



**GOV. MSG. NO. 1270**

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

June 27, 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 27, 2012, the following bill was signed into law:

HB2150 HD2 SD1

RELATING TO AGRICULTURAL LANDS.  
**Act 167 (12)**

*Sincerely,*  


NEIL ABERCROMBIE  
Governor, State of Hawaii

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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

- 1 SECTION 1. Section 205-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:
- 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  
15 205-4.5(a)(15), for public, private, and commercial  
16 use;
- 17 (6) Solar energy facilities; provided that:



- 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, photovoltaic, biogas, and other small-  
19 scale renewable energy systems producing energy solely  
20 for use in the agricultural activities of the fee or  
21 leasehold owner of the property, agricultural-energy  
22 facilities as defined in section 205-4.5(a)(16),



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



1 (12) Open area recreational facilities.

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

4 Agricultural districts include areas that are not used for, or  
5 that are not suited to, agricultural and ancillary activities by  
6 reason of topography, soils, and other related characteristics."

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

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

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

16 (2) Game and fish propagation;

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

20 (4) Farm dwellings, employee housing, farm buildings, or  
21 activities or uses related to farming and animal  
22 husbandry. "Farm dwelling", as used in this



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

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

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

14 (7) Public, private, and quasi-public utility lines and  
15 roadways, transformer stations, communications  
16 equipment buildings, solid waste transfer stations,  
17 major water storage tanks, and appurtenant small  
18 buildings such as booster pumping stations, but not  
19 including offices or yards for equipment, material,  
20 vehicle storage, repair or maintenance, treatment  
21 plants, corporation yards, or other similar  
22 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,  
7           photovoltaic, biogas, and other small-scale renewable  
8           energy systems producing energy solely for use in the  
9           agricultural activities of the fee or leasehold owner  
10           of the property, and vehicle and equipment storage  
11           areas that are normally considered directly accessory  
12           to the above-mentioned uses and are permitted under  
13           section 205-2(d);
- 14           (11) Agricultural parks;
- 15           (12) Plantation community subdivisions, which as used in  
16           this chapter means an established subdivision or  
17           cluster of employee housing, community buildings, and  
18           agricultural support buildings on land currently or  
19           formerly owned, leased, or operated by a sugar or  
20           pineapple plantation; provided that the existing  
21           structures may be used or rehabilitated for use, and  
22           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 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;

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; or

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



1 classification as overall (master) productivity rating  
2 class A."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

APPROVED this 27 day of JUN, 2012

  
GOVERNOR OF THE STATE OF HAWAII

