
A BILL FOR AN ACT

RELATING TO GEOTHERMAL RESOURCES.

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

1 SECTION 1. Chapter 205, Hawaii Revised Statutes, is
2 amended by adding three new sections to be appropriately
3 designated and to read as follows:
4 "§205-A Geothermal resource subzones. (a) Geothermal
5 resource subzones may be designated within the urban, rural,
6 agricultural, and conservation land use districts established
7 under section 205-2. Only those areas designated as geothermal
8 resource subzones may be utilized for geothermal development
9 activities in addition to those uses permitted in each land use
10 district under this chapter. Geothermal development activities
11 may be permitted within urban, rural, agricultural, and
12 conservation land use districts in accordance with this chapter.
13 "Geothermal development activities" means the exploration,
14 development, or production of electrical energy from geothermal
15 resources and direct use applications of geothermal resources;
16 provided that within the urban, rural, and agricultural land use
17 districts, direct use applications of geothermal resources are
18 permitted both within and outside of areas designated as



1 geothermal resource subzones pursuant to section 205-B if such
2 direct use applications are in conformance with all other
3 applicable state and county land use regulations and are in
4 conformance with this chapter.

5 (b) The board of land and natural resources shall have the
6 responsibility for designating areas as geothermal resource
7 subzones pursuant to section 205-B; provided that the total area
8 within an agricultural district which is the subject of a
9 geothermal mining lease approved by the board of land and
10 natural resources, any part or all of which area is the subject
11 of a special use permit issued by the county for geothermal
12 development activities, on or before May 25, 1984, is designated
13 as a geothermal resource subzone for the duration of the lease.

14 The designation of geothermal resource subzones shall be
15 governed exclusively by this section and section 205-B, except
16 as provided therein. The board shall adopt, amend, or repeal
17 rules related to its authority to designate and regulate the use
18 of geothermal resource subzones in the manner provided under
19 chapter 91.

20 The authority of the board to designate geothermal resource
21 subzones shall be an exception to the provisions of this chapter
22 and of section 46-4 authorizing the land use commission and the



1 counties to establish and modify land use districts and to
2 regulate uses therein. The provisions of this section shall not
3 abrogate nor supersede the provisions of chapters 182, 183, and
4 183C.

5 (c) The use of an area for geothermal development
6 activities within a geothermal resource subzone shall be
7 governed by the board within the conservation district and,
8 except as herein provided, by state and county statutes,
9 ordinances, and rules not inconsistent herewith within
10 agricultural, rural, and urban districts, except that no land
11 use commission approval or special use permit procedures under
12 section 205-6 shall be required for the use of such subzones.
13 In the absence of provisions in the county general plan and
14 zoning ordinances specifically relating to the use and location
15 of geothermal development activities in an agricultural, rural,
16 or urban district, the appropriate county authority may issue a
17 geothermal resource permit to allow geothermal development
18 activities. "Appropriate county authority" means the county
19 planning commission unless some other agency or body is
20 designated by ordinance of the county council. Such uses as are
21 permitted by county general plan and zoning ordinances, by the
22 appropriate county authority, shall be deemed to be reasonable



1 and to promote the effectiveness and objectives of this chapter.
2 Chapters 182, 183, 183C, 205A, 226, and 343 shall apply as
3 appropriate. If provisions in the county general plan and
4 zoning ordinances specifically relate to the use and location of
5 geothermal development activities in an agricultural, rural, or
6 urban district, the provisions shall require the appropriate
7 county authority to conduct a public hearing on any application
8 for a geothermal resource permit to determine whether the use is
9 in conformity with the criteria specified in subsection (e) for
10 granting geothermal resource permits; provided that within the
11 urban, rural, and agricultural land use districts, direct use
12 applications of geothermal resources are permitted without any
13 application for a geothermal resource permit within and outside
14 of areas designated as geothermal resource subzones pursuant to
15 section 205-B if such direct use applications conform with all
16 other applicable state and county land use regulations and are
17 in conformance with this chapter.

18 (d) If geothermal development activities are proposed
19 within a conservation district and an application with all
20 required data is submitted, the board of land and natural
21 resources shall conduct a public hearing and, upon appropriate
22 request for mediation from any party who submitted comment at



1 the public hearing, the board shall appoint a mediator within
2 five days. The board shall require the parties to participate
3 in mediation. The mediator shall not be a member of the board
4 or its staff. The mediation period shall not extend beyond
5 thirty days after the date mediation started, except by order of
6 the board. Mediation shall be confined to the issues raised at
7 the public hearing by the party requesting mediation. The
8 mediator shall submit a written recommendation to the board,
9 based upon any mediation agreement reached between the parties
10 for consideration by the board in its final decision. If there
11 is no mediation agreement, the board may hold a second public
12 hearing to receive additional comment related to the mediation
13 issues. Within ten days after the second public hearing, the
14 board may receive additional written comment on the issues
15 raised at the second public hearing from any party.

