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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

- 1           SECTION 1. Section 205-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:
- 3           "(d) Agricultural districts shall include:
- 4           (1) Activities or uses as characterized by the cultivation  
5           of crops, crops for bioenergy, orchards, forage, and  
6           forestry;
- 7           (2) Farming activities or uses related to animal husbandry  
8           and game and fish propagation;
- 9           (3) Aquaculture, which means the production of aquatic  
10           plant and animal life within ponds and other bodies of  
11           water;
- 12           (4) Wind generated energy production for public, private,  
13           and commercial use;
- 14           (5) Biofuel production, as described in section  
15           205-4.5(a)(16), for public, private, and commercial  
16           use;
- 17           (6) Solar energy facilities; provided that:



- 1 (A) This paragraph shall apply only to land with soil  
2 classified by the land study bureau's detailed  
3 land classification as overall (master)  
4 productivity rating class B, C, D, or E; and
- 5 (B) Solar energy facilities placed within land with  
6 soil classified as overall productivity rating  
7 class B or C shall not occupy more than ten per  
8 cent of the acreage of the parcel, or twenty  
9 acres of land, whichever is lesser;
- 10 (7) Bona fide agricultural services and uses that support  
11 the agricultural activities of the fee or leasehold  
12 owner of the property and accessory to any of the  
13 above activities, regardless of whether conducted on  
14 the same premises as the agricultural activities to  
15 which they are accessory, including farm dwellings [~~as~~  
16 ~~defined in section 205-4.5(a)(4),~~] and employee  
17 housing[~~]~~ as provided in section 205-4.5(a)(4), farm  
18 buildings, mills, storage facilities, processing  
19 facilities, photovoltaic, biogas, and other small-  
20 scale renewable energy systems producing energy solely  
21 for use in the agricultural activities of the fee or  
22 leasehold owner of the property, agricultural-energy



1 facilities as defined in section 205-4.5(a)(17),  
2 vehicle and equipment storage areas, and plantation  
3 community subdivisions as defined in section  
4 205-4.5(a)(12);

5 (8) Wind machines and wind farms;

6 (9) Small-scale meteorological, air quality, noise, and  
7 other scientific and environmental data collection and  
8 monitoring facilities occupying less than one-half  
9 acre of land; provided that these facilities shall not  
10 be used as or equipped for use as living quarters or  
11 dwellings;

12 (10) Agricultural parks;

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



1           (12) Agricultural tourism activities, including overnight  
2 accommodations of twenty-one days or less, for any one  
3 stay within a county; provided that this paragraph  
4 shall apply only to a county that includes at least  
5 three islands and has adopted ordinances regulating  
6 agricultural tourism activities pursuant to section  
7 205-5; provided further that the agricultural tourism  
8 activities coexist with a bona fide agricultural  
9 activity. For the purposes of this paragraph, "bona  
10 fide agricultural activity" means a farming operation  
11 as defined in section 165-2;

12           (13) Open area recreational facilities;

13   [+] (14) [+] Geothermal resources exploration and geothermal  
14 resources development, as defined under section 182-1;  
15 and

16   [+] (15) [+] Agricultural-based commercial operations, including:

17           (A) A roadside stand that is not an enclosed  
18 structure, owned and operated by a producer for  
19 the display and sale of agricultural products  
20 grown in Hawaii and value-added products that  
21 were produced using agricultural products grown  
22 in Hawaii;



1 (B) Retail activities in an enclosed structure owned  
2 and operated by a producer for the display and  
3 sale of agricultural products grown in Hawaii,  
4 value-added products that were produced using  
5 agricultural products grown in Hawaii, logo items  
6 related to the producer's agricultural  
7 operations, and other food items; and

8 (C) A retail food establishment owned and operated by  
9 a producer and permitted under [+]title 11, [+]  
10 chapter 12 of the rules of the department of  
11 health that prepares and serves food at retail  
12 using products grown in Hawaii and value-added  
13 products that were produced using agricultural  
14 products grown in Hawaii.

15 The owner of an agricultural-based commercial  
16 operation shall certify, upon request of an officer or  
17 agent charged with enforcement of this chapter under  
18 section 205-12, that the agricultural products  
19 displayed or sold by the operation meet the  
20 requirements of this paragraph.

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



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

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

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

10 (1) Cultivation of crops, including crops for bioenergy,  
11 flowers, vegetables, foliage, fruits, forage, and  
12 timber;

13 (2) Game and fish propagation;

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

17 (4) Farm dwellings, employee housing, farm buildings, or  
18 activities or uses related to farming and animal  
19 husbandry[-]; provided that:

20 (A) The farm dwellings and employee housing units  
21 shall be used exclusively by farmers and their  
22 immediate family members who actively and



1 currently farm on agricultural land upon which  
2 the dwelling is situated; provided further that  
3 the immediate family members of the farmer may  
4 reside in separate dwelling units situated on the  
5 same designated land;

6 (B) Employee housing units shall be used exclusively  
7 by employees and their immediate family members  
8 who actively and currently work on agricultural  
9 land upon which the housing unit is situated;  
10 provided further that the immediate family  
11 members of the employee shall not reside in  
12 separate housing units and shall reside with the  
13 employee;

14 (C) The total land area upon which the farm dwellings  
15 and employee housing units and all appurtenances  
16 are situated shall not occupy more than five per  
17 cent of the total agricultural land area  
18 controlled by the farmer or the employee's  
19 employer or fifty acres, whichever is less;

20 (D) No farm dwelling or employee housing unit shall  
21 exceed \_\_\_\_\_ square feet;



1           (E) The farm dwellings and employee housing units  
2           shall meet all applicable building code  
3           requirements;

4           (F) Notwithstanding section 205-4.5(a)(12), the  
5           landowner shall not plan or develop a residential  
6           subdivision on the agricultural land;

7           (G) Consideration may be given to the cluster  
8           development of farm dwellings and employee  
9           housing units to maximize the land area available  
10           for agricultural production; and

11           (H) The plans for farm dwellings and employee housing  
12           units shall be supported by agricultural plans  
13           that are approved by the department of  
14           agriculture.

