
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 agriculture and aquaculture industries by
4 adding significant time and costs to farming and ranching
5 enterprises for such fundamental activities as constructing or
6 installing greenhouses, shade houses, storage containers,
7 indigenous Hawaiian hale, and many other agricultural and
8 aquacultural buildings and structures, which, by their nature or
9 location, pose little risk to life or property. In contrast to
10 building codes in many other states, county building codes in
11 Hawaii generally do not distinguish between low-risk
12 agricultural structures and residential or commercial buildings.
13 Ultimately, this results in excessive costs for code compliance
14 for farmers and ranchers. While Act 114, Session Laws of Hawaii
15 2012, may help to reduce the cost and time spent applying for
16 building permits for specified nonresidential agricultural and
17 aquacultural buildings and structures and their appurtenances,
18 Act 114 did not offer relief from county building code



1 requirements, which in turn have prevented Hawaii's farms from
2 realizing their full potential to meet the State's food
3 sustainability goals.

4 The purpose of this Act is to encourage and support the
5 Governor's "New Day" initiative for diversified agriculture and
6 agricultural self-sufficiency in the State by providing, under
7 certain circumstances, an exemption from building code
8 requirements and expanding existing building permit exemptions
9 for nonresidential buildings or structures on farms and ranches
10 located outside the urban district.

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

13 "[~~+~~]\$46-88[~~+~~] Agricultural [and aquacultural] buildings
14 and structures; [no building permit required.] exemptions from
15 building permit and building code requirements. (a) [Each
16 county shall establish an agricultural buildings and structures
17 exemption list of buildings and structures that are exempt from
18 existing building permit requirements. The list shall be
19 established by each county no later than January 1, 2013.
20 Agricultural buildings, structures, or appurtenances thereto,
21 which are not used as dwelling or lodging units, may be exempted
22 from existing building permit requirements where they are no



1 ~~more than 1,000 square feet in floor area, provided that the~~
2 ~~aggregate floor area of the exempted agricultural building,~~
3 ~~structure, or appurtenance thereto shall not exceed 5,000 square~~
4 ~~feet per zoning lot and the minimum horizontal separation~~
5 ~~between each agricultural building, structure, or appurtenance~~
6 ~~thereto is fifteen feet, and the agricultural buildings,~~
7 ~~structures, or appurtenances thereto are located on a commercial~~
8 ~~farm or ranch and are used for general agricultural or~~
9 ~~aquacultural operations, or for purposes incidental to such~~
10 ~~operations; provided further that:~~

11 ~~(1) The agricultural building, structure, or appurtenance~~
12 ~~thereto is constructed or installed on property that~~
13 ~~is used primarily for agricultural or aquacultural~~
14 ~~operations, and is two or more contiguous acres in~~
15 ~~area or one or more contiguous acres in area if~~
16 ~~located in a nonresidential agricultural or~~
17 ~~aquacultural park;~~

18 ~~(2) Upon completion of construction or installation, the~~
19 ~~owner or occupier shall provide written notice to the~~
20 ~~appropriate county fire department and county building~~
21 ~~permitting agency of the size, type, and locations of~~
22 ~~the building, structure, or appurtenance thereto.~~



1 ~~Such written notification shall be provided to the~~
2 ~~county agencies within thirty days of the completion~~
3 ~~of the building, structure, or appurtenance thereto.~~
4 ~~Failure to provide such written notice may void the~~
5 ~~building permit exemption, which voidance for such~~
6 ~~failure is subject to the sole discretion of the~~
7 ~~appropriate county building permitting agency;~~

8 ~~(3) No electrical power and no plumbing systems shall be~~
9 ~~connected to the building or structure without first~~
10 ~~obtaining the appropriate county electrical or~~
11 ~~plumbing permit, and all such installations shall be~~
12 ~~installed under the supervision of a licensed~~
13 ~~electrician or plumber, as appropriate, and inspected~~
14 ~~and approved by an appropriate county or licensed~~
15 ~~inspector; and~~

16 ~~(4) Disposal of wastewater from any building or structure~~
17 ~~constructed or installed pursuant to this section~~
18 ~~shall comply with chapter 342D.~~

19 ~~(b) For purposes of subsection (a), the following~~
20 ~~buildings and structures and appurtenances thereto shall be~~
21 ~~included in each county's agricultural building and structures~~
22 ~~exemption list:] Notwithstanding any law to the contrary, the~~



1 following agricultural buildings, structures, and appurtenances
2 thereto that are not used as dwellings or lodging units are
3 exempt from building permit and building code requirements where
4 they are no more than one thousand square feet in floor area:

5 (1) Nonresidential manufactured pre-engineered commercial
6 buildings and structures [~~consisting of no more than~~
7 ~~1,000 square feet that have no electrical power and~~
8 ~~have no potable water, sewage, or other plumbing~~
9 ~~related services, or have such electrical or plumbing~~
10 ~~related services installed and inspected in accordance~~
11 ~~with subsection (a) (3) and (4)];~~

12 (2) Single stand alone recycled ocean shipping or cargo
13 containers that are used as nonresidential commercial
14 buildings[+] and are properly anchored;

15 (3) Notwithstanding the [~~1,000~~] one thousand square foot
16 floor area restriction [~~in subsection (a)~~],
17 agricultural shade cloth structures, cold frames, or
18 greenhouses not exceeding [~~20,000~~] twenty thousand
19 square feet in area per structure; provided that where
20 multiple structures are erected, the minimum
21 horizontal separation between each shade cloth
22 structure, cold frame, or greenhouse is fifteen feet;



- 1 (4) Aquacultural or aquaponics structures, including
2 above-ground water storage or production tanks,
3 troughs, and raceways with a maximum height of six
4 feet above grade, and in-ground ponds and raceways,
5 and piping systems for aeration, carbon dioxide, or
6 fertilizer or crop protection chemical supplies within
7 agricultural or aquacultural production facilities;
- 8 (5) Livestock watering tanks, water piping and plumbing
9 not connected to a source of potable water, or
10 separated by an air gap from such a source;
- 11 (6) Non-masonry fences not exceeding ten feet in height
12 and masonry fences not exceeding six feet in height;
- 13 (7) One-story masonry or wood-framed buildings or
14 structures with a structural span of less than twenty-
15 five feet and a total square footage of no more than
16 [~~1,000~~] one thousand square feet, including farm
17 buildings used as:
- 18 (A) Barns;
- 19 (B) Greenhouses;
- 20 (C) Farm production buildings including aquaculture
21 hatcheries and plant nurseries;



1 (D) Storage buildings for farm equipment or plant or
2 animal supplies or feed; or

3 (E) Storage or processing buildings for crops;
4 provided that the height of any stored items
5 shall not collectively exceed twelve feet in
6 height [~~and the storage of any hazardous~~
7 ~~materials shall comply with any and all~~
8 ~~applicable statutes, regulations, and codes~~];

9 (8) Raised beds containing soil, gravel, cinders, or other
10 growing media or substrates with wood, metal, or
11 masonry walls or supports with a maximum height of
12 four feet; [~~and~~]

13 (9) Horticultural tables or benches no more than four feet
14 in height supporting potted plants or other crops; and

15 (10) Nonresidential indigenous Hawaiian hale that do not
16 exceed five hundred square feet in size, have no
17 kitchen or bathroom, and are used for traditional
18 agricultural activities or education;

19 provided that the buildings, structures, and appurtenances
20 thereto comply with all applicable state and county [~~codes,~~
21 ~~including but not limited to applicable building, fire, health,~~



1 ~~safety, and zoning codes and are properly anchored.] zoning~~
2 codes.

3 (b) Notwithstanding the one thousand square foot floor
4 area restriction in subsection (a), the following buildings,
5 structures, and appurtenances thereto shall be exempt from
6 building permit requirements when compliant with relevant
7 building codes or county, national, or international
8 prescriptive construction standards:

9 (1) Nonresidential manufactured pre-engineered and county
10 pre-approved commercial buildings and structures
11 consisting of a total square footage greater than one
12 thousand square feet but no more than eight thousand
13 square feet; and

14 (2) One-story wood-framed or masonry buildings or
15 structures with a structural span of less than twenty-
16 five feet and a total square footage greater than one
17 thousand square feet but no more than eight thousand
18 square feet constructed in accordance with county,
19 national, or international prescriptive construction
20 standards, including buildings used as:

21 (A) Barns;

22 (B) Greenhouses;



- 1 (C) Farm production buildings, including aquaculture
- 2 hatcheries and plant nurseries;
- 3 (D) Storage buildings for farm equipment, plant or
- 4 animal supplies, or feed; or
- 5 (E) Storage or processing buildings for crops;
- 6 provided that the height of any stored items
- 7 shall not collectively exceed twelve feet in
- 8 height.

9 ~~(c) [In the event that a county fails to establish the~~
10 ~~agricultural buildings and structures exemption list within the~~
11 ~~time period as required under subsection (a), the buildings and~~
12 ~~structures specified in subsection (b) shall constitute that~~
13 ~~county's agricultural building and structures exemption list.]~~
14 The exemptions in subsections (a) and (b) shall apply; provided
15 that:

- 16 (1) The aggregate floor area of the exempted agricultural
- 17 buildings shall not exceed:
- 18 (A) Five thousand square feet per zoning lot for lots
- 19 of two acres or less;
- 20 (B) Eight thousand square feet per zoning lot for
- 21 lots greater than two acres but not more than
- 22 five acres; and