16 The board shall consider the comments raised at the second
17 hearing before rendering its final decision. The board shall
18 then determine whether, pursuant to rules adopted by the board,
19 a conservation district use permit shall be granted to authorize
20 the geothermal development activities described in the
21 application. The board shall grant a conservation district use
22 permit if it finds that the applicant has demonstrated that:



1 (1) The desired uses would not have unreasonable adverse
2 health, environmental, or socioeconomic effects on
3 residents or surrounding property and would not
4 unreasonably burden public agencies to provide roads
5 and streets, sewers, water, drainage, and police and
6 fire protection; or

7 (2) There are reasonable measures available to mitigate
8 the unreasonable adverse effects or burdens identified
9 in paragraph (1).

10 A decision shall be made by the board within six months of
11 the date a complete application was filed; provided that the
12 time limit may be extended by agreement between the applicant
13 and the board.

14 (e) If geothermal development activities are proposed
15 within agricultural, rural, or urban districts and such proposed
16 activities are not permitted uses pursuant to county general
17 plan and zoning ordinances, then after receipt of a properly
18 filed and completed application, including all required
19 supporting data, the appropriate county authority shall conduct
20 a public hearing. Upon appropriate request for mediation from
21 any party who submitted comment at the public hearing, the
22 county authority shall appoint a mediator within five days. The



1 county authority shall require the parties to participate in
2 mediation. The mediator shall not be an employee of any county
3 agency or its staff. The mediation period shall not extend
4 beyond thirty days after mediation started, except by order of
5 the county authority. Mediation shall be confined to the issues
6 raised at the public hearing by the party requesting mediation.
7 The mediator shall submit a written recommendation to the county
8 authority, based upon any mediation agreement reached between
9 the parties for consideration by the county authority in its
10 final decision. If there is no mediation agreement, the county
11 authority may hold a second public hearing to receive additional
12 comment related to the mediation issues. Within ten days after
13 the second public hearing, the county authority may receive
14 additional written comment on the issues raised at the second
15 public hearing from any party.

16 The county authority shall consider the comments raised at
17 the second hearing before rendering its final decision. The
18 county authority shall then determine whether a geothermal
19 resource permit shall be granted to authorize the geothermal
20 development activities described in the application. The
21 appropriate county authority shall grant a geothermal resource
22 permit if it finds that applicant has demonstrated that:



1 (1) The desired uses would not have unreasonable adverse
 2 health, environmental, or socioeconomic effects on
 3 residents or surrounding property and would not
 4 unreasonably burden public agencies to provide roads
 5 and streets, sewers, water, drainage, school
 6 improvements, and police and fire protection; or

7 (2) That there are reasonable measures available to
 8 mitigate the unreasonable adverse effects or burdens
 9 referred to in paragraph (1).

10 Unless there is a mutual agreement to extend the time
 11 limit, a decision shall be made on the application by the
 12 appropriate county authority within six months of the date a
 13 complete application was filed; provided that the time limit may
 14 be extended by agreement between the applicant and the
 15 appropriate county authority.

16 (f) Requests for mediation shall be received by the board
 17 or county authority within five days after the close of the
 18 initial public hearing. Within five days thereafter, the board
 19 or county authority shall appoint a mediator. Any person
 20 submitting an appropriate request for mediation shall be
 21 notified by the board or county authority of the date, time, and
 22 place of the mediation conference by depositing such notice in



1 the mail to the return address stated on the request for
2 mediation. The notice shall be mailed no later than ten days
3 before the start of the mediation conference. The conference
4 shall be held on the island on which the public hearing is held.

5 (g) Any decision made by an appropriate county authority
6 or the board pursuant to a public hearing or hearings under this
7 section may be appealed directly on the record to the
8 intermediate appellate court for final decision and shall not be
9 subject to a contested case hearing. Sections 91-14(b) and (g)
10 shall govern the appeal, notwithstanding the lack of a contested
11 case hearing on the matter. The appropriate county authority or
12 the board shall provide a court reporter to produce a transcript
13 of the proceedings at all public hearings under this section for
14 purposes of an appeal.

