



GOV. MSG. NO. 1216

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

June 15, 2012

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 June 15, 2012, the following bill was signed into law:

SB2646 SD1 HD2 CD1

RELATING TO BUILDING PERMITS.  
**Act 114 (12)**

NEIL ABERCROMBIE  
Governor, State of Hawaii

Approved By the Governor

on JUN 15 2012

THE SENATE  
TWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

ACT 114  
S.B. NO. 2646  
S.D. 1  
H.D. 2  
C.D. 1

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# A BILL FOR AN ACT

RELATING TO BUILDING PERMITS.

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

1 SECTION 1. The legislature finds that existing building  
2 codes and permitting processes are overly burdensome to the  
3 State's commercial agriculture and aquaculture industries and  
4 add substantial time and costs to establishing or expanding  
5 farming and ranching enterprises in the State.

6 The purpose of this Act is to encourage and support  
7 diversified agriculture and agricultural self-sufficiency in the  
8 State by providing an exemption from building permit  
9 requirements for nonresidential buildings or structures on  
10 commercial farms and ranches located outside of the urban  
11 district under certain conditions.

12 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
13 by adding a new section to be appropriately designated and to  
14 read as follows:

15 "§46- Agricultural and aquacultural buildings and  
16 structures; no building permit required. (a) Each county shall  
17 establish an agricultural buildings and structures exemption  
18 list of buildings and structures that are exempt from existing



1 building permit requirements. The list shall be established by  
2 each county no later than January 1, 2013. Agricultural  
3 buildings, structures, or appurtenances thereto, which are not  
4 used as dwelling or lodging units, may be exempted from existing  
5 building permit requirements where they are no more than 1,000  
6 square feet in floor area; provided that the aggregate floor  
7 area of the exempted agricultural building, structure, or  
8 appurtenance thereto shall not exceed 5,000 square feet per  
9 zoning lot and the minimum horizontal separation between each  
10 agricultural building, structure, or appurtenance thereto is  
11 fifteen feet, and the agricultural buildings, structures, or  
12 appurtenances thereto are located on a commercial farm or ranch  
13 and are used for general agricultural or aquacultural  
14 operations, or for purposes incidental to such operations;  
15 provided further that:

16 (1) The agricultural building, structure, or appurtenance  
17 thereto is constructed or installed on property that  
18 is used primarily for agricultural or aquacultural  
19 operations, and is two or more contiguous acres in  
20 area or one or more contiguous acres in area if  
21 located in a nonresidential agricultural or  
22 aquacultural park;



1       (2) Upon completion of construction or installation, the  
2       owner or occupier shall provide written notice to the  
3       appropriate county fire department and county building  
4       permitting agency of the size, type, and locations of  
5       the building, structure, or appurtenance thereto.  
6       Such written notification shall be provided to the  
7       county agencies within thirty days of the completion  
8       of the building, structure, or appurtenance thereto.  
9       Failure to provide such written notice may void the  
10       building permit exemption, which voidance for such  
11       failure is subject to the sole discretion of the  
12       appropriate county building permitting agency;  
13       (3) No electrical power and no plumbing systems shall be  
14       connected to the building or structure without first  
15       obtaining the appropriate county electrical or  
16       plumbing permit, and all such installations shall be  
17       installed under the supervision of a licensed  
18       electrician or plumber, as appropriate, and inspected  
19       and approved by an appropriate county or licensed  
20       inspector; and



1       (4) Disposal of wastewater from any building or structure  
2       constructed or installed pursuant to this section  
3       shall comply with chapter 342D.

4       (b) For purposes of subsection (a), the following  
5       buildings and structures and appurtenances thereto shall be  
6       included in each county's agricultural building and structures  
7       exemption list:

8       (1) Nonresidential manufactured pre-engineered commercial  
9       buildings and structures consisting of no more than  
10       1,000 square feet that have no electrical power and  
11       have no potable water, sewage, or other plumbing  
12       related services, or have such electrical or plumbing  
13       related services installed and inspected in accordance  
14       with subsection (a)(3) and (4);

15       (2) Single stand alone recycled ocean shipping or cargo  
16       containers that are used as nonresidential commercial  
17       buildings;

18       (3) Notwithstanding the 1,000 square foot floor area  
19       restriction in subsection (a), agricultural shade  
20       cloth structures, cold frames, or greenhouses not  
21       exceeding 20,000 square feet in area per structure;  
22       provided that where multiple structures are erected,



1 the minimum horizontal separation between each shade  
2 cloth structure, cold frame, or greenhouse is fifteen  
3 feet;

4 (4) Aquacultural or aquaponics structures, including  
5 above-ground water storage or production tanks,  
6 troughs, and raceways with a maximum height of six  
7 feet above grade, and in-ground ponds and raceways,  
8 and piping systems for aeration, carbon dioxide, or  
9 fertilizer or crop protection chemical supplies within  
10 agricultural or aquacultural production facilities;

