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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. 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. The purpose of Act 173 was  
6 to facilitate the financing and development of renewable energy  
7 projects by allowing leases and easements pertaining to  
8 renewable energy projects, together with mortgages and other  
9 conveyances as security for finance, to be created, enforced,  
10 and recorded, without requiring the landowner to obtain formal  
11 subdivision approval, and instead requiring approval for  
12 exemption from subdivision requirements, from the applicable  
13 county or other approving agency.

14           The need to encourage and facilitate renewable energy  
15 facilities in the State persists, but critical sections of Act  
16 173 will be repealed on July 1, 2013, unless the legislature  
17 acts.



1           The purpose of this Act is to extend the repeal date of Act  
2 173 to highlight the State's commitment to encouraging and  
3 facilitating renewable energy projects throughout the State and  
4 to clarify that wind energy projects qualify for the exemptions.

5           SECTION 2. Section 201N-13, Hawaii Revised Statutes, is  
6 amended as follows:

7           1. By amending its title and subsection (a) to read:

8           "~~§~~201N-13~~§~~ **Subdivision exemptions in existence on**  
9 **June 30, ~~2013.~~ 2020.** (a) Any lease or easement (together  
10 with any mortgages or other documents encumbering either) that  
11 received a subdivision exemption that is in existence on  
12 June 30, ~~2013,~~ 2020, may continue to be effective and shall  
13 continue to enjoy the exemption from subdivision requirements  
14 granted under section 201N-14 after that section is repealed on  
15 July 1, ~~2013,~~ 2020; provided that the following restrictions  
16 are complied with:

17           (1) The terms of the lease or easement shall restrict the  
18 use of the leased land or easement area to the  
19 development and operation of a renewable energy  
20 project; provided that, to comply with section  
21 205-4.6, agricultural uses and activities shall not be  
22 restricted on agricultural land; and



1 (2) The lease shall have an initial term of at least  
2 twenty years."

3 2. By amending subsection (e) to read:

4 (e) Any material change after June 30, [~~2013~~] 2020,  
5 regarding the leased land or easement area shall be subject to  
6 subdivision requirements; provided that the county agency  
7 charged with administering subdivisions (for land within the  
8 agricultural state land use district) or the department of land  
9 and natural resources (for land within the conservation state  
10 land use district) shall deem all subdivision requirements from  
11 which the lease or easement was exempt pursuant to the original  
12 subdivision exemption to be met and the lease or easement shall  
13 continue to be exempt from the requirements. The lease or  
14 easement shall only be subject to the additional subdivision  
15 requirements, if any, necessitated by the material change."

16 SECTION 3. Section 201N-14, Hawaii Revised Statutes, is  
17 amended by amending subsection (d) to read as follows:

18 "(d) The exemption from subdivision requirements  
19 authorized by this section shall only apply to leases and  
20 easements that meet the following requirements and shall be  
21 subject to the following limitations:



- 1           (1) The lease or easement shall restrict the use of the  
2           leased land or easement area to the development and  
3           operation of a renewable energy project; provided  
4           that, to comply with section 205-4.6, agricultural  
5           uses and activities shall not be restricted on  
6           agricultural land;
- 7           (2) The lease shall have an initial term of at least  
8           twenty years;
- 9           (3) With respect to leases and easements on lands within  
10          an agricultural state land use district, the exemption  
11          from subdivision requirements provided by this section  
12          shall be for:
- 13          (A) Solar energy facilities permitted under section  
14             205-2(d)(6), on land with soil classified by the  
15             land study bureau's detailed land classification  
16             as overall (master) productivity rating class D  
17             or E; [and]
- 18          (B) Wind energy facilities permitted under section  
19             205-2(d)(4) and (8), including the appurtenances  
20             associated with the production and transmission  
21             of wind-generated energy; and



1           ~~[(B)]~~ (C) Any renewable energy facilities approved by  
2                           the land use commission or county planning  
3                           commission under chapter 205;

4           (4) With respect to leases and easements on lands within a  
5                           conservation state land use district, the exemption  
6                           from subdivision requirements provided by this section  
7                           shall be for:

8                   (A) Wind energy facilities, including the  
9                           appurtenances associated with the production and  
10                           transmission of wind-generated energy; and

11                   (B) Any renewable energy facilities permitted or  
12                           approved by the board of land and natural  
13                           resources under chapter 183C; 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 4. Act 173, Session Laws of Hawaii 2009, is  
15 amended by amending section 7 to read as follows:

16 "SECTION 7. This Act shall take effect upon its approval;  
17 provided that sections 2 and 4 of this Act shall be repealed on  
18 July 1, [~~2013-~~] 2020."

19 SECTION 5. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

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



**Report Title:**

Renewable Energy; Subdivision Requirements; Exemption

**Description:**

Extends the repeal date of Act 173 (2009), which exempts renewable energy projects from subdivision requirements on State agricultural or conservation lands from July 1, 2013, to July 1, 2020. Clarifies that wind energy projects are included in the exemption. Makes conforming amendments to section 201N-13, HRS. (SD2)

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