

JAN 18 2013

S.B. NO. 838

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. Section 205-4.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Within the agricultural district, all lands with soil
4 classified by the land study bureau's detailed land
5 classification as overall (master) productivity rating class A
6 or B shall be restricted to the following permitted uses:

7 (1) Cultivation of crops, including crops for bioenergy,
8 flowers, vegetables, foliage, fruits, forage, and
9 timber;

10 (2) Game and fish propagation;

11 (3) Raising of livestock, including poultry, bees, fish,
12 or other animal or aquatic life that are propagated
13 for economic or personal use;

14 (4) Farm dwellings, employee housing, farm buildings, or
15 activities or uses related to farming and animal
16 husbandry. "Farm dwelling", as used in this

17 paragraph, means a single-family dwelling located on

18 and used in connection with a farm, including clusters



- 1 of single-family farm dwellings permitted within
- 2 agricultural parks developed by the State, or where
- 3 agricultural activity provides income to the family
- 4 occupying the dwelling;
- 5 (5) Public institutions and buildings that are necessary
- 6 for agricultural practices;
- 7 (6) Public and private open area types of recreational
- 8 uses, including day camps, picnic grounds, parks, and
- 9 riding stables, but not including dragstrips,
- 10 airports, drive-in theaters, golf courses, golf
- 11 driving ranges, country clubs, and overnight camps;
- 12 (7) Public, private, and quasi-public utility lines and
- 13 roadways, transformer stations, communications
- 14 equipment buildings, solid waste transfer stations,
- 15 major water storage tanks, and appurtenant small
- 16 buildings such as booster pumping stations, but not
- 17 including offices or yards for equipment, material,
- 18 vehicle storage, repair or maintenance, treatment
- 19 plants, corporation yards, or other similar
- 20 structures;
- 21 (8) Retention, restoration, rehabilitation, or improvement
- 22 of buildings or sites of historic or scenic interest;



- 1 (9) Agricultural-based commercial operations as described
- 2 in section [‡]205-2(d)(15) [‡];
- 3 (10) Buildings and uses, including mills, storage, and
- 4 processing facilities, maintenance facilities,
- 5 photovoltaic, biogas, and other small-scale renewable
- 6 energy systems producing energy solely for use in the
- 7 agricultural activities of the fee or leasehold owner
- 8 of the property, and vehicle and equipment storage
- 9 areas that are normally considered directly accessory
- 10 to the above-mentioned uses and are permitted under
- 11 section 205-2(d);
- 12 (11) Agricultural parks;
- 13 (12) Plantation community subdivisions, which as used in
- 14 this chapter means an established subdivision or
- 15 cluster of employee housing, community buildings, and
- 16 agricultural support buildings on land currently or
- 17 formerly owned, leased, or operated by a sugar or
- 18 pineapple plantation; provided that the existing
- 19 structures may be used or rehabilitated for use, and
- 20 new employee housing and agricultural support
- 21 buildings may be allowed on land within the
- 22 subdivision as follows:



- 1 (A) The employee housing is occupied by employees or
2 former employees of the plantation who have a
3 property interest in the land;
- 4 (B) The employee housing units not owned by their
5 occupants shall be rented or leased at affordable
6 rates for agricultural workers; or
- 7 (C) The agricultural support buildings shall be
8 rented or leased to agricultural business
9 operators or agricultural support services;
- 10 (13) Agricultural tourism conducted on a working farm, or a
11 farming operation as defined in section 165-2, for the
12 enjoyment, education, or involvement of visitors;
13 provided that the agricultural tourism activity is
14 accessory and secondary to the principal agricultural
15 use and does not interfere with surrounding farm
16 operations; and provided further that this paragraph
17 shall apply only to a county that has adopted
18 ordinances regulating agricultural tourism under
19 section 205-5;
- 20 (14) Agricultural tourism activities, including overnight
21 accommodations of twenty-one days or less, for any one
22 stay within a county; provided that this paragraph



1 shall apply only to a county that includes at least
2 three inhabited islands and has adopted ordinances
3 regulating agricultural tourism activities pursuant to
4 section 205-5; provided further that the agricultural
5 tourism activities coexist with a bona fide
6 agricultural activity. For the purposes of this
7 paragraph, "bona fide agricultural activity" means a
8 farming operation as defined in section 165-2;

9 (15) Wind energy facilities, including the appurtenances
10 associated with the production and transmission of
11 wind generated energy; provided that the wind energy
12 facilities and appurtenances are compatible with
13 agriculture uses and cause minimal adverse impact on
14 agricultural land;

15 (16) Biofuel processing facilities, including the
16 appurtenances associated with the production and
17 refining of biofuels that is normally considered
18 directly accessory and secondary to the growing of the
19 energy feedstock; provided that biofuels processing
20 facilities and appurtenances do not adversely impact
21 agricultural land and other agricultural uses in the
22 vicinity.



