

JAN 17 2014

S.B. NO. 2658

A BILL FOR AN ACT

RELATING TO SOLAR ENERGY.

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

1 SECTION 1. The purpose of this Act is to enable the
2 complementary uses of utility scale solar energy generation and
3 local food production on agricultural land with an overall
4 productivity rating of class B or C.

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

7 "(d) Agricultural districts shall include:

- 8 (1) Activities or uses as characterized by the cultivation
9 of crops, crops for bioenergy, orchards, forage, and
10 forestry;
- 11 (2) Farming activities or uses related to animal husbandry
12 and game and fish propagation;
- 13 (3) Aquaculture, which means the production of aquatic
14 plant and animal life within ponds and other bodies of
15 water;
- 16 (4) Wind generated energy production for public, private,
17 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) This paragraph shall apply only to land with soil
6 classified by the land study bureau's detailed
7 land classification as overall (master)
8 productivity rating class B, C, D, or E; and
- 9 (B) Solar energy facilities placed within land with
10 soil classified as overall productivity rating
11 class B or C shall not occupy more than ~~[ten]~~
12 thirty per cent of the acreage of the parcel, or
13 ~~[twenty acres of land, whichever is lesser;],~~ in
14 the alternative, of two or more adjacent parcels
15 having met the applicable county requirements for
16 the joint development or joint lot use of those
17 parcels; provided that the area occupied by the
18 solar energy facilities in excess of twenty acres
19 shall only be made available for agricultural
20 activities that are compatible with the solar
21 energy facilities; provided further that the
22 solar energy facilities shall be decommissioned



1 and removed within twelve months of the
2 conclusion of operation;

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

19 (8) Wind machines and wind farms;

20 (9) Small-scale meteorological, air quality, noise, and
21 other scientific and environmental data collection and
22 monitoring facilities occupying less than one-half



1 acre of land; provided that these facilities shall not
2 be used as or equipped for use as living quarters or
3 dwellings;

4 (10) Agricultural parks;

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

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



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

4 (13) Open area recreational facilities;

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

8 ~~[(15)]~~ Agricultural-based commercial operations, including:

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

15 (B) Retail activities in an enclosed structure owned
16 and operated by a producer for the display and
17 sale of agricultural products grown in Hawaii,
18 value-added products that were produced using
19 agricultural products grown in Hawaii, logo items
20 related to the producer's agricultural
21 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. Section 205-4.5, Hawaii Revised Statutes, is
 20 amended by amending subsection (a) to read as follows:

21 "(a) Within the agricultural district, all lands with soil
 22 classified by the land study bureau's detailed land



1 classification as overall (master) productivity rating class A
2 or B shall be restricted to the following permitted uses:

3 (1) Cultivation of crops, including crops for bioenergy,
4 flowers, vegetables, foliage, fruits, forage, and
5 timber;

6 (2) Game and fish propagation;

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

10 (4) Farm dwellings, employee housing, farm buildings, or
11 activities or uses related to farming and animal
12 husbandry. "Farm dwelling", as used in this
13 paragraph, means a single-family dwelling located on
14 and used in connection with a farm, including clusters
15 of single-family farm dwellings permitted within
16 agricultural parks developed by the State, or where
17 agricultural activity provides income to the family
18 occupying the dwelling;

19 (5) Public institutions and buildings that are necessary
20 for agricultural practices;

21 (6) Public and private open area types of recreational
22 uses, including day camps, picnic grounds, parks, and



- 1 riding stables, but not including dragstrips,
2 airports, drive-in theaters, golf courses, golf
3 driving ranges, country clubs, and overnight camps;
- 4 (7) Public, private, and quasi-public utility lines and
5 roadways, transformer stations, communications
6 equipment buildings, solid waste transfer stations,
7 major water storage tanks, and appurtenant small
8 buildings such as booster pumping stations, but not
9 including offices or yards for equipment, material,
10 vehicle storage, repair or maintenance, treatment
11 plants, corporation yards, or other similar
12 structures;
- 13 (8) Retention, restoration, rehabilitation, or improvement
14 of buildings or sites of historic or scenic interest;
- 15 (9) Agricultural-based commercial operations as described
16 in section [205-2(d)(15)];
- 17 (10) Buildings and uses, including mills, storage, and
18 processing facilities, maintenance facilities,
19 photovoltaic, biogas, and other small-scale renewable
20 energy systems producing energy solely for use in the
21 agricultural activities of the fee or leasehold owner
22 of the property, and vehicle and equipment storage



1 areas that are normally considered directly accessory
2 to the above-mentioned uses and are permitted under
3 section 205-2(d);

4 (11) Agricultural parks;

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

15 (A) The employee housing is occupied by employees or
16 former employees of the plantation who have a
17 property interest in the land;

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



1 (C) The agricultural support buildings shall be
2 rented or leased to agricultural business
3 operators or agricultural support services;

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

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



1 fide agricultural activity" means a farming operation
2 as defined in section 165-2;

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

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

17 For the purposes of this paragraph:

18 "Appurtenances" means operational infrastructure
19 of the appropriate type and scale for economic
20 commercial storage and distribution, and other similar
21 handling of feedstock, fuels, and other products of
22 biofuel processing facilities.



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

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

20 As used in this paragraph:

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



1 "Agricultural-energy enterprise" means an
2 enterprise that integrally incorporates an
3 agricultural activity with an agricultural-energy
4 facility.

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

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

17 (18) Construction and operation of wireless communication
18 antennas; provided that, for the purposes of this
19 paragraph, "wireless communication antenna" means
20 communications equipment that is either freestanding
21 or placed upon or attached to an already existing
22 structure and that transmits and receives



1 electromagnetic radio signals used in the provision of
2 all types of wireless communications services;
3 provided further that nothing in this paragraph shall
4 be construed to permit the construction of any new
5 structure that is not deemed a permitted use under
6 this subsection;

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

20 (20) Solar energy facilities that do not occupy more than
21 [~~ten~~] thirty per cent of the acreage of the parcel, or
22 [~~twenty acres of land, whichever is lesser;~~], in the



1 alternative, of two or more adjacent parcels having
2 met the applicable county requirements for the joint
3 development or joint lot use of those parcels;
4 provided that the area occupied by the solar energy
5 facilities in excess of twenty acres shall be made
6 available for agricultural activities that are
7 compatible with the solar energy facilities; provided
8 further that the solar energy facilities shall be
9 decommissioned and removed within twelve months of the
10 conclusion of operation; provided further that this
11 use shall not be permitted on lands with soil
12 classified by the land study bureau's detailed land
13 classification as overall (master) productivity rating
14 class A; or

15 [+] (21) [+] Geothermal resources exploration and geothermal
16 resources development, as defined under section
17 182-1."

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect upon its approval

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INTRODUCED BY: 



Franne Chun Oakland

Heckman

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S.B. NO. 2658

Report Title:

Solar Energy; Agricultural Land

Description:

Requires that solar facilities on agricultural lands with an overall productivity rating of class B or C occupy up to thirty, rather than ten, per cent of the acreage of the parcel or two or more adjacent parcels having met the applicable county requirements for the joint development or joint lot use of those parcels; provided that the area occupied by the solar facilities in excess of twenty acres shall only be made available for agricultural activities compatible with the solar energy facilities. Requires that solar energy facilities be removed from the land within twelve months when the facilities are no longer in operation.

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

