
A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 SECTION 1. The purpose of this Act is to remove exemptions
2 for certain projects and activities on agricultural lands in the
3 state agricultural district.

4 SECTION 2. Section 39-73, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§39-73 Consent of governmental agencies. ~~[It]~~ (a)
7 Except as provided under subsection (b), it shall not be
8 necessary for any department proceeding pursuant to this part to
9 obtain any certificate of convenience or necessity, franchise,
10 license, permit, or other authorization from any bureau, board,
11 commission, or other like instrumentality of the State or its
12 political subdivisions in order to acquire, construct, purchase,
13 reconstruct, improve, ~~[better,]~~ extend, maintain, ~~[and]~~ or
14 operate an undertaking.

15 (b) If an undertaking is to be constructed or operated on
16 agricultural land, any department proceeding pursuant to this
17 part shall obtain any necessary district boundary amendment,
18 rezoning, or special permit from the land use commission or



1 relevant county before construction or operation. For purposes
2 of this section, "agricultural land" means land within an
3 agricultural district established under chapter 205."

4 SECTION 3. Section 49-23, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§49-23 **Consent of state agencies.** [~~It~~] (a) Except as
7 provided under subsection (b), it shall not be necessary for any
8 county proceeding under this chapter to obtain any certificate
9 of convenience or necessity, franchise, license, permit, or
10 other authorization from any bureau, board, commission, or other
11 like instrumentality of the State in order to acquire,
12 construct, purchase, reconstruct, improve, [~~better,~~] extend,
13 maintain, [~~and~~] or operate an undertaking or undertake the
14 establishment of loan programs, but the powers and duties of the
15 bureau, board, commission, or instrumentality shall continue [~~as~~
16 heretofore].

17 (b) If an undertaking is to be constructed or operated on
18 agricultural land, any county proceeding pursuant to this
19 chapter shall obtain any necessary district boundary amendment,
20 rezoning, or special permit from the land use commission or
21 relevant county agency before construction or operation. For



1 purposes of this section, "agricultural land" means land within
2 an agricultural district established under chapter 205."

3 SECTION 4. Section 91-13.5, Hawaii Revised Statutes, is
4 amended by amending subsection (f) to read as follows:

5 "(f) This section shall not apply to:

6 (1) Any proceedings of the public utilities commission;

7 [~~or~~]

8 (2) Any county or county agency that is exempted by county
9 ordinance from this section~~(-)~~; or

10 (3) Any district boundary amendment involving agricultural
11 land, rezoning of agricultural land, or issuance of a
12 special permit for a use on agricultural land. For
13 purposes of this section, "agricultural land" means
14 land within an agricultural district established under
15 chapter 205."

16 SECTION 5. Section 166E-3, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The department shall administer a program to manage
19 the transferred non-agricultural park lands under rules adopted
20 by the board pursuant to chapter 91. The program and its rules
21 shall be separate and distinct from the agricultural park
22 program and its rules. Non-agricultural park lands are not the



1 same as, and shall not be selected or managed as [are] lands
2 under agricultural park leases. Notwithstanding any other law
3 to the contrary, the program shall include the following
4 conditions pertaining to encumbered non-agricultural park lands:

- 5 (1) The lessee or permittee shall perform in full
6 compliance with the existing lease or permit;
- 7 (2) The lessee or permittee shall not be in arrears in the
8 payment of taxes, rents, or other obligations owed to
9 the State or any county;
- 10 (3) The lessee's or permittee's agricultural operation
11 shall be economically viable as specified by the
12 board; and
- 13 (4) No encumbered or unencumbered non-agricultural park
14 lands [~~with soils classified by the land study~~
15 ~~bureau's detailed land classification as overall~~
16 ~~(master) productivity rating class A or B~~] within an
17 agricultural district established under chapter 205
18 shall be transferred for the use or development of
19 golf courses, golf driving ranges, and country clubs.

20 The transfer of non-agricultural park lands shall be done in a
21 manner to be determined by the board of agriculture."



1 SECTION 6. Section 171-134, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) At the option of the board, and except as otherwise
4 provided under paragraph (5), the development of an industrial
5 park shall be exempt from all statutes, ordinances, charter
6 provisions, and rules of any governmental agency relating to
7 planning, zoning, construction standards for subdivision
8 development and improvement of land, and the construction of
9 buildings thereon; provided that:

10 (1) The board finds that the industrial park meets the
11 minimum requirements of health and safety;

12 (2) The development of the industrial park does not
13 contravene any safety standards or tariffs approved by
14 the public utilities commission for public utilities;

15 (3) The legislative body of the county in which the
16 industrial park is proposed to be situated approves
17 the industrial park[-]:

18 (A) The legislative body shall approve or disapprove
19 the industrial park within forty-five days after
20 the department has submitted preliminary plans
21 and specifications for the industrial park to the
22 legislative body. If after the forty-fifth day,



1 an industrial park is not disapproved, it shall
2 be deemed approved by the legislative body.

