
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that there has been a
2 proliferation of residential dwellings within agricultural
3 districts that may not be occupied in connection with an actual
4 farm. This Act should reduce the attractiveness of agricultural
5 land for subdivision and development into "fake farms" or
6 "gentlemen's estates" on which agricultural activity is
7 nonexistent, negligible, or inauthentic. The legislature
8 intends that this Act promote actual agricultural activity on
9 lots in agricultural districts and make agricultural land more
10 available and affordable to farmers and agribusinesses.

11 The purposes of this Act are to:

- 12 (1) Establish a maximum floor area for a farm dwelling on
13 a lot in an agricultural district; and
14 (2) Increase the minimum lot size in an agricultural
15 district.

16 SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:



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

5 (1) Cultivation of crops, including crops for bioenergy,
6 flowers, vegetables, foliage, fruits, forage, and
7 timber;

8 (2) Game and fish propagation;

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

12 (4) Farm dwellings, employee housing, farm buildings, or
13 activities or uses related to farming and animal
14 husbandry. "Farm dwelling", as used in this
15 paragraph, means a single-family dwelling located on
16 and used in connection with a farm, including clusters
17 of single-family farm dwellings permitted within
18 agricultural parks developed by the State, or where
19 agricultural activity provides income to the family
20 occupying the dwelling[?]. A farm dwelling that has
21 received final governmental approval for construction
22 after June 30, 2011, shall have a floor area not



1 greater than two thousand square feet. "Floor area"
2 means the area of all floors under roof of a farm
3 dwelling, measured from the exterior faces of the
4 exterior walls of the dwelling. "Floor area" includes
5 the area under roof of any basement or any attic not
6 less than seven feet in height. The land use
7 commission may adopt rules pursuant to chapter 91 to
8 further define "floor area" consistent with this
9 paragraph;

10 (5) Public institutions and buildings that are necessary
11 for agricultural practices;

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

17 (7) Public, private, and quasi-public utility lines and
18 roadways, transformer stations, communications
19 equipment buildings, solid waste transfer stations,
20 major water storage tanks, and appurtenant small
21 buildings such as booster pumping stations, but not
22 including offices or yards for equipment, material,



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



1 buildings may be allowed on land within the
2 subdivision as follows:

3 (A) The employee housing is occupied by employees or
4 former employees of the plantation who have a
5 property interest in the land;

6 (B) The employee housing units not owned by their
7 occupants shall be rented or leased at affordable
8 rates for agricultural workers; or

9 (C) The agricultural support buildings shall be
10 rented or leased to agricultural business
11 operators or agricultural support services;

12 (13) Agricultural tourism conducted on a working farm, or a
13 farming operation as defined in section 165-2, for the
14 enjoyment, education, or involvement of visitors;
15 provided that the agricultural tourism activity is
16 accessory and secondary to the principal agricultural
17 use and does not interfere with surrounding farm
18 operations; and provided further that this paragraph
19 shall apply only to a county that has adopted
20 ordinances regulating agricultural tourism under
21 section 205-5;



1 (14) Wind energy facilities, including the appurtenances
2 associated with the production and transmission of
3 wind generated energy; provided that the wind energy
4 facilities and appurtenances are compatible with
5 agriculture uses and cause minimal adverse impact on
6 agricultural land;

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

15 For the purposes of this paragraph:

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

21 "Biofuel processing facility" means a facility
22 that produces liquid or gaseous fuels from organic



1 sources such as biomass crops, agricultural residues,
2 and oil crops, including palm, canola, soybean, and
3 waste cooking oils; grease; food wastes; and animal
4 residues and wastes that can be used to generate
5 energy;

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

18 As used in this paragraph:

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

21 "Agricultural-energy enterprise" means an
22 enterprise that integrally incorporates an



1 agricultural activity with an agricultural-energy
2 facility.

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

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

15 (17) Construction and operation of wireless communication
16 antennas; provided that, for the purposes of this
17 paragraph, "wireless communication antenna" means
18 communications equipment that is either freestanding
19 or placed upon or attached to an already existing
20 structure and that transmits and receives
21 electromagnetic radio signals used in the provision of
22 all types of wireless communications services;



1 provided further that nothing in this paragraph shall
2 be construed to permit the construction of any new
3 structure that is not deemed a permitted use under
4 this subsection; or

5 (18) Agricultural education programs conducted on a farming
6 operation as defined in section 165-2, for the
7 education and participation of the general public;
8 provided that the agricultural education programs are
9 accessory and secondary to the principal agricultural
10 use of the parcels or lots on which the agricultural
11 education programs are to occur and do not interfere
12 with surrounding farm operations. For the purposes of
13 this section, "agricultural education programs" means
14 activities or events designed to promote knowledge and
15 understanding of agricultural activities and practices
16 conducted on a farming operation as defined in section
17 165-2."