1 (C) Eight thousand square feet plus two per cent of
2 the acreage per zoning lot for lots greater than
3 five acres; provided that each exempted
4 agricultural building is compliant with the
5 square foot area restrictions in subsection (a)
6 or subsection (b);

7 (2) The minimum horizontal separation between each
8 agricultural building, structure, or appurtenance
9 thereto is fifteen feet;

10 (3) The agricultural buildings, structures, or
11 appurtenances thereto are located on a commercial farm
12 or ranch and are used for general agricultural or
13 aquacultural operations, or for purposes incidental to
14 such operations;

15 (4) The agricultural buildings, structures, or
16 appurtenances thereto are constructed or installed on
17 property that is used primarily for agricultural or
18 aquacultural operations, and is two or more contiguous
19 acres in area or one or more contiguous acres in area
20 if located in a nonresidential agricultural or
21 aquacultural park;



- 1 (5) Upon completion of construction or installation, the
2 owner or occupier shall provide written notice to the
3 appropriate county fire department and county building
4 permitting agency of the size, type, and locations of
5 the building, structure, or appurtenance thereto.
6 Such written notification shall be provided to the
7 county agencies within thirty days of the completion
8 of the building, structure, or appurtenance thereto.
9 Failure to provide such written notice may void the
10 building permit or building code exemption, or both,
11 which voidance for such failure is subject to the sole
12 discretion of the appropriate county building
13 permitting agency;
- 14 (6) No electrical power and no plumbing systems shall be
15 connected to the building or structure without first
16 obtaining the appropriate county electrical or
17 plumbing permit, and all such installations shall be
18 installed under the supervision of a licensed
19 electrician or plumber, as appropriate, and inspected
20 and approved by an appropriate county or licensed
21 inspector or, if a county building agency is unable to
22 issue an electrical permit because the building or



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

6 (7) Disposal of wastewater from any building or structure
7 constructed or installed pursuant to this section
8 shall comply with chapter 342D; and

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

11 (d) As used in this section:

12 "Agricultural building [~~or aquacultural building~~]" means a
13 nonresidential building or structure, built for agricultural or
14 aquacultural purposes, located on a commercial farm or ranch
15 constructed or installed to house farm or ranch implements,
16 agricultural or aquacultural feeds or supplies, livestock,
17 poultry, or other agricultural or aquacultural products, used in
18 or necessary for the operation of the farm or ranch, or for the
19 processing and selling of farm or ranch products.

20 "Agricultural operation" means the planting, cultivating,
21 harvesting, processing, or storage of crops, including those
22 planted, cultivated, harvested, and processed for food,



1 ornamental, grazing, feed, or forestry purposes, as well as the
2 feeding, breeding, management, and sale of animals including
3 livestock, poultry, honeybees, and their products.

4 "Appurtenance" means an object or device in, on, or
5 accessory to a building or structure, and which enhances or is
6 essential to the usefulness of the building or structure,
7 including but not limited to work benches, horticultural and
8 floricultural growing benches, aquacultural, aquaponic, and
9 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,
10 when situated within a structure.

11 "Aquacultural operation" means the propagation,
12 cultivation, farming, harvesting, processing, and storage of
13 aquatic plants and animals in controlled or selected
14 environments for research, commercial, or stocking purposes and
15 includes aquaponics or any growing of plants or animals in or
16 with aquaculture effluents.

17 "Manufactured pre-engineered commercial building or
18 structure" means a building or structure whose specifications
19 comply with appropriate county codes, and have been pre-approved
20 by a county or building official.

21 "Nonresidential building or structure" means a building or
22 structure, including an agricultural building, that is used only



1 for agricultural or aquacultural operations [~~, including an~~
2 ~~agricultural building or aquacultural building,~~] and is not
3 intended for use as, or used as, a dwelling.

4 (e) This section shall not apply to buildings or
5 structures otherwise exempted from building permitting or
6 building code requirements by applicable county ordinance.

7 (f) This section shall not be construed to supersede
8 public or private lease conditions.

9 (g) This section shall not apply to the construction or
10 installation of any building or structure on land in an urban
11 district.

12 (h) The State or any county shall not be liable for claims
13 arising from the construction of agricultural buildings,
14 structures, or appurtenances thereto exempt from the building
15 code and permitting process as described in this section, unless
16 the claim arises out of gross negligence or intentional
17 misconduct by the State or county.

18 (i) This section shall not apply to buildings or
19 structures used to store pesticides or other hazardous material
20 unless stored in accordance with federal and state law.



1 (j) Failure to comply with the conditions of this section
2 shall result in penalties consistent with county building
3 department provisions."

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.



Report Title:

Agricultural Buildings; Permits; Building Code; Exemptions;
Counties

Description:

Provides, under certain circumstances, an exemption from building code requirements and an expansion of existing building permit exemptions for nonresidential buildings or structures, including indigenous Hawaiian hale, on commercial farms and ranches located outside the urban district. (CD1)

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