

---

# 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 adversely  
3 affects the State's commercial agriculture and aquaculture  
4 industries by adding significant time and costs to farming and  
5 ranching enterprises for such fundamental activities as  
6 constructing or installing greenhouses, shade houses, storage  
7 containers, and many other agricultural and aquacultural  
8 buildings and structures, which, by their nature or location,  
9 pose little risk to life or property. In contrast to building  
10 codes in many other states, county building codes in Hawaii  
11 generally do not distinguish between low-risk agricultural  
12 structures and residential or commercial buildings. Ultimately,  
13 this situation results in excessive costs to attain code  
14 compliance. Act 114, Session Laws of Hawaii 2012, may help to  
15 reduce the cost and time spent applying for building permits for  
16 specified nonresidential agricultural and aquacultural buildings  
17 and structures and their appurtenances, but Act 114 does not  
18 offer relief from county building code requirements.



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

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

9           "~~+~~§46-88~~+~~ **Agricultural and aquacultural buildings and**  
 10 **structures; no building permit required.** (a) ~~[Each]~~  
 11 Notwithstanding any law to the contrary, each county shall  
 12 establish an agricultural buildings and structures exemption  
 13 list consisting of buildings and structures that are exempt from  
 14 existing building permit requirements. The list shall be  
 15 established by each county no later than January 1, 2013.  
 16 Agricultural buildings, structures, or appurtenances thereto,  
 17 which are not used as dwelling or lodging units, may be exempted  
 18 from existing building permit and building code requirements  
 19 where they are no more than ~~[1,000]~~ one thousand square feet in  
 20 floor area~~+~~ or, if greater than one thousand square feet in  
 21 floor area and compliant with building code requirements or  
 22 prescriptive construction standards, may be exempted from

1 building permit requirements pursuant to subsection (d);  
2 provided that ~~[the]~~:

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

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

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

11 (C) Ten per cent of the acreage per zoning lot for  
12 lots greater than five acres; ~~[and the]~~

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

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

21 ~~+1)]~~ (4) The agricultural building, structure, or  
22 appurtenance thereto is constructed or installed on



1 property that is used primarily for agricultural or  
2 aquacultural operations, and is two or more contiguous  
3 acres in area or one or more contiguous acres in area  
4 if located in a nonresidential agricultural or  
5 aquacultural park;

6 ~~[(2)]~~ (5) Upon completion of construction or installation,  
7 the owner or occupier shall provide written notice to  
8 the appropriate county fire department and county  
9 building permitting agency of the size, type, and  
10 locations of the building, structure, or appurtenance  
11 thereto. Such written notification shall be provided  
12 to the county agencies within thirty days of the  
13 completion of the building, structure, or appurtenance  
14 thereto. Failure to provide such written notice may  
15 void the building permit exemption, which voidance for  
16 such failure is subject to the sole discretion of the  
17 appropriate county building permitting agency;

18 ~~[(3)]~~ (6) No electrical power and no plumbing systems shall  
19 be connected to the building or structure without  
20 first obtaining the appropriate county electrical or  
21 plumbing permit, and all such installations shall be  
22 installed under the supervision of a licensed



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

10 ~~[(4)]~~ (7) Disposal of wastewater from any building or  
11 structure constructed or installed pursuant to this  
12 section shall comply with chapter 342D~~[-]~~; and

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

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

20 (1) Nonresidential manufactured pre-engineered commercial  
21 buildings and structures consisting of no more than  
22 ~~[1,000]~~ one thousand square feet ~~[that have no~~



1           ~~electrical power and have no potable water, sewage, or~~  
2           ~~other plumbing related services, or have such~~  
3           ~~electrical or plumbing related services installed and~~  
4           ~~inspected in accordance with subsection (a)(3) and~~  
5           ~~(4)];~~

6           (2) Single [~~stand-alone~~] stand-alone recycled ocean  
7           shipping or cargo containers that are used as  
8           nonresidential commercial buildings;

9           (3) Notwithstanding the [~~1,000~~] one thousand square foot  
10           floor area restriction in subsection (a), agricultural  
11           shade cloth structures, cold frames, or greenhouses  
12           not exceeding [~~20,000~~] twenty thousand square feet in  
13           area per structure; provided that where multiple  
14           structures are erected, the minimum horizontal  
15           separation between each shade cloth structure, cold  
16           frame, or greenhouse is fifteen feet;

17           (4) Aquacultural or aquaponics structures, including  
18           above-ground water storage or production tanks,  
19           troughs, and raceways with a maximum height of six  
20           feet above grade, and in-ground ponds and raceways,  
21           and piping systems for aeration, carbon dioxide, or

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



1 shall comply with any and all applicable  
2 statutes, regulations, and codes;

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

7 (9) Horticultural tables or benches no more than four feet  
8 in height supporting potted plants or other crops;  
9 provided that the buildings, structures, and appurtenances  
10 thereto comply with all applicable state and county [~~codes,~~  
11 ~~including but not limited to applicable building, fire, health,~~  
12 ~~safety, and~~] zoning codes and are properly anchored.