15 (h) For the purposes of an appeal from a decision from a
16 public hearing, the record shall include:

17 (1) The application for the permit and all accompanying
18 supporting documents, including: reports, studies,
19 affidavits, statements, and exhibits;

20 (2) Staff recommendations submitted to the members of the
21 agency in consideration of the application;



1 (3) Oral and written public testimony received at the
2 public hearings;

3 (4) Written transcripts of the proceedings at the public
4 hearings;

5 (5) The written recommendation received by the agency from
6 the mediator with any mediation agreement;

7 (6) A statement of relevant matters noticed by the agency
8 members at the public hearings;

9 (7) The written decision of the agency issued in
10 connection with the application and public hearings;

11 and

12 (8) Other documents required by the board or county
13 authority.

14 §205-B Designation of areas as geothermal resource

15 subzones. (a) Beginning in 1983, the board of land and natural
16 resources shall conduct a county-by-county assessment of areas
17 with geothermal potential for the purpose of designating
18 geothermal resource subzones. This assessment shall be revised
19 or updated at the discretion of the board, but at least once
20 every five years beginning in 1988. Any property owner or
21 person with an interest in real property wishing to have an area
22 designated as a geothermal resource subzone may submit a



1 petition for a geothermal resource subzone designation in the
2 form and manner established by rules and regulations adopted by
3 the board. An environmental impact statement as defined under
4 chapter 343-2 shall not be required for the assessment of areas
5 under this section.

6 (b) The board's assessment of each potential geothermal
7 resource subzone area shall examine factors to include:

- 8 (1) The area's potential for the production of geothermal
9 energy;
- 10 (2) The prospects for the utilization of geothermal energy
11 in the area;
- 12 (3) The geologic hazards that potential geothermal
13 projects would encounter;
- 14 (4) Social and environmental impacts;
- 15 (5) The compatibility of geothermal development and
16 potential related industries with present uses of
17 surrounding land and those uses permitted under the
18 general plan or land use policies of the county in
19 which the area is located;
- 20 (6) The potential economic benefits to be derived from
21 geothermal development and potential related
22 industries; and



1 (7) The compatibility of geothermal development and
2 potential related industries with the uses permitted
3 under chapter 183C and section 205-2, where the area
4 falls within a conservation district.

5 In addition, the board shall consider, if applicable,
6 objectives, policies, and guidelines set forth in part I of
7 chapter 205A, and chapter 226.

8 (c) Methods for assessing the factors in subsection (b)
9 shall be left to the discretion of the board and may be based on
10 currently available public information.

11 (d) After the board has completed a county-by-county
12 assessment of all areas with geothermal potential or after any
13 subsequent update or review, the board shall compare all areas
14 showing geothermal potential within each county, and shall
15 propose areas for potential designation as geothermal resource
16 subzones based upon a preliminary finding that the areas are
17 those sites which best demonstrate an acceptable balance between
18 the factors set forth in subsection (b). Once a proposal is
19 made, the board shall conduct public hearings pursuant to this
20 subsection, notwithstanding any contrary provision related to
21 public hearing procedures. Contested case procedures shall not
22 apply to these hearings.



1 (1) Hearings shall be held at locations which are in close
2 proximity to those areas proposed for designation. A
3 public notice of hearing, including a description of
4 the proposed areas; an invitation for public comment;
5 and a statement of the date, time, and place where
6 persons may be heard shall be posted and mailed no
7 less than twenty days before the hearing. The notice
8 shall be posted on three separate days statewide and
9 in the county in which the hearing is to be held.
10 Copies of the notice shall be mailed to the department
11 of business, economic development, and tourism, to the
12 planning commission and planning department of the
13 county in which the proposed areas are located, and to
14 all owners of record of real estate within, and within
15 one thousand feet of, the area being proposed for
16 designation as a geothermal resource subzone. The
17 notification shall be mailed to the owners and
18 addresses as shown on the current real property tax
19 rolls at the county real property tax office. Upon
20 such action, the requirement for notice of owners of
21 land shall be considered completed. For the purposes



1 of this subsection, notice to one co-owner shall be
2 sufficient notice to all co-owners;

3 (2) The hearing shall be held before the board, and the
4 authority to conduct hearings shall not be delegated
5 to any agent or representative of the board. All
6 persons and agencies shall be afforded the opportunity
7 to submit testimony either orally or in writing. The
8 department of business, economic development, and
9 tourism and the county planning department shall be
10 permitted to appear at every hearing and make
11 recommendations concerning each proposal by the board;
12 and

13 (3) At the close of the hearing, the board may designate
14 areas as geothermal resource subzones or announce the
15 date on which it will render its decision. The board
16 may designate areas as geothermal resource subzones
17 only upon finding that the areas are those sites which
18 best demonstrate an acceptable balance between the
19 factors set forth in subsection (b). Upon request,
20 the board shall issue a concise statement of its
21 findings and the principal reasons for its decision to
22 designate a particular area.