18 SECTION 3. Section 205-5, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) Within agricultural districts, uses compatible to the
21 activities described in section 205-2 as determined by the
22 commission shall be permitted; provided that accessory



1 agricultural uses and services described in sections 205-2 and
2 205-4.5 may be further defined by each county by zoning
3 ordinance. Each county shall adopt ordinances setting forth
4 procedures and requirements, including provisions for
5 enforcement, penalties, and administrative oversight, for the
6 review and permitting of agricultural tourism uses and
7 activities as an accessory use on a working farm, or farming
8 operation as defined in section 165-2; provided that
9 agricultural tourism activities shall not be permissible in the
10 absence of a bona fide farming operation. Ordinances shall
11 include but not be limited to:

- 12 (1) Requirements for access to a farm, including road
13 width, road surface, and parking;
- 14 (2) Requirements and restrictions for accessory facilities
15 connected with the farming operation, including gift
16 shops and restaurants; provided that overnight
17 accommodations shall not be permitted;
- 18 (3) Activities that may be offered by the farming
19 operation for visitors;
- 20 (4) Days and hours of operation; and
- 21 (5) Automatic termination of the accessory use upon the
22 cessation of the farming operation.



1 Each county may require an environmental assessment under
2 chapter 343 as a condition to any agricultural tourism use and
3 activity. Other uses may be allowed by special permits issued
4 pursuant to this chapter. The minimum lot size in agricultural
5 districts shall be determined by each county by zoning
6 ordinance, subdivision ordinance, or other lawful means;
7 provided that the minimum lot size for any lot in the
8 agricultural [~~use~~] district shall [~~not~~] be not less than [~~one~~
9 ~~acre,~~] five acres, except as provided herein. If the county
10 finds that unreasonable economic hardship to the owner or lessee
11 of land cannot otherwise be prevented or where land
12 [~~utilization~~] use is improved, the county may allow lot sizes of
13 less than the minimum lot size as specified by law for lots
14 created by a consolidation of existing lots within an
15 agricultural district and the resubdivision thereof; provided
16 that the consolidation and resubdivision do not result in an
17 increase in the number of lots over the number existing prior to
18 consolidation; and provided further that in no event shall a lot
19 [~~which~~] that is equal to or exceeds the minimum lot size of [~~one~~
20 ~~acre~~] five acres be less than that minimum after the
21 consolidation and resubdivision action. The county may also
22 allow lot sizes of less than the minimum lot size as specified



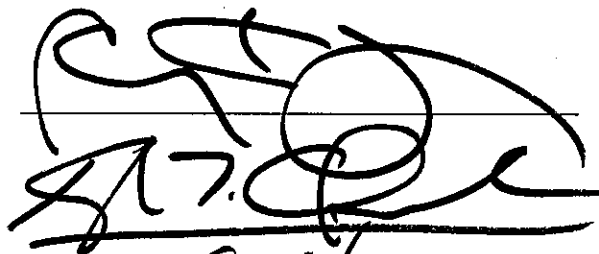
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1 by law for lots created or used for plantation community
 2 subdivisions as defined in section 205-4.5(a)(12), for public,
 3 private, and quasi-public utility purposes, and for lots
 4 resulting from the subdivision of abandoned roadways and
 5 railroad easements."

6 SECTION 4. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

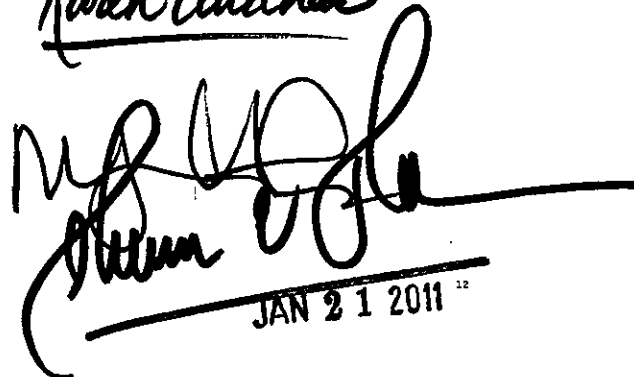
8 SECTION 5. This Act shall take effect on July 1, 2011.
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INTRODUCED BY:



R. L. ...
Winn-Dixie

Fons ...
Karen ...




Report Title:

Agriculture; Farm Dwelling

Description:

Establishes maximum floor area for a farm dwelling in the agricultural district and increases the minimum lot size in the agricultural district to 5 acres.

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