1 For the purposes of this paragraph:

2 "Appurtenances" means operational infrastructure
3 of the appropriate type and scale for economic
4 commercial storage and distribution, and other similar
5 handling of feedstock, fuels, and other products of
6 biofuel processing facilities.

7 "Biofuel processing facility" means a facility
8 that produces liquid or gaseous fuels from organic
9 sources such as biomass crops, agricultural residues,
10 and oil crops, including palm, canola, soybean, and
11 waste cooking oils; grease; food wastes; and animal
12 residues and wastes that can be used to generate
13 energy;

14 (17) Agricultural-energy facilities, including
15 appurtenances necessary for an agricultural-energy
16 enterprise; provided that the primary activity of the
17 agricultural-energy enterprise is agricultural
18 activity. To be considered the primary activity of an
19 agricultural-energy enterprise, the total acreage
20 devoted to agricultural activity shall be not less
21 than ninety per cent of the total acreage of the
22 agricultural-energy enterprise. The agricultural-



1 energy facility shall be limited to lands owned,
2 leased, licensed, or operated by the entity conducting
3 the agricultural activity.

4 As used in this paragraph:

5 "Agricultural activity" means any activity
6 described in paragraphs (1) to (3) of this subsection.

7 "Agricultural-energy enterprise" means an
8 enterprise that integrally incorporates an
9 agricultural activity with an agricultural-energy
10 facility.

11 "Agricultural-energy facility" means a facility
12 that generates, stores, or distributes renewable
13 energy as defined in section 269-91 or renewable fuel
14 including electrical or thermal energy or liquid or
15 gaseous fuels from products of agricultural activities
16 from agricultural lands located in the State.

17 "Appurtenances" means operational infrastructure
18 of the appropriate type and scale for the economic
19 commercial generation, storage, distribution, and
20 other similar handling of energy, including equipment,
21 feedstock, fuels, and other products of agricultural-
22 energy facilities;



1 (18) Construction and operation of wireless communication
2 antennas; provided that, for the purposes of this
3 paragraph, "wireless communication antenna" means
4 communications equipment that is either freestanding
5 or placed upon or attached to an already existing
6 structure and that transmits and receives
7 electromagnetic radio signals used in the provision of
8 all types of wireless communications services;
9 provided further that nothing in this paragraph shall
10 be construed to permit the construction of any new
11 structure that is not deemed a permitted use under
12 this subsection;

13 (19) Agricultural education programs conducted on a farming
14 operation as defined in section 165-2, for the
15 education and participation of the general public;
16 provided that the agricultural education programs are
17 accessory and secondary to the principal agricultural
18 use of the parcels or lots on which the agricultural
19 education programs are to occur and do not interfere
20 with surrounding farm operations. For the purposes of
21 this section, "agricultural education programs" means
22 activities or events designed to promote knowledge and



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1 understanding of agricultural activities and practices
2 conducted on a farming operation as defined in section
3 165-2;

4 (20) Solar energy facilities that do not occupy more than
5 ten per cent of the acreage of the parcel, or twenty
6 acres of land, whichever is lesser; provided that this
7 use shall not be permitted on lands with soil
8 classified by the land study bureau's detailed land
9 classification as overall (master) productivity rating
10 class A; or

11 ~~[(21)]~~ Geothermal resources exploration and geothermal
12 resources development, as defined under section
13 182-1."

14 SECTION 2. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect upon its approval.

17 INTRODUCED BY: _____



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Report Title:

Agricultural Districts; Tourism Activities; Overnight Accommodations

Description:

Clarifies that agricultural tourism activities, including overnight accommodations, shall only be permitted in agricultural districts in a county that includes at least three inhabited islands.

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