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## A BILL FOR AN ACT

RELATING TO AGRICULTURAL BUILDING PERMITS.

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

1           SECTION 1. The legislature finds that compliance with  
2 existing building codes and permitting processes negatively  
3 impacts the State's commercial agriculture and aquaculture  
4 industries by adding significant time and costs to farming and  
5 ranching enterprises for such fundamental activities as  
6 constructing or installing greenhouses, shade houses, storage  
7 containers, and many other agricultural and aquacultural  
8 buildings and structures, which, by their nature or location,  
9 pose little risk to life or property. In contrast to building  
10 codes in many other states, county building codes in Hawaii  
11 generally do not distinguish between low-risk agricultural  
12 structures and residential or commercial buildings. Ultimately,  
13 this results in excessive costs for code compliance. Act 114,  
14 Session Laws of Hawaii 2012, may help to reduce the cost and  
15 time spent applying for building permits for specified  
16 nonresidential agricultural and aquacultural buildings and  
17 structures and their appurtenances, but Act 114 does not offer  
18 relief from county building code requirements.



1           The purpose of this Act is to encourage and support  
2 diversified agriculture and agricultural self-sufficiency in the  
3 State by providing, under certain circumstances, an exemption  
4 from building code and permit requirements for nonresidential  
5 buildings or structures on commercial farms and ranches located  
6 outside the urban district.

7           SECTION 2. Section 46-88, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "~~[+]~~§46-88~~[+]~~ **Agricultural and aquacultural buildings and**  
10 **structures; no building permit required.** (a) Each county shall  
11 establish an agricultural buildings and structures exemption  
12 list of buildings and structures that are exempt from existing  
13 building permit requirements. The list shall be established by  
14 each county no later than January 1, 2013. Agricultural  
15 buildings, structures, or appurtenances thereto, which are not  
16 used as dwelling or lodging units, may be exempted from existing  
17 building permit and building code requirements where they are no  
18 more than 1,000 square feet in floor area~~[+]~~ or, if greater than  
19 1,000 square feet in floor area and compliant with building code  
20 requirements or prescriptive construction standards, may be  
21 exempted from building permit requirements pursuant to  
22 subsection (d); provided that ~~[the]~~:



1        (1)    The aggregate floor area of the exempted agricultural  
2        building~~[, structure, or appurtenance thereto]~~ shall  
3        not exceed:

4        (A)    5,000 square feet per zoning lot for lots of two  
5        acres or less;

6        (B)    8,000 square feet per zoning lot for lots greater  
7        than two acres but not more than five acres; and

8        (C)    Ten per cent of the acreage per zoning lot for  
9        lots greater than five acres; and [the]

10       (2)    The minimum horizontal separation between each  
11       agricultural building, structure, or appurtenance  
12       thereto is fifteen feet~~[, and the]~~;

13       (3)    The agricultural buildings, structures, or  
14       appurtenances thereto are located on a commercial farm  
15       or ranch and are used for general agricultural or  
16       aquacultural operations, or for purposes incidental to  
17       such operations; ~~[provided further that:]~~

18       ~~[(1)]~~ (4)    The agricultural building, structure, or  
19       appurtenance thereto is constructed or installed on  
20       property that is used primarily for agricultural or  
21       aquacultural operations, and is two or more contiguous  
22       acres in area or one or more contiguous acres in area



1           if located in a nonresidential agricultural or  
2           aquacultural park;

3       ~~[(2)]~~ (5) Upon completion of construction or installation,  
4           the owner or occupier shall provide written notice to  
5           the appropriate county fire department and county  
6           building permitting agency of the size, type, and  
7           locations of the building, structure, or appurtenance  
8           thereto. Such written notification shall be provided  
9           to the county agencies within thirty days of the  
10          completion of the building, structure, or appurtenance  
11          thereto. Failure to provide such written notice may  
12          void the building permit exemption, which voidance for  
13          such failure is subject to the sole discretion of the  
14          appropriate county building permitting agency;

15       ~~[(3)]~~ (6) No electrical power and no plumbing systems shall  
16          be connected to the building or structure without  
17          first obtaining the appropriate county electrical or  
18          plumbing permit, and all such installations shall be  
19          installed under the supervision of a licensed  
20          electrician or plumber, as appropriate, and inspected  
21          and approved by an appropriate county or licensed  
22          inspector~~[; and]~~ or, if a county building agency is



1           unable to issue an electrical permit because the  
2           building or structure is permit-exempt, an electrical  
3           permit shall be issued for an electrical connection to  
4           a meter on a pole beyond the permit-exempt structure  
5           in accordance with the installation, inspection, and  
6           approval requirements in this paragraph;

7           ~~[(4)]~~ (7) Disposal of wastewater from any building or  
8           structure constructed or installed pursuant to this  
9           section shall comply with chapter 342D~~[+]~~; and

10           (8) Permit-exempt structures shall be exempt from any  
11           certificate of occupancy requirements.