1 (e) The board may withdraw the designation of any
2 geothermal resource subzone after holding proceedings conducted
3 pursuant to chapter 91. The board shall withdraw a designation
4 only upon finding by a preponderance of the evidence that the
5 area is no longer suited for such designation; provided that the
6 designation shall not be withdrawn for areas in which active
7 exploration, development, production or distribution of
8 electrical energy from geothermal sources, or direct use
9 applications of geothermal resources are occurring.

10 (f) This section shall not apply to any active
11 exploration, development, or production of electrical energy
12 from geothermal sources or direct use applications of geothermal
13 resources taking place on June 14, 1983; provided that any
14 expansion of such activities shall be carried out in compliance
15 with these provisions.

16 §205-C Exploratory wells. Notwithstanding section 205-A
17 (a), (d), and (e), or any other provision of law, any
18 exploratory well drilled for scientific purposes or to determine
19 the economic viability of a geothermal resource, may be
20 permitted outside of a designated geothermal resource subzone,
21 regardless of land use classification; provided that the
22 activity is limited to exploration only. All applicable state



1 and county permits shall be required to drill such exploratory
2 wells, which shall not be exempt from the requirements of
3 chapter 343."

4 SECTION 2. Section 182-1, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending the definitions of "mining lease" and
7 "mining operations" to read:

8 "Mining lease" means a lease of the right to conduct
9 mining operations, including geothermal resource [~~exploration~~
10 ~~or~~] development, on state lands and on lands sold or leased by
11 the State or its predecessors in interest with a reservation of
12 mineral rights to the State.

13 "Mining operations" means the process of excavation,
14 extraction, and removal of minerals, and the [~~exploration or~~]
15 development of any and all geothermal resources, from the
16 ground, design engineering, other engineering, erection of
17 transportation facilities and port facilities, erection of
18 necessary plants, other necessary operations or development
19 approved by the board preceding or connected with the actual
20 extraction of minerals and the [~~exploration or~~] development of
21 geothermal resources."



1 2. By repealing the definitions of "geothermal resources
2 development" and "geothermal resources exploration".

3 ["~~Geothermal resources development~~" means the development
4 ~~or production of electrical energy from geothermal resources and~~
5 ~~direct use application of geothermal resources. The term does~~
6 ~~not include "geothermal resources exploration".~~

7 ~~"Geothermal resources exploration" means either of the~~
8 ~~following:~~

9 ~~(1) Conducting non-invasive geophysical operations,~~
10 ~~including geochemical operations, remote sensing, and~~
11 ~~other similar techniques; or~~

12 ~~(2) Drilling exploration wells for the extraction and~~
13 ~~removal of minerals of types and quantities;~~

14 ~~that are reasonably required for testing and analysis to provide~~
15 ~~ground truth or determine the economic viability of geothermal~~
16 ~~resources. The term does not include "geothermal resources~~
17 ~~development".]~~

18 SECTION 3. Section 182-5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§182-5 Mining leases on reserved lands.** If any mineral
21 is discovered or known to exist on reserved lands, any
22 interested person may notify the board of land and natural



1 resources of the person's desire to apply for a mining lease.
2 The notice shall be accompanied by a fee of \$100 together with a
3 description of the land desired to be leased and the minerals
4 involved and such information and maps as the board may by
5 regulation prescribe. The board may grant a mining lease on
6 reserved lands in accordance with section 182-4, or the board
7 may, by the vote of two-thirds of its members to which the board
8 is entitled, without public auction, grant a mining lease on
9 reserved lands to the occupier thereof. Such a mining lease may
10 be granted to a person other than the occupier if the occupier
11 has assigned the occupier's rights to apply for a mining lease
12 to another person, in which case only such an assignee may be
13 granted a mining lease. Any provisions to the contrary
14 notwithstanding, if the board decides that it is appropriate to
15 grant a geothermal mining lease on the reserved lands, the
16 surface owner or the owner's assignee shall have the first right
17 of refusal for a mining lease[-]; provided that the granting of
18 a geothermal mining lease does not create the presumption that a
19 geothermal resource subzone will be designated; provided further
20 that geothermal development activities shall not occur on land
21 within the geothermal mining lease until the area is designated
22 a geothermal resource subzone. If the occupier or the



1 occupier's assignee of the right to obtain a mining lease should
2 fail to apply for a mining lease within six months from the date
3 of notice from the board of a finding by the board that it is in
4 the public interest that the minerals on the reserved lands be
5 mined, a mining lease shall be granted under section 182-4;
6 provided that bidders at the public auction shall bid on an
7 amount to be paid to the State for a mining lease granting to
8 the lessee the right to exploit minerals reserved to the State."