13 (c) [~~In the event that~~] If a county fails to establish the  
14 agricultural buildings and structures exemption list within the  
15 time period as required under subsection (a), the buildings and  
16 structures specified in subsection (b) shall constitute that  
17 county's agricultural [~~building~~] buildings and structures  
18 exemption list.

19 (d) For purposes of subsection (a), and notwithstanding  
20 the one thousand square foot floor area restriction in  
21 subsection (a), the following buildings, structures, and  
22 appurtenances thereto shall be exempt from building permit





1 requirements when compliant with relevant building codes or  
2 county, national, or international prescriptive construction  
3 standards:

4       (1) Nonresidential manufactured pre-engineered and county  
5       pre-approved commercial buildings and structures  
6       consisting of a total square footage greater than one  
7       thousand square feet but no more than eight thousand  
8       square feet; and

9       (2) One-story wood-framed or masonry buildings or  
10       structures with a structural span of less than twenty-  
11       five feet and a total square footage greater than one  
12       thousand square feet but no more than eight thousand  
13       square feet constructed in accordance with county,  
14       national, or international prescriptive construction  
15       standards, including buildings used as:

16       (A) Barns;

17       (B) Greenhouses;

18       (C) Farm production buildings, including aquaculture  
19       hatcheries and plant nurseries;

20       (D) Storage buildings for farm equipment, plant or  
21       animal supplies, or feed; or



1           (E) Storage or processing buildings for crops;  
2           provided that the height of any stored items  
3           shall not collectively exceed twelve feet in  
4           height and the storage of any hazardous materials  
5           shall comply with all applicable statutes,  
6           regulations, and codes.

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

8           "Agricultural building or aquacultural building" means a  
9 nonresidential building or structure located on a commercial  
10 farm or ranch constructed or installed to house farm or ranch  
11 implements, agricultural or aquacultural feeds or supplies,  
12 livestock, poultry, or other agricultural or aquacultural  
13 products, used in or necessary for the operation of the farm or  
14 ranch, or for the processing and selling of farm or ranch  
15 products.

16           "Agricultural operation" means the planting, cultivating,  
17 harvesting, processing, or storage of crops, including those  
18 planted, cultivated, harvested, and processed for food,  
19 ornamental, grazing, feed, or forestry purposes, as well as the  
20 feeding, breeding, management, and sale of animals including  
21 livestock, poultry, honeybees, and their products.



1 "Appurtenance" means an object or device in, on, or  
2 accessory to a building or structure, and which, enhances or is  
3 essential to the usefulness of the building or structure,  
4 including but not limited to work benches, horticultural and  
5 floricultural growing benches, aquacultural, aquaponic, and  
6 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,  
7 when situated within a structure.

8 "Aquacultural operation" means the propagation,  
9 cultivation, farming, harvesting, processing, and storage of  
10 aquatic plants and animals in controlled or selected  
11 environments for research, commercial, or stocking purposes and  
12 includes aquaponics or any growing of plants or animals in or  
13 with aquaculture effluents.

14 "Manufactured pre-engineered commercial building or  
15 structure" means a building or structure whose specifications  
16 comply with appropriate county codes, and have been pre-approved  
17 by a county or building official.

18 "Nonresidential building or structure" means a building or  
19 structure that is used only for agricultural or aquacultural  
20 operations, including an agricultural building or aquacultural  
21 building, and is not intended for use as, or used as, a  
22 dwelling.



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

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

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

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

11        SECTION 4. This Act shall take effect on July 1, 2013;  
12 provided that the amendments to section 46-88(a)(1), Hawaii  
13 Revised Statutes, in section 2 of this Act shall be repealed on  
14 July 1, 2016, and section 46-88(a)(1), Hawaii Revised Statutes,  
15 shall be reenacted in the form in which it read on June 30,  
16 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 on farms. Effective July 1, 2013.  
(HB489 HD1)

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