3 (B) No action shall be prosecuted or maintained
4 against any county, its officials, or employees,
5 on account of actions taken by them in reviewing,
6 approving, or disapproving the plans and
7 specifications.

8 (C) The final plans and specifications for the
9 industrial park shall be deemed approved by the
10 legislative body if the final plans and
11 specifications for the industrial park do not
12 substantially deviate from the preliminary plans
13 and specifications. The determination that the
14 final plans and specifications do not
15 substantially deviate from the preliminary plans
16 and specifications of the industrial park shall
17 rest with the board. The final plans and
18 specifications for the park shall constitute the
19 planning, zoning, building, improvement,
20 construction, and subdivision standards for that
21 industrial park. For the purposes of sections
22 501-85 and 502-17, the chairperson of the board



1 or the responsible county official may certify
2 maps and plans of land connected with the
3 industrial park as having complied with
4 applicable laws and ordinances relating to
5 consolidation and subdivision of lands, and such
6 maps and plans shall be accepted for registration
7 or recordation by the land court and registrar;
8 [~~and~~]

9 (4) The board shall assume the responsibility of all
10 infrastructure within the industrial park, if the
11 infrastructure developed is exempt from applicable
12 county ordinances, charter provisions, and rules[+];
13 and

14 (5) If an industrial park is to be constructed and
15 operated under this subsection on agricultural land,
16 the board shall obtain any necessary district boundary
17 amendment and rezoning from the land use commission
18 and relevant county agency before construction or
19 operation of the industrial park. Notwithstanding
20 paragraph (3), the rezoning of land by the county
21 shall be pursuant to county ordinance. For purposes
22 of this section, "agricultural land" means land within



1 an agricultural district established under chapter
2 205."

3 SECTION 7. Section 171C-19, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~171C-19~~§~~ Exemption from requirements.

6 Notwithstanding section 171-42 and except as otherwise noted in
7 this chapter, projects developed pursuant to this chapter on
8 non-agricultural land shall be exempt from all statutes,
9 ordinances, charter provisions, and rules of any government
10 agency relating to special improvement district assessments or
11 requirements; land use, zoning, and construction standards for
12 subdivisions, development, and improvement of land; and the
13 construction, improvement, and sale of homes thereon; provided
14 that the public land planning activities of the corporation
15 shall be coordinated with the county planning departments and
16 the county land use plans, policies, and ordinances. For
17 purposes of this section, "non-agricultural land" means land not
18 located within an agricultural district established under
19 chapter 205."

20 SECTION 8. Section 201H-12, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) The corporation may develop public land [~~in~~] located
2 within an agricultural district subject to [~~the prior approval~~
3 ~~of the land use commission, when developing lands greater than~~
4 ~~fifteen acres in size,~~] appropriate district boundary amendments
5 and rezoning laws and public land in a conservation district
6 subject to the prior approval of the board of land and natural
7 resources. The corporation shall not develop state monuments,
8 historical sites, or parks. When the corporation proposes to
9 develop public land, it shall file with the department of land
10 and natural resources a petition setting forth the purpose for
11 the development. The petition shall be conclusive proof that
12 the intended use is a public use superior to that which the land
13 has been appropriated."

14 SECTION 9. Section 201H-33, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) The corporation shall adopt, pursuant to chapter 91,
17 rules on health, safety, building, planning, zoning, and land
18 use that relate to the development, subdivision, and
19 construction of dwelling units in housing projects in which the
20 State, through the corporation, shall participate. The rules
21 shall not contravene any safety standards or tariffs approved by
22 the public utilities commission[~~7~~] and shall comply with all



1 procedures, provisions, and restrictions established under
2 chapter 205 with respect to a boundary amendment to, or use
3 within the agricultural district. The rules shall follow
4 existing law as closely as is consistent with the production of
5 lower cost housing with standards that meet minimum requirements
6 of good design, pleasant amenities, health, safety, and
7 coordinated development.

