



**GOV. MSG. NO. 1152**

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

April 28, 2014

The Honorable Donna Mercado Kim,  
President  
and Members of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

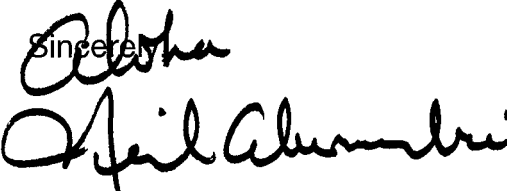
The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 28, 2014, the following bill was signed into law:

SB2775 SD1 HD1

RELATING TO RENEWABLE ENERGY  
**ACT 052 (14)**

Sincerely,  
  
NEIL ABERCROMBIE  
Governor, State of Hawaii

RECEIVED  
THE SENATE  
CLERK'S OFFICE  
STATE OF HAWAII

RECEIVED  
SENATE  
OFFICE OF THE PRESIDENT

'14 APR 30 A10 :22

'14 APR 29 A10 :02

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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

**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 islands and has adopted ordinances regulating  
3 agricultural tourism activities pursuant to section  
4 205-5; provided further that the agricultural tourism  
5 activities coexist with a bona fide agricultural  
6 activity. For the purposes of this paragraph, "bona  
7 fide agricultural activity" means a farming operation  
8 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 biofuel 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



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[+] unless the solar energy facilities are:

11 (A) Located on a paved or unpaved road in existence  
12 as of December 31, 2013, and the parcel of land  
13 upon which the paved or unpaved road is located  
14 has a valid county agriculture tax dedication  
15 status or a valid agricultural conservation  
16 easement;

17 (B) Placed in a manner that still allows vehicular  
18 traffic to use the road; and

19 (C) Granted a special use permit by the commission  
20 pursuant to section 205-6; or



1 [+(21)+]Geothermal resources exploration and geothermal  
2 resources development, as defined under section  
3 182-1."

4 SECTION 2. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect upon its approval;  
7 provided that:

8 (1) This Act shall be repealed on June 30, 2019, and  
9 section 205-4.5, Hawaii Revised Statutes, shall be  
10 reenacted in the form in which it read on the day  
11 before the effective date of this Act; and

12 (2) Any solar energy facility permitted under this Act as  
13 of June 30, 2019, shall continue to be permissible  
14 under the provisions of this Act until the end of its  
15 operable life, at which time it shall be appropriately  
16 and properly replaced or decommissioned and removed  
17 within twelve months.

APPROVED this 28 day of APR, 2014



GOVERNOR OF THE STATE OF HAWAII