11 (5) Livestock watering tanks, water piping and plumbing  
12 not connected to a source of potable water, or  
13 separated by an air gap from such a source;

14 (6) Non-masonry fences not exceeding ten feet in height  
15 and masonry fences not exceeding six feet in height;

16 (7) One-story masonry or wood-framed buildings or  
17 structures with a structural span of less than twenty-  
18 five feet and a total square footage of no more than  
19 1,000 square feet, including farm buildings used as:

20 (A) Barns;

21 (B) Greenhouses;



- 1           (C) Farm production buildings including aquaculture  
2           hatcheries and plant nurseries;
- 3           (D) Storage buildings for farm equipment or plant or  
4           animal supplies or feed; or
- 5           (E) Storage or processing buildings for crops;  
6           provided that the height of any stored items  
7           shall not collectively exceed twelve feet in  
8           height and the storage of any hazardous materials  
9           shall comply with any and all applicable  
10           statutes, regulations, and codes;
- 11          (8) Raised beds containing soil, gravel, cinders, or other  
12          growing media or substrates with wood, metal, or  
13          masonry walls or supports with a maximum height of  
14          four feet; and
- 15          (9) Horticultural tables or benches no more than four feet  
16          in height supporting potted plants or other crops;  
17          provided that the buildings, structures, and appurtenances  
18          thereto comply with all applicable state and county codes,  
19          including but not limited to applicable building, fire, health,  
20          safety, and zoning codes and are properly anchored.
- 21          (c) In the event that a county fails to establish the  
22          agricultural buildings and structures exemption list within the



1 time period as required under subsection (a), the buildings and  
2 structures specified in subsection (b) shall constitute that  
3 county's agricultural building and structures exemption list.

4 (d) As used in this section:

5 "Agricultural building or aquacultural building" means a  
6 nonresidential building or structure located on a commercial  
7 farm or ranch constructed or installed to house farm or ranch  
8 implements, agricultural or aquacultural feeds or supplies,  
9 livestock, poultry, or other agricultural or aquacultural  
10 products, used in or necessary for the operation of the farm or  
11 ranch, or for the processing and selling of farm or ranch  
12 products.

13 "Agricultural operation" means the planting, cultivating,  
14 harvesting, processing, or storage of crops, including those  
15 planted, cultivated, harvested, and processed for food,  
16 ornamental, grazing, feed, or forestry purposes, as well as the  
17 feeding, breeding, management, and sale of animals including  
18 livestock, poultry, honeybees, and their products.

19 "Appurtenance" means an object or device in, on, or  
20 accessory to a building or structure, and which enhances or is  
21 essential to the usefulness of the building or structure,  
22 including but not limited to work benches, horticultural and





1 floricultural growing benches, aquacultural, aquaponic, and  
2 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,  
3 when situated within a structure.

4 "Aquacultural operation" means the propagation,  
5 cultivation, farming, harvesting, processing, and storage of  
6 aquatic plants and animals in controlled or selected  
7 environments for research, commercial, or stocking purposes and  
8 includes aquaponics or any growing of plants or animals in or  
9 with aquaculture effluents.

10 "Manufactured pre-engineered commercial building or  
11 structure" means a building or structure whose specifications  
12 comply with appropriate county codes, and have been pre-approved  
13 by a county or building official.

14 "Nonresidential building or structure" means a building or  
15 structure that is used only for agricultural or aquacultural  
16 operations, including an agricultural building or aquacultural  
17 building, and is not intended for use as, or used as, a  
18 dwelling.

19 (e) This section shall not apply to buildings or  
20 structures otherwise exempted from building permitting or  
21 building code requirements by applicable county ordinance.



1        (f) This section shall not be construed to supersede  
2 public or private lease conditions.

3        (g) This section shall not apply to the construction or  
4 installation of any building or structure on land in an urban  
5 district."

6        SECTION 3. (a) The department of the attorney general  
7 shall establish a task force to assess any conflicts between  
8 applicable state statutes, including section 46- , Hawaii  
9 Revised Statutes, county code requirements, and the interest of  
10 the State's commercial agriculture and aquaculture industries.

11        (b) The task force shall consist of the following members:

12        (1) A representative from the department of agriculture;

13        (2) A representative from each county's building  
14        permitting department;

15        (3) A representative from the Hawaii Farm Bureau  
16        Federation;

17        (4) A representative from the Hawaii Aquaculture and  
18        Aquaponics Association; and

19        (5) A representative from the state fire council.

20        (c) The task force shall identify and examine any  
21 conflicts described in subsection (a) and shall identify and



1 recommend potential resolutions to the governor before December  
2 15, 2012.

3 (d) Members of the task force shall not be considered  
4 employees of the State for purposes of chapter 84, Hawaii  
5 Revised Statutes, based solely upon their participation on the  
6 task force.

7 (e) The task force shall be exempt from the requirements  
8 of chapter 92, Hawaii Revised Statutes.

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 2012.

APPROVED this 15 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII