
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. Act 114, Session Laws of Hawaii 2012,
15 may help to reduce the cost and time spent applying for building
16 permits for specified nonresidential agricultural and
17 aquacultural buildings and structures and their appurtenances,



1 but Act 114 does not offer relief from county building code
2 requirements.

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

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

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



1 square feet in floor area and compliant with building code
2 requirements or prescriptive construction standards, may be
3 exempted from building permit requirements pursuant to
4 subsection (d); provided that ~~the~~:

5 (1) The aggregate floor area of the exempted agricultural
6 building~~, structure, or appurtenance thereto~~ shall
7 not exceed ~~5,000~~:

8 (A) Five thousand square feet per zoning lot for lots
9 of two acres or less;

10 (B) Eight thousand square feet per zoning lot for
11 lots greater than two acres but not more than
12 five acres; and

13 (C) Ten per cent of the acreage per zoning lot for
14 lots greater than five acres; ~~and the~~

15 (2) The minimum horizontal separation between each
16 agricultural building, structure, or appurtenance
17 thereto is fifteen feet~~, and the~~;

18 (3) The agricultural buildings, structures, or
19 appurtenances thereto are located on a commercial farm
20 or ranch and are used for general agricultural or
21 aquacultural operations, or for purposes incidental to
22 such operations; ~~provided further that:~~



1 ~~(1)~~ (4) The agricultural building, structure, or
2 appurtenance thereto is constructed or installed on
3 property that is used primarily for agricultural or
4 aquacultural operations, and is two or more contiguous
5 acres in area or one or more contiguous acres in area
6 if located in a nonresidential agricultural or
7 aquacultural park;

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

20 ~~(3)~~ (6) No electrical power and no plumbing systems shall
21 be connected to the building or structure without
22 first obtaining the appropriate county electrical or

1 plumbing permit, and all such installations shall be
2 installed under the supervision of a licensed
3 electrician or plumber, as appropriate, and inspected
4 and approved by an appropriate county or licensed
5 inspector~~[, and]~~ or, if a county building agency is
6 unable to issue an electrical permit because the
7 building or structure is permit-exempt, an electrical
8 permit shall be issued for an electrical connection to
9 a meter on a pole beyond the permit-exempt structure
10 in accordance with the installation, inspection, and
11 approval requirements in this paragraph;

12 [~~4~~] (7) Disposal of wastewater from any building or
13 structure constructed or installed pursuant to this
14 section shall comply with chapter 342D~~[,]~~; and

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

17 (b) For purposes of subsection (a), the following
18 buildings ~~[and]~~, structures, and appurtenances thereto ~~[shall]~~
19 may be included in each county's agricultural [building]
20 buildings and structures exemption list[+] and may be exempt
21 from county building permit and code requirements:



- 1 (1) Nonresidential manufactured pre-engineered commercial
2 buildings and structures consisting of no more than
3 [~~1,000~~] one thousand square feet [~~that have no~~
4 ~~electrical power and have no potable water, sewage, or~~
5 ~~other plumbing related services, or have such~~
6 ~~electrical or plumbing related services installed and~~
7 ~~inspected in accordance with subsection (a) (3) and~~
8 ~~(4)~~];
- 9 (2) Single stand alone recycled ocean shipping or cargo
10 containers that are used as nonresidential commercial
11 buildings;
- 12 (3) Notwithstanding the [~~1,000~~] one thousand square foot
13 floor area restriction in subsection (a), agricultural
14 shade cloth structures, cold frames, or greenhouses
15 not exceeding [~~20,000~~] twenty thousand square feet in
16 area per structure; provided that where multiple
17 structures are erected, the minimum horizontal
18 separation between each shade cloth structure, cold
19 frame, or greenhouse is fifteen feet;
- 20 (4) Aquacultural or aquaponics structures, including
21 above-ground water storage or production tanks,
22 troughs, and raceways with a maximum height of six



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



1 shall not collectively exceed twelve feet in
2 height and the storage of any hazardous materials
3 shall comply with any and all applicable
4 statutes, regulations, and codes;

5 (8) Raised beds containing soil, gravel, cinders, or other
6 growing media or substrates with wood, metal, or
7 masonry walls or supports with a maximum height of
8 four feet; ~~and]~~

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

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

15 provided that the buildings, structures, and appurtenances
16 thereto comply with all applicable state and county ~~codes,~~
17 ~~including but not limited to applicable building, fire, health,~~
18 ~~safety, and]~~ zoning codes and are properly anchored.

19 (c) ~~[In the event that]~~ If a county fails to establish
20 ~~[the]~~ an agricultural buildings and structures exemption list
21 ~~[within the time period as required under subsection (a),]~~
22 before July 1, 2014, the buildings and structures specified in



1 subsection (b) shall constitute that county's agricultural
2 [~~building~~] buildings and structures exemption list[-] until such
3 a time as the county establishes an exemption list specific to
4 that particular county.

5 (d) For purposes of subsection (a), and notwithstanding
6 the one thousand square foot floor area restriction in
7 subsection (a), the following buildings, structures, and
8 appurtenances thereto may be exempt from building permit
9 requirements when compliant with relevant building codes or
10 county, national, or international prescriptive construction
11 standards:

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

17 (2) One-story wood-framed or masonry buildings or
18 structures with a structural span of less than twenty-
19 five feet and a total square footage greater than one
20 thousand square feet but no more than eight thousand
21 square feet constructed in accordance with county,



1 national, or international prescriptive construction
2 standards, including buildings used as:

3 (A) Barns;

4 (B) Greenhouses;

5 (C) Farm production buildings, including aquaculture
6 hatcheries and plant nurseries;

7 (D) Storage buildings for farm equipment, plant or
8 animal supplies, or feed; or

9 (E) Storage or processing buildings for crops;

10 provided that the height of any stored items

11 shall not collectively exceed twelve feet in

12 height and the storage of any hazardous materials

13 shall comply with all applicable statutes,

14 regulations, and codes.

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

16 "Agricultural building or aquacultural building" means a
17 nonresidential building or structure located on a commercial
18 farm or ranch constructed or installed to house farm or ranch
19 implements, agricultural or aquacultural feeds or supplies,
20 livestock, poultry, or other agricultural or aquacultural
21 products, used in or necessary for the operation of the farm or



1 ranch, or for the processing and selling of farm or ranch
2 products.

3 "Agricultural operation" means the planting, cultivating,
4 harvesting, processing, or storage of crops, including those
5 planted, cultivated, harvested, and processed for food,
6 ornamental, grazing, feed, or forestry purposes, as well as the
7 feeding, breeding, management, and sale of animals including
8 livestock, poultry, honeybees, and their products.

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

16 "Aquacultural operation" means the propagation,
17 cultivation, farming, harvesting, processing, and storage of
18 aquatic plants and animals in controlled or selected
19 environments for research, commercial, or stocking purposes and
20 includes aquaponics or any growing of plants or animals in or
21 with aquaculture effluents.



1 "Manufactured pre-engineered commercial building or
2 structure" means a building or structure whose specifications
3 comply with appropriate county codes, and have been pre-approved
4 by a county or building official.

5 "Nonresidential building or structure" means a building or
6 structure that is used only for agricultural or aquacultural
7 operations, including an agricultural building or aquacultural
8 building, and is not intended for use as, or used as, a
9 dwelling.

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

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

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

18 (i) The State or any county shall not be liable for claims
19 arising from the construction of agricultural buildings,
20 structures, or appurtenances thereto exempt from the building
21 code and permitting process as described in this section, or as
22 otherwise described in a list adopted by the counties, unless



1 the claim arises out of gross negligence or intentional
2 misconduct by the State or county."

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

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



Report Title:

Agricultural Building Permits; Exemptions

Description:

Provides, under certain circumstances, an exemption from building code and permit requirements for nonresidential buildings or structures, including indigenous Hawaiian hale, on commercial farms and ranches located outside the urban district. Effective July 1, 2013. (SB586 HD1)

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

