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## A BILL FOR AN ACT

RELATING TO LAND USE.

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

1           SECTION 1. The legislature finds that Hawaii is rich in  
2 renewable energy sources that have the potential to free the  
3 State from its dependence on imported oil, which currently  
4 supplies approximately ninety per cent of the State's energy.  
5 The abundant supply of sunshine represents a clean energy source  
6 that could provide farmers with a means to maintain their crops  
7 through droughts and plant infestations as well as generate  
8 their own power.

9           The legislature further finds that the installation of  
10 photovoltaics does not necessarily preclude the utilization of  
11 the remaining portion of the land for agricultural production.  
12 Hawaii is one of the few places in the United States where the  
13 photovoltaic energy production lifecycle cost is less than that  
14 of utility-distributed electricity, which is based predominantly  
15 on fossil fuels.

16           The purpose of this Act is to provide farmers the  
17 flexibility necessary to improve Hawaii's food security by  
18 permitting solar energy production on agricultural lands that



1 have not been cultivated for a minimum of ten years due to  
2 insufficient quantities of water to support viable agricultural  
3 production. It is the legislature's intent that while  
4 agriculture will remain the primary focus for agricultural land,  
5 this Act will provide farmers the opportunity to generate their  
6 own electric power as well as supplement their income by selling  
7 excess electricity to the grid.

8 SECTION 2. Section 205-2, Hawaii Revised Statutes, is  
9 amended by amending subsection (d) to read as follows:

10 "(d) Agricultural districts shall include:

- 11 (1) Activities or uses as characterized by the cultivation  
12 of crops, crops for bioenergy, orchards, forage, and  
13 forestry;
- 14 (2) Farming activities or uses related to animal husbandry  
15 and game and fish propagation;
- 16 (3) Aquaculture, which means the production of aquatic  
17 plant and animal life within ponds and other bodies of  
18 water;
- 19 (4) Wind generated energy production for public, private,  
20 and commercial use;



- 1 (5) Biofuel production, as described in section  
2 205-4.5(a)(16), for public, private, and commercial  
3 use;
- 4 (6) Solar energy facilities; provided that:
- 5 (A) The land is located within urban growth  
6 boundaries as determined by the general plan of  
7 the county in which the land is located;
- 8 (B) If the land is not located within urban growth  
9 boundaries, solar facilities shall be permitted  
10 if the land has not been cultivated for a minimum  
11 of ten years due to insufficient quantities of  
12 water to support viable agricultural production;  
13 and
- 14 (C) ~~[This paragraph shall apply only to]~~ If neither  
15 subparagraph (A) nor subparagraph (B) applies,  
16 solar facilities shall be permitted on land with  
17 soil classified by the land study bureau's  
18 detailed land classification as overall (master)  
19 productivity rating class B, C, D, or E; [and  
20 ~~(B) Solar]~~ provided that solar energy facilities  
21 placed within land with soil classified as  
22 overall productivity rating class B or C shall



1 not occupy more than ten per cent of the acreage  
2 of the parcel, or twenty acres of land, whichever  
3 is lesser;

4 (7) Bona fide agricultural services and uses that support  
5 the agricultural activities of the fee or leasehold  
6 owner of the property and accessory to any of the  
7 above activities, regardless of whether conducted on  
8 the same premises as the agricultural activities to  
9 which they are accessory, including farm dwellings as  
10 defined in section 205-4.5(a)(4), employee housing,  
11 farm buildings, mills, storage facilities, processing  
12 facilities, photovoltaic, biogas, and other small-  
13 scale renewable energy systems producing energy solely  
14 for use in the agricultural activities of the fee or  
15 leasehold owner of the property, agricultural-energy  
16 facilities as defined in section 205-4.5(a)(17),  
17 vehicle and equipment storage areas, and plantation  
18 community subdivisions as defined in section  
19 205-4.5(a)(12);

20 (8) Wind machines and wind farms;

21 (9) Small-scale meteorological, air quality, noise, and  
22 other scientific and environmental data collection and



1 monitoring facilities occupying less than one-half  
2 acre of land; provided that these facilities shall not  
3 be used as or equipped for use as living quarters or  
4 dwellings;

5 (10) Agricultural parks;

6 (11) Agricultural tourism conducted on a working farm, or a  
7 farming operation as defined in section 165-2, for the  
8 enjoyment, education, or involvement of visitors;  
9 provided that the agricultural tourism activity is  
10 accessory and secondary to the principal agricultural  
11 use and does not interfere with surrounding farm  
12 operations; and provided further that this paragraph  
13 shall apply only to a county that has adopted  
14 ordinances regulating agricultural tourism under  
15 section 205-5;

16 (12) Agricultural tourism activities, including overnight  
17 accommodations of twenty-one days or less, for any one  
18 stay within a county; provided that this paragraph  
19 shall apply only to a county that includes at least  
20 three islands and has adopted ordinances regulating  
21 agricultural tourism activities pursuant to section  
22 205-5; provided further that the agricultural tourism



1 activities coexist with a bona fide agricultural  
2 activity. For the purposes of this paragraph, "bona  
3 fide agricultural activity" means a farming operation  
4 as defined in section 165-2;

5 (13) Open area recreational facilities;

6 [†] (14) [†] Geothermal resources exploration and geothermal  
7 resources development, as defined under section 182-1;  
8 and

9 [†] (15) [†] Agricultural-based commercial operations, including:

10 (A) A roadside stand that is not an enclosed  
11 structure, owned and operated by a producer for  
12 the display and sale of agricultural products  
13 grown in Hawaii and value-added products that  
14 were produced using agricultural products grown  
15 in Hawaii;

16 (B) Retail activities in an enclosed structure owned  
17 and operated by a producer for the display and  
18 sale of agricultural products grown in Hawaii,  
19 value-added products that were produced using  
20 agricultural products grown in Hawaii, logo items  
21 related to the producer's agricultural  
22 operations, and other food items; and



1 (C) A retail food establishment owned and operated by  
2 a producer and permitted under [title 11,]  
3 chapter 12 of the rules of the department of  
4 health that prepares and serves food at retail  
5 using products grown in Hawaii and value-added  
6 products that were produced using agricultural  
7 products grown in Hawaii.

8 The owner of an agricultural-based commercial  
9 operation shall certify, upon request of an officer or  
10 agent charged with enforcement of this chapter under  
11 section 205-12, that the agricultural products  
12 displayed or sold by the operation meet the  
13 requirements of this paragraph.

14 Agricultural districts shall not include golf courses and golf  
15 driving ranges, except as provided in section 205-4.5(d).

16 Agricultural districts include areas that are not used for, or  
17 that are not suited to, agricultural and ancillary activities by  
18 reason of topography, soils, and other related characteristics."

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



# H.B. NO. 1124

1 SECTION 4. This Act shall take effect upon its approval:

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INTRODUCED BY:

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JAN 23 2013





# H.B. NO. 1124

**Report Title:**

Land Use; Agricultural District; Permitted Use; Solar Facilities

**Description:**

Authorizes solar facilities as a permitted use in agricultural districts on land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A if the land is within urban growth boundaries or if the land has not been cultivated for at least 10 years.

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