9 SECTION 4. Section 182-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§182-6 Exploration.** Any person wishing to conduct
12 exploration on state lands shall apply to the board of land and
13 natural resources who shall issue exploration permits upon terms
14 and conditions as it shall by regulation prescribe. During and
15 as a result of the exploration, no minerals of such types and
16 quantity beyond that reasonably required for testing and
17 analysis shall be extracted and removed from such state lands.
18 Upon termination of the exploration permit, the drill logs and
19 the results of the assays resulting from the exploration shall
20 be turned over to the board and kept confidential by the board.
21 If the person shall not make application for a mining lease of
22 the lands within a period of six months from the date the



1 information is turned over to the board, the board in its
2 discretion need not keep the information confidential.

3 ~~[This section shall be construed as authorizing the board
4 to issue an exploration permit for geothermal resources as well
5 as minerals.]"~~

6 SECTION 5. Section 183C-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§183C-4 Zoning; amendments.** (a) The department, after
9 notice and hearing as provided in this section, shall review and
10 redefine the boundaries of the zones within the conservation
11 district.

12 (b) The department shall adopt rules governing the use of
13 land within the boundaries of the conservation district that are
14 consistent with the conservation of necessary forest growth, the
15 conservation and development of land and natural resources
16 adequate for present and future needs, and the conservation and
17 preservation of open space areas for public use and enjoyment.
18 No use except a nonconforming use as defined in section 183C-5,
19 shall be made within the conservation district unless the use is
20 in accordance with a zoning rule.

21 (c) The department may allow a temporary variance from
22 zoned use where good cause is shown and where the proposed



1 temporary variance is for a use determined by the department to
2 be in accordance with good conservation practices.

3 (d) The department shall establish zones within the
4 conservation district, which shall be restricted to certain
5 uses. The department, by rules, may specify the land uses
6 permitted therein which may include, but are not limited to,
7 farming, flower gardening, operation of nurseries or orchards,
8 growth of commercial timber, grazing, recreational or hunting
9 pursuits, or residential use. The rules may control the extent,
10 manner, and times of the uses, and may specifically prohibit
11 unlimited cutting of forest growth, soil mining, or other
12 activities detrimental to good conservation practices.

13 ~~[(e) Notwithstanding this section or any other law to the~~
14 ~~contrary, geothermal resources exploration and geothermal~~
15 ~~resources development, as defined under section 182-1, shall be~~
16 ~~permissible uses in all zones of the conservation district. The~~
17 ~~rules required under subsection (b) governing the use of land~~
18 ~~within the boundaries of the conservation district shall be~~
19 ~~deemed to include the provisions of this section without~~
20 ~~necessity of formal adoption by the department.~~

21 ~~(f)]~~ (e) Whenever any landowner or government agency whose
22 property will be directly affected makes an application to



1 change the boundaries or land uses of any zone, or to establish
2 a zone with certain land uses, or where the department proposes
3 to make the change or changes itself, the change or changes
4 shall be put in the form of a proposed rule by the applicant and
5 the department shall then give public notice thereof during
6 three successive weeks statewide and in the county in which the
7 property is located. The notice shall be given not less than
8 thirty days prior to the date set for the hearing, and shall
9 state the time and place of the hearing and the changes
10 proposed. Any proposed rules and the necessary maps shall be
11 made available for inspection by interested members of the
12 public. The hearing shall be held in the county in which the
13 land is located and may be delegated to an agent or
14 representative of the board as may otherwise be provided by law
15 and in accordance with rules adopted by the board. For the
16 purpose of its public hearing or hearings, the board may summon
17 witnesses, administer oaths, and require the giving of
18 testimony."

19 SECTION 6. Section 205-2, Hawaii Revised Statutes, is
20 amended by amending subsections (b), (c), (d), and (e) to read
21 as follows:



1 (b) Urban districts shall include activities or uses as
2 provided by ordinances or regulations of the county within which
3 the urban district is situated.