15           "Farm dwelling", as used in this paragraph, means a  
16           single-family dwelling located on and used in  
17           connection with a farm, including clusters of single-  
18           family farm dwellings permitted within agricultural  
19           parks developed by the State, or where agricultural  
20           activity provides income to the family occupying the  
21           dwelling;





- 1 (5) Public institutions and buildings that are necessary  
2 for agricultural practices;
- 3 (6) Public and private open area types of recreational  
4 uses, including day camps, picnic grounds, parks, and  
5 riding stables, but not including dragstrips,  
6 airports, drive-in theaters, golf courses, golf  
7 driving ranges, country clubs, and overnight camps;
- 8 (7) Public, private, and quasi-public utility lines and  
9 roadways, transformer stations, communications  
10 equipment buildings, solid waste transfer stations,  
11 major water storage tanks, and appurtenant small  
12 buildings such as booster pumping stations, but not  
13 including offices or yards for equipment, material,  
14 vehicle storage, repair or maintenance, treatment  
15 plants, corporation yards, or other similar  
16 structures;
- 17 (8) Retention, restoration, rehabilitation, or improvement  
18 of buildings or sites of historic or scenic interest;
- 19 (9) Agricultural-based commercial operations as described  
20 in section [†]205-2(d)(15)[†];
- 21 (10) Buildings and uses, including mills, storage, and  
22 processing facilities, maintenance facilities,



1 photovoltaic, biogas, and other small-scale renewable  
2 energy systems producing energy solely for use in the  
3 agricultural activities of the fee or leasehold owner  
4 of the property, and vehicle and equipment storage  
5 areas that are normally considered directly accessory  
6 to the above-mentioned uses and are permitted under  
7 section 205-2(d);

8 (11) Agricultural parks;

9 (12) Plantation community subdivisions, which as used in  
10 this chapter means an established subdivision or  
11 cluster of employee housing, community buildings, and  
12 agricultural support buildings on land currently or  
13 formerly owned, leased, or operated by a sugar or  
14 pineapple plantation; provided that the existing  
15 structures may be used or rehabilitated for use, and  
16 new employee housing and agricultural support  
17 buildings may be allowed on land within the  
18 subdivision as follows:

19 (A) The employee housing is occupied by employees or  
20 former employees of the plantation who have a  
21 property interest in the land;



1 (B) The employee housing units not owned by their  
2 occupants shall be rented or leased at affordable  
3 rates for agricultural workers; or

4 (C) The agricultural support buildings shall be  
5 rented or leased to agricultural business  
6 operators or agricultural support services;

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

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



1 205-5; provided further that the agricultural tourism  
2 activities coexist with a bona fide agricultural  
3 activity. For the purposes of this paragraph, "bona  
4 fide agricultural activity" means a farming operation  
5 as defined in section 165-2;

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

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

20 For the purposes of this paragraph:

21 "Appurtenances" means operational infrastructure  
22 of the appropriate type and scale for economic



1 commercial storage and distribution, and other similar  
2 handling of feedstock, fuels, and other products of  
3 biofuel processing facilities.

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

11 (17) Agricultural-energy facilities, including  
12 appurtenances necessary for an agricultural-energy  
13 enterprise; provided that the primary activity of the  
14 agricultural-energy enterprise is agricultural  
15 activity. To be considered the primary activity of an  
16 agricultural-energy enterprise, the total acreage  
17 devoted to agricultural activity shall be not less  
18 than ninety per cent of the total acreage of the  
19 agricultural-energy enterprise. The agricultural-  
20 energy facility shall be limited to lands owned,  
21 leased, licensed, or operated by the entity conducting  
22 the agricultural activity.



1 As used in this paragraph:

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

4 "Agricultural-energy enterprise" means an  
5 enterprise that integrally incorporates an  
6 agricultural activity with an agricultural-energy  
7 facility.

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

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

20 (18) Construction and operation of wireless communication  
21 antennas; provided that, for the purposes of this  
22 paragraph, "wireless communication antenna" means



1           communications equipment that is either freestanding  
2           or placed upon or attached to an already existing  
3           structure and that transmits and receives  
4           electromagnetic radio signals used in the provision of  
5           all types of wireless communications services;  
6           provided further that nothing in this paragraph shall  
7           be construed to permit the construction of any new  
8           structure that is not deemed a permitted use under  
9           this subsection;

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



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

8 [+](21)[+] Geothermal resources exploration and geothermal  
9 resources development, as defined under section  
10 182-1."

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

13 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Agricultural Land; Dwellings; Employee Housing

**Description:**

Limits dwellings and employee housing on agricultural land to farmers and immediate family members. Establishes standards for dwellings and employee housing on agricultural land. Effective 07/01/2050. (HD1)

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

