) Agricultural education programs conducted on a farming
4 operation as defined in section 165-2, for the
5 education and participation of the general public;
6 provided that the agricultural education programs are
7 accessory and secondary to the principal agricultural
8 use of the parcels or lots on which the agricultural
9 education programs are to occur and do not interfere
10 with surrounding farm operations. For the purposes of
11 this section, "agricultural education programs" means
12 activities or events designed to promote knowledge and
13 understanding of agricultural activities and practices
14 conducted on a farming operation as defined in section
15 165-2 [~~-~~]; or

16 (19) Solar energy facilities that do not occupy more than
17 ten per cent of the acreage of the parcel, or twenty
18 acres of land, whichever is lesser; provided that this
19 use shall not be permitted on lands with soil
20 classified by the land study bureau's detailed land
21 classification as overall (master) productivity rating
22 class A."

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.

APPROVED this 11 day of JUL, 2011

A handwritten signature in black ink that reads "Neil Abernethy". The signature is written in a cursive style with a horizontal line under the name.

GOVERNOR OF THE STATE OF HAWAII