4 ~~[In addition, urban districts shall include geothermal~~
5 ~~resources exploration and geothermal resources development, as~~
6 ~~defined under section 182-1, as permissible uses.]~~

7 (c) Rural districts shall include activities or uses as
8 characterized by low density residential lots of not more than
9 one dwelling house per one-half acre, except as provided by
10 county ordinance pursuant to section 46-4(c), in areas where
11 "city-like" concentration of people, structures, streets, and
12 urban level of services are absent, and where small farms are
13 intermixed with low density residential lots except that within
14 a subdivision, as defined in section 484-1, the commission for
15 good cause may allow one lot of less than one-half acre, but not
16 less than eighteen thousand five hundred square feet, or an
17 equivalent residential density, within a rural subdivision and
18 permit the construction of one dwelling on such lot; provided
19 that all other dwellings in the subdivision shall have a minimum
20 lot size of one-half acre or 21,780 square feet. Such petition
21 for variance may be processed under the special permit
22 procedure. These districts may include contiguous areas which



1 are not suited to low density residential lots or small farms by
2 reason of topography, soils, and other related characteristics.
3 Rural districts shall also include golf courses, golf driving
4 ranges, and golf-related facilities.

5 ~~[In addition to the uses listed in this subsection, rural~~
6 ~~districts shall include geothermal resources exploration and~~
7 ~~geothermal resources development, as defined under section~~
8 ~~182-1, as permissible uses.]~~

9 (d) Agricultural districts shall include:

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



- 1 (6) Solar energy facilities; provided that:
 - 2 (A) This paragraph shall apply only to land with soil
 - 3 classified by the land study bureau's detailed
 - 4 land classification as overall (master)
 - 5 productivity rating class B, C, D, or E; and
 - 6 (B) Solar energy facilities placed within land with
 - 7 soil classified as overall productivity rating
 - 8 class B or C shall not occupy more than ten per
 - 9 cent of the acreage of the parcel, or twenty
 - 10 acres of land, whichever is lesser;

- 11 (7) Bona fide agricultural services and uses that support
- 12 the agricultural activities of the fee or leasehold
- 13 owner of the property and accessory to any of the
- 14 above activities, regardless of whether conducted on
- 15 the same premises as the agricultural activities to
- 16 which they are accessory, including farm dwellings as
- 17 defined in section 205-4.5(a)(4), employee housing,
- 18 farm buildings, mills, storage facilities, processing
- 19 facilities, photovoltaic, biogas, and other small-
- 20 scale renewable energy systems producing energy solely
- 21 for use in the agricultural activities of the fee or
- 22 leasehold owner of the property, agricultural-energy

1 facilities as defined in section 205-4.5(a)(17),
2 vehicle and equipment storage areas, and plantation
3 community subdivisions as defined in section
4 205-4.5(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;



1 (12) Agricultural tourism activities, including overnight
 2 accommodations of twenty-one days or less, for any one
 3 stay within a county; provided that this paragraph
 4 shall apply only to a county that includes at least
 5 three islands and has adopted ordinances regulating
 6 agricultural tourism activities pursuant to section
 7 205-5; provided further that the agricultural tourism
 8 activities coexist with a bona fide agricultural
 9 activity. For the purposes of this paragraph, "bona
 10 fide agricultural activity" means a farming operation
 11 as defined in section 165-2;

12 (13) Open area recreational facilities; and

13 ~~[{(14)} Geothermal resources exploration and geothermal
 14 resources development, as defined under section 182-1,
 15 and~~

16 ~~{(15)}~~ (14) Agricultural-based commercial operations,
 17 including:

18 (A) A roadside stand that is not an enclosed
 19 structure, owned and operated by a producer for
 20 the display and sale of agricultural products
 21 grown in Hawaii and value-added products that



1 were produced using agricultural products grown
2 in Hawaii;

3 (B) Retail activities in an enclosed structure owned
4 and operated by a producer for the display and
5 sale of agricultural products grown in Hawaii,
6 value-added products that were produced using
7 agricultural products grown in Hawaii, logo items
8 related to the producer's agricultural
9 operations, and other food items; and

10 (C) A retail food establishment owned and operated by
11 a producer and permitted under [+]title 11, [+]
12 chapter 12, of the rules of the department of
13 health that prepares and serves food at retail
14 using products grown in Hawaii and value-added
15 products that were produced using agricultural
16 products grown in Hawaii.

17 The owner of an agricultural-based commercial
18 operation shall certify, upon request of an officer or
19 agent charged with enforcement of this chapter under
20 section 205-12, that the agricultural products
21 displayed or sold by the operation meet the
22 requirements of this paragraph.