8 When adopted, the rules shall have the force and effect of
9 law and shall supersede, for all housing projects in which the
10 State, through the corporation, shall participate, all other
11 inconsistent laws, ordinances, and rules relating to the use,
12 zoning, planning, and development of land, and the construction
13 of dwelling units thereon. The rules, before becoming
14 effective, shall be presented to the legislative body of each
15 county in which they will be effective and the legislative body
16 of any county may within forty-five days approve or disapprove,
17 for that county, any or all of the rules by a majority vote of
18 its members. On the forty-sixth day after submission, any rules
19 not disapproved shall be deemed to have been approved by the
20 county."

21 SECTION 10. Section 201H-38, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) The corporation may develop on behalf of the State or
2 with an eligible developer, or may assist under a government
3 assistance program in the development of, housing projects that
4 shall be exempt from all statutes, ordinances, charter
5 provisions, and rules of any government agency relating to
6 planning, zoning, construction standards for subdivisions,
7 development and improvement of land, and the construction of
8 dwelling units thereon; provided that:

9 (1) The corporation finds the housing project is
10 consistent with the purpose and intent of this
11 chapter, and meets minimum requirements of health and
12 safety;

13 (2) The development of the proposed housing project does
14 not contravene any safety standards, tariffs, or rates
15 and fees approved by the public utilities commission
16 for public utilities or of the various boards of water
17 supply authorized under chapter 54;

18 (3) The legislative body of the county in which the
19 housing project is to be situated shall have approved
20 the project with or without modifications:

21 (A) The legislative body shall approve, approve with
22 modification, or disapprove the project by



1 resolution within forty-five days after the
2 corporation has submitted the preliminary plans
3 and specifications for the project to the
4 legislative body. If on the forty-sixth day a
5 project is not disapproved, it shall be deemed
6 approved by the legislative body;

7 (B) No action shall be prosecuted or maintained
8 against any county, its officials, or employees
9 on account of actions taken by them in reviewing,
10 approving, modifying, or disapproving the plans
11 and specifications; and

12 (C) The final plans and specifications for the
13 project shall be deemed approved by the
14 legislative body if the final plans and
15 specifications do not substantially deviate from
16 the preliminary plans and specifications. The
17 final plans and specifications for the project
18 shall constitute the zoning, building,
19 construction, and subdivision standards for that
20 project. For purposes of sections 501-85 and
21 502-17, the executive director of the corporation
22 or the responsible county official may certify



1 maps and plans of lands connected with the
2 project as having complied with applicable laws
3 and ordinances relating to consolidation and
4 subdivision of lands, and the maps and plans
5 shall be accepted for registration or recordation
6 by the land court and registrar; and

7 (4) If the housing project is to be constructed on land
8 greater than fifteen acres in size in an agricultural,
9 rural, or conservation district, the corporation or
10 eligible developer shall obtain any necessary district
11 boundary amendments from the land use commission
12 before construction commences. The land use
13 commission shall approve, approve with modification,
14 or disapprove [a] the proposed boundary [change]
15 amendment within forty-five days after the corporation
16 has submitted a petition to the commission as provided
17 in section 205-4. If, on the forty-sixth day, the
18 petition is not disapproved, it shall be deemed
19 approved by the commission. A boundary amendment for
20 a housing project on land of fifteen acres or less in
21 an agricultural, rural, or conservation district shall
22 be subject to paragraph (3)."



1 SECTION 11. Section 206M-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§206M-5 Development rules. (a) Whenever the proceeds of
4 special purpose revenue bonds are used to finance the cost of an
5 industrial park, the board shall adopt rules under chapter 91 to
6 be followed during the course of the development of any
7 industrial park, which are to be known as development rules in
8 connection with health, safety, building, planning, zoning, and
9 land use. [The] Except as otherwise provided in subsection (b),
10 the rules, upon final adoption of a development plan for an
11 industrial park, shall supersede all other inconsistent
12 ordinances and rules relating to the use, zoning, planning, and
13 development of land and construction thereon within the
14 industrial park. Rules adopted under this section shall follow
15 existing law, rules, ordinances, and regulations as closely as
16 is consistent with standards meeting minimum requirements of
17 good design, pleasant amenities, health, safety, and coordinated
18 development. The corporation shall establish policies and
19 procedures for monitoring and ensuring that the operation of the
20 industrial park complies with these development rules and may
21 establish fines and penalties or take any other means available
22 under the law to eliminate any noncomplying action.



H.B. NO. 629

Report Title:

Agricultural Lands; Policies for Districting and Protection

Description:

Amends various laws to remove exemptions for certain projects or activities in the state agricultural district. Effective 07/01/2013.

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