12           (b) For purposes of subsection (a), the following  
13 buildings ~~[and]~~, structures, and appurtenances thereto shall be  
14 included in each county's agricultural ~~[building]~~ buildings and  
15 structures exemption list~~[+]~~ and shall be exempt from county  
16 building permit and code requirements:

17           (1) Nonresidential manufactured pre-engineered commercial  
18 buildings and structures consisting of no more than  
19 1,000 square feet ~~[that have no electrical power and~~  
20 ~~have no potable water, sewage, or other plumbing~~  
21 ~~related services, or have such electrical or plumbing~~



1           ~~related services installed and inspected in accordance~~  
2           ~~with subsection (a) (3) and (4)];~~

3           (2) Single stand alone recycled ocean shipping or cargo  
4           containers that are used as nonresidential commercial  
5           buildings;

6           (3) Notwithstanding the 1,000 square foot floor area  
7           restriction in subsection (a), agricultural shade  
8           cloth structures, cold frames, or greenhouses not  
9           exceeding 20,000 square feet in area per structure;  
10          provided that where multiple structures are erected,  
11          the minimum horizontal separation between each shade  
12          cloth structure, cold frame, or greenhouse is fifteen  
13          feet;

14          (4) Aquacultural or aquaponics structures, including  
15          above-ground water storage or production tanks,  
16          troughs, and raceways with a maximum height of six  
17          feet above grade, and in-ground ponds and raceways,  
18          and piping systems for aeration, carbon dioxide, or  
19          fertilizer or crop protection chemical supplies within  
20          agricultural or aquacultural production facilities;



- 1           (5) Livestock watering tanks, water piping and plumbing  
2           not connected to a source of potable water, or  
3           separated by an air gap from such a source;
- 4           (6) Non-masonry fences not exceeding ten feet in height  
5           and masonry fences not exceeding six feet in height;
- 6           (7) One-story masonry or wood-framed buildings or  
7           structures with a structural span of less than twenty-  
8           five feet and a total square footage of no more than  
9           1,000 square feet, including farm buildings used as:
- 10           (A) Barns;
- 11           (B) Greenhouses;
- 12           (C) Farm production buildings including aquaculture  
13           hatcheries and plant nurseries;
- 14           (D) Storage buildings for farm equipment or plant or  
15           animal supplies or feed; or
- 16           (E) Storage or processing buildings for crops;  
17           provided that the height of any stored items  
18           shall not collectively exceed twelve feet in  
19           height and the storage of any hazardous materials  
20           shall comply with any and all applicable  
21           statutes, regulations, and codes;



1 (8) Raised beds containing soil, gravel, cinders, or other  
2 growing media or substrates with wood, metal, or  
3 masonry walls or supports with a maximum height of  
4 four feet; and

5 (9) Horticultural tables or benches no more than four feet  
6 in height supporting potted plants or other crops;  
7 provided that the buildings, structures, and appurtenances  
8 thereto comply with all applicable state and county [~~codes,~~  
9 ~~including but not limited to applicable building, fire, health,~~  
10 ~~safety, and~~] zoning codes and are properly anchored.

11 (c) [~~In the event that~~] If a county fails to establish the  
12 agricultural buildings and structures exemption list within the  
13 time period as required under subsection (a), the buildings and  
14 structures specified in subsection (b) shall constitute that  
15 county's agricultural [~~building~~] buildings and structures  
16 exemption list.

17 (d) For purposes of subsection (a), and notwithstanding  
18 the 1,000 square foot floor area restriction in subsection (a),  
19 the following buildings, structures, and appurtenances thereto  
20 shall be exempt from building permit requirements when compliant  
21 with relevant building codes or county, national, or  
22 international prescriptive construction standards:





- 1       (1) Nonresidential manufactured pre-engineered and county  
2       pre-approved commercial buildings and structures  
3       consisting of a total square footage greater than  
4       1,000 square feet but no more than 8,000 square feet;  
5       and
- 6       (2) One-story wood-framed or masonry buildings or  
7       structures with a structural span of less than twenty-  
8       five feet and a total square footage greater than  
9       1,000 square feet but no more than 8,000 square feet  
10       constructed in accordance with county, national, or  
11       international prescriptive construction standards,  
12       including buildings used as:
- 13       (A) Barns;  
14       (B) Greenhouses;  
15       (C) Farm production buildings, including aquaculture  
16       hatcheries and plant nurseries;  
17       (D) Storage buildings for farm equipment, plant or  
18       animal supplies, or feed; or  
19       (E) Storage or processing buildings for crops;  
20       provided that the height of any stored items  
21       shall not collectively exceed twelve feet in  
22       height and the storage of any hazardous materials



1                   shall comply with all applicable statutes,  
2                   regulations, and codes.

3           ~~(d)~~ (e) As used in this section:

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

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

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



1 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,  
2 when situated within a structure.

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

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

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

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

21 [~~f~~] (g) This section shall not be construed to supersede  
22 public or private lease conditions.



# H.B. NO. 489

1            [~~g~~] (h) This section shall not apply to the construction  
2 or installation of any building or structure on land in an urban  
3 district."

4            SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6            SECTION 4. This Act shall take effect on July 1, 2013.

7

INTRODUCED BY:

Jessica Woddy  
[Signature]

JAN 18 2013



# H.B. NO. 489

**Report Title:**

Agricultural Building Permits; Exemptions

**Description:**

Provides, under certain circumstances, an exemption from building code and permit requirements for nonresidential buildings or structures on commercial farms and ranches located outside the urban district.

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