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 (e) Conservation districts shall include areas necessary
7 for protecting watersheds and water sources; preserving scenic
8 and historic areas; providing park lands, wilderness, and beach
9 reserves; conserving indigenous or endemic plants, fish, and
10 wildlife, including those which are threatened or endangered;
11 preventing floods and soil erosion; forestry; open space areas
12 whose existing openness, natural condition, or present state of
13 use, if retained, would enhance the present or potential value
14 of abutting or surrounding communities, or would maintain or
15 enhance the conservation of natural or scenic resources; areas
16 of value for recreational purposes; other related activities;
17 and other permitted uses not detrimental to a multiple use
18 conservation concept. [~~Conservation districts shall also~~
19 ~~include areas for geothermal resources exploration and~~
20 ~~geothermal resources development, as defined under section~~
21 ~~182-1.~~] "



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

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

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

10 (2) Game and fish propagation;

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

14 (4) Farm dwellings, employee housing, farm buildings, or
15 activities or uses related to farming and animal
16 husbandry. "Farm dwelling", as used in this
17 paragraph, means a single-family dwelling located on
18 and used in connection with a farm, including clusters
19 of single-family farm dwellings permitted within
20 agricultural parks developed by the State, or where
21 agricultural activity provides income to the family
22 occupying the dwelling;



- 1 (5) Public institutions and buildings that are necessary
- 2 for agricultural practices;
- 3 (6) Public and private open area types of recreational
- 4 uses, including day camps, picnic grounds, parks, and
- 5 riding stables, but not including dragstrips,
- 6 airports, drive-in theaters, golf courses, golf
- 7 driving ranges, country clubs, and overnight camps;
- 8 (7) Public, private, and quasi-public utility lines and
- 9 roadways, transformer stations, communications
- 10 equipment buildings, solid waste transfer stations,
- 11 major water storage tanks, and appurtenant small
- 12 buildings such as booster pumping stations, but not
- 13 including offices or yards for equipment, material,
- 14 vehicle storage, repair or maintenance, treatment
- 15 plants, corporation yards, or other similar
- 16 structures;
- 17 (8) Retention, restoration, rehabilitation, or improvement
- 18 of buildings or sites of historic or scenic interest;
- 19 (9) Agricultural-based commercial operations as described
- 20 in section [†]205-2(d)(15)[‡];
- 21 (10) Buildings and uses, including mills, storage, and
- 22 processing facilities, maintenance facilities,



1 photovoltaic, biogas, and other small-scale renewable
2 energy systems producing energy solely for use in the
3 agricultural activities of the fee or leasehold owner
4 of the property, and vehicle and equipment storage
5 areas that are normally considered directly accessory
6 to the above-mentioned uses and are permitted under
7 section 205-2(d);

8 (11) Agricultural parks;

9 (12) Plantation community subdivisions, which as used in
10 this chapter means an established subdivision or
11 cluster of employee housing, community buildings, and
12 agricultural support buildings on land currently or
13 formerly owned, leased, or operated by a sugar or
14 pineapple plantation; provided that the existing
15 structures may be used or rehabilitated for use, and
16 new employee housing and agricultural support
17 buildings may be allowed on land within the
18 subdivision as follows:

19 (A) The employee housing is occupied by employees or
20 former employees of the plantation who have a
21 property interest in the land;



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

4 (C) The agricultural support buildings shall be
5 rented or leased to agricultural business
6 operators or agricultural support services;

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

17 (14) Agricultural tourism activities, including overnight
18 accommodations of twenty-one days or less, for any one
19 stay within a county; provided that this paragraph
20 shall apply only to a county that includes at least
21 three islands and has adopted ordinances regulating
22 agricultural tourism activities pursuant to section



1 205-5; provided further that the agricultural tourism
2 activities coexist with a bona fide agricultural
3 activity. For the purposes of this paragraph, "bona
4 fide agricultural activity" means a farming operation
5 as defined in section 165-2;

6 (15) Wind energy facilities, including the appurtenances
7 associated with the production and transmission of
8 wind generated energy; provided that the wind energy
9 facilities and appurtenances are compatible with
10 agriculture uses and cause minimal adverse impact on
11 agricultural land;

12 (16) Biofuel processing facilities, including the
13 appurtenances associated with the production and
14 refining of biofuels that is normally considered
15 directly accessory and secondary to the growing of the
16 energy feedstock; provided that biofuels processing
17 facilities and appurtenances do not adversely impact
18 agricultural land and other agricultural uses in the
19 vicinity.

20 For the purposes of this paragraph:

21 "Appurtenances" means operational infrastructure
22 of the appropriate type and scale for economic



1 commercial storage and distribution, and other similar
2 handling of feedstock, fuels, and other products of
3 biofuel processing facilities.

