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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. The state must encourage renewable energy  
2 production in order to meet its Hawaii clean energy initiative  
3 goals. However, under current statute, if a property owner or  
4 lessor installs a renewable energy system on the property and  
5 sells the electricity generated to the tenants or lessees on the  
6 premises, the property owner or lessor would be considered a  
7 public utility. This provides a powerful disincentive that  
8 would discourage renewable energy generation on rental or leased  
9 property.

10           The purpose of this Act is to remove that disincentive by  
11 exempting landlords and lessors who install renewable energy  
12 systems on their property from the definition of public utility.

13           SECTION 2. Section 269-1, Hawaii Revised Statutes, is  
14 amended by amending the definition of "public utility" to read  
15 as follows:

16           "Public utility":

17           (1) Includes every person who may own, control, operate,  
18           or manage as owner, lessee, trustee, receiver, or



1 otherwise, whether under a franchise, charter,  
2 license, articles of association, or otherwise, any  
3 plant or equipment, or any part thereof, directly or  
4 indirectly for public use for the transportation of  
5 passengers or freight; for the conveyance or  
6 transmission of telecommunications messages; for the  
7 furnishing of facilities for the transmission of  
8 intelligence by electricity within the State or  
9 between points within the State by land, water, or  
10 air; for the production, conveyance, transmission,  
11 delivery, or furnishing of light, power, heat, cold,  
12 water, gas, or oil; for the storage or warehousing of  
13 goods; or for the disposal of sewage; provided that  
14 the term shall include:

15 (A) An owner or operator of a private sewer company  
16 or sewer facility; and

17 (B) A telecommunications carrier or  
18 telecommunications common carrier; and

19 (2) Shall not include:

20 (A) An owner or operator of an aerial transportation  
21 enterprise;



- 1 (B) An owner or operator of a taxicab as defined in  
2 this section;
- 3 (C) Common carriers that transport only freight on  
4 the public highways, unless operating within  
5 localities, along routes, or between points that  
6 the public utilities commission finds to be  
7 inadequately serviced without regulation under  
8 this chapter;
- 9 (D) Persons engaged in the business of warehousing or  
10 storage unless the commission finds that  
11 regulation is necessary in the public interest;
- 12 (E) A carrier by water to the extent that the carrier  
13 enters into private contracts for towage,  
14 salvage, hauling, or carriage between points  
15 within the State; provided that the towing,  
16 salvage, hauling, or carriage is not pursuant to  
17 either an established schedule or an undertaking  
18 to perform carriage services on behalf of the  
19 public generally;
- 20 (F) A carrier by water, substantially engaged in  
21 interstate or foreign commerce, that transports  
22 passengers on luxury cruises between points



1                   within the State or on luxury round-trip cruises  
2                   returning to the point of departure;

3           (G) Any user, owner, or operator of the Hawaii  
4           electric system as defined under section 269-141;

5           (H) A telecommunications provider only to the extent  
6           determined by the public utilities commission  
7           pursuant to section 269-16.9;

8           (I) Any person who controls, operates, or manages  
9           plants or facilities developed pursuant to  
10           chapter 167 for conveying, distributing, and  
11           transmitting water for irrigation and other  
12           purposes for public use and purpose;

13           (J) Any person who owns, controls, operates, or  
14           manages plants or facilities for the reclamation  
15           of wastewater; provided that:

16                   (i) The services of the facility are provided  
17                   pursuant to a service contract between the  
18                   person and a state or county agency and at  
19                   least ten per cent of the wastewater  
20                   processed is used directly by the state or  
21                   county agency that entered into the service  
22                   contract;



- 1                   (ii) The primary function of the facility is the
- 2                   processing of secondary treated wastewater
- 3                   that has been produced by a municipal
- 4                   wastewater treatment facility owned by a
- 5                   state or county agency;
- 6                   (iii) The facility does not make sales of water to
- 7                   residential customers;
- 8                   (iv) The facility may distribute and sell
- 9                   recycled or reclaimed water to entities not
- 10                  covered by a state or county service
- 11                  contract; provided that, in the absence of
- 12                  regulatory oversight and direct competition,
- 13                  the distribution and sale of recycled or
- 14                  reclaimed water shall be voluntary and its
- 15                  pricing fair and reasonable. For purposes
- 16                  of this subparagraph, "recycled water" and
- 17                  "reclaimed water" means treated wastewater
- 18                  that by design is intended or used for a
- 19                  beneficial purpose; and
- 20                  (v) The facility is not engaged, either directly
- 21                  or indirectly, in the processing of food
- 22                  wastes;



1 (K) Any person who owns, controls, operates, or  
2 manages any seawater air conditioning district  
3 cooling project; provided that at least fifty per  
4 cent of the energy required for the seawater air  
5 conditioning district cooling system is provided  
6 by a renewable energy resource, such as cold,  
7 deep seawater;

8 (L) Any person who owns, controls, operates, or  
9 manages plants or facilities primarily used to  
10 charge or discharge a vehicle battery that  
11 provides power for vehicle propulsion; ~~and~~

12 (M) Any person who:  
13 (i) Owns, controls, operates, or manages a  
14 renewable energy system that is located on a  
15 customer's property; and  
16 (ii) Provides, sells, or transmits the power  
17 generated from that renewable energy system  
18 to an electric utility or to the customer on  
19 whose property the renewable energy system  
20 is located; provided that, for purposes of  
21 this subparagraph, a customer's property  
22 shall include all contiguous property owned



1 or leased by the customer without regard to  
2 interruptions in contiguity caused by  
3 easements, public thoroughfares,  
4 transportation rights-of-way, and utility  
5 rights-of-way[-]; and

6 (N) Any person who:

7 (i) Owns, controls, operates, or manages a  
8 renewable energy system that is located on  
9 such person's property; and

10 (ii) Provides, sells, or transmits the power  
11 generated from that renewable energy system  
12 to an electric utility or to a lessee or  
13 tenant on the person's property where the  
14 renewable energy system is located; provided  
15 that, for purposes of this subparagraph, a  
16 person's property shall include all  
17 contiguous property controlled by such  
18 person by fee ownership or by lease,  
19 sublease, easement, or other means of  
20 property control without regard to  
21 interruptions in contiguity caused by  
22 easements, transportation rights-of-way, and



1           utility rights-of-way; provided further that  
 2           the rate schedule charged to the lessee or  
 3           tenant for the power generated by the  
 4           renewable energy system shall be established  
 5           for the duration of the lease and that the  
 6           lease agreement entered into by the lessee  
 7           or tenant reflects such rate schedule.

8           If the application of this chapter is ordered by the  
 9           commission in any case provided in paragraph (2) (C), (D), (H),  
 10          and (I), the business of any public utility that presents  
 11          evidence of bona fide operation on the date of the commencement  
 12          of the proceedings resulting in the order shall be presumed to  
 13          be necessary to the public convenience and necessity, but any  
 14          certificate issued under this proviso shall nevertheless be  
 15          subject to terms and conditions as the public utilities  
 16          commission may prescribe, as provided in sections 269-16.9 and  
 17          269-20."

18          SECTION 3. Statutory material to be repealed is bracketed  
 19          and stricken. New statutory material is underscored.

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

21

INTRODUCED BY: 





# H.B. NO. 453

**Report Title:**

Renewable Energy; Landlords; Lessors; Public Utility

**Description:**

Exempts landlords and lessors who install renewable energy systems to their property from the definition of "public utility".

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