4 "Biofuel processing facility" means a facility
5 that produces liquid or gaseous fuels from organic
6 sources such as biomass crops, agricultural residues,
7 and oil crops, including palm, canola, soybean, and
8 waste cooking oils; grease; food wastes; and animal
9 residues and wastes that can be used to generate
10 energy;

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



1 As used in this paragraph:

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

4 "Agricultural-energy enterprise" means an
5 enterprise that integrally incorporates an
6 agricultural activity with an agricultural-energy
7 facility.

8 "Agricultural-energy facility" means a facility
9 that generates, stores, or distributes renewable
10 energy as defined in section 269-91 or renewable fuel
11 including electrical or thermal energy or liquid or
12 gaseous fuels from products of agricultural activities
13 from agricultural lands located in the State.

14 "Appurtenances" means operational infrastructure
15 of the appropriate type and scale for the economic
16 commercial generation, storage, distribution, and
17 other similar handling of energy, including equipment,
18 feedstock, fuels, and other products of agricultural-
19 energy facilities;

20 (18) Construction and operation of wireless communication
21 antennas; provided that, for the purposes of this
22 paragraph, "wireless communication antenna" means



1 communications equipment that is either freestanding
2 or placed upon or attached to an already existing
3 structure and that transmits and receives
4 electromagnetic radio signals used in the provision of
5 all types of wireless communications services;
6 provided further that nothing in this paragraph shall
7 be construed to permit the construction of any new
8 structure that is not deemed a permitted use under
9 this subsection;

10 (19) Agricultural education programs conducted on a farming
11 operation as defined in section 165-2, for the
12 education and participation of the general public;
13 provided that the agricultural education programs are
14 accessory and secondary to the principal agricultural
15 use of the parcels or lots on which the agricultural
16 education programs are to occur and do not interfere
17 with surrounding farm operations. For the purposes of
18 this section, "agricultural education programs" means
19 activities or events designed to promote knowledge and
20 understanding of agricultural activities and practices
21 conducted on a farming operation as defined in section
22 165-2; or



1 (20) Solar energy facilities that do not occupy more than
2 ten per cent of the acreage of the parcel, or twenty
3 acres of land, whichever is lesser; provided that this
4 use shall not be permitted on lands with soil
5 classified by the land study bureau's detailed land
6 classification as overall (master) productivity rating
7 class A[~~+~~or
8 ~~{(21)} Geothermal resources exploration and geothermal~~
9 ~~resources development, as defined under section~~
10 ~~182-1]."~~

11 SECTION 8. Section 205-5, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) Unless authorized by special permit issued pursuant
14 to this chapter, only the following uses shall be permitted
15 within rural districts:

- 16 (1) Low density residential uses;
17 (2) Agricultural uses;
18 (3) Golf courses, golf driving ranges, and golf-related
19 facilities; and
20 (4) Public, quasi-public, and public utility facilities[~~+~~
21 ~~and~~



1 ~~(5) Geothermal resources exploration and geothermal~~
2 ~~resources development, as defined under section~~
3 ~~182-1].~~

4 In addition, the minimum lot size for any low density
5 residential use shall be one-half acre and there shall be but
6 one dwelling house per one-half acre, except as provided for in
7 section 205-2."

8 SECTION 9. Act 97, Session Laws of Hawaii 2012, is amended
9 by repealing section 12.

10 ~~["SECTION 12. The provisions of this Act that repeal the~~
11 ~~laws that previously authorized geothermal resources subzones~~
12 ~~under chapter 205, Hawaii Revised Statutes, shall not affect any~~
13 ~~geothermal resources producer who operates within the area of~~
14 ~~the subzone as of the effective date of this Act. The~~
15 ~~geothermal resources producer shall continue to operate in~~
16 ~~accordance with the producer's lease with the board of land and~~
17 ~~natural resources."]~~

18 SECTION 10. In codifying this Act, the revisor shall
19 substitute appropriate section numbers for the letter
20 designations used in section 1 of this Act.

21 SECTION 11. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 12. This Act shall take effect on July 1, 2025.



Report Title:

Geothermal Resources; Exploration; Subzones

Description:

Repeals Act 97, SLH 2012, relating to geothermal resources which differentiates between "geothermal resources exploration" and "geothermal resources development". Designates "geothermal resources exploration" and "geothermal resources development" as permissible uses in all state land use districts and certain conservation district zones in accordance with chapter 205, HRS. Enacts geothermal resource subzones, designation of areas as geothermal resources subzones, and exploratory wells, which were repealed by Act 97. Effective July 1, 2025. (HB106 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

