

JAN 18 2013

A BILL FOR AN ACT

RELATING TO SUSTAINABLE ALTERNATIVE BUILDING CODE.

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

1 SECTION 1. The legislature finds that populations are
2 increasing while resources are decreasing. The result is a need
3 for more sustainable and environmentally appropriate living.
4 Sustainable and environmentally appropriate living is presently
5 inhibited due to current zoning regulations, building codes, and
6 infrastructure requirements that control and regulate
7 conventional development. Some of the needed solutions for more
8 sustainable development can only be revealed from outside the
9 confines of our existing mechanisms.

10 In July of 2007, the New Mexico legislature passed a bill
11 that greatly promotes sustainable living research and
12 development. The "Sustainable Development Test Site Act" allows
13 for counties throughout the state to "define a new category of
14 rules" which will apply to approved sustainable development
15 sites. Taos county, for example, has since started to look at
16 how to formulate such rules. Approved sites would be able to
17 conduct sustainable development research that might have
18 otherwise violated ordinances that apply to other types of



1 development. A similar bill is in position to be introduced in
2 Colorado.

3 The purpose of this Act is to allow and encourage privately
4 or otherwise funded sustainable projects within a county to
5 research new low impact ways of living. This Act will create a
6 "doorway" through the current limitations of traditional codes
7 to support the development of more sustainable methods of
8 living, allowing greater implementation of county and state
9 sustainable living policies.

10 SECTION 2. The Hawaii Revised Statutes is amended by
11 adding a new chapter to be appropriately designated and to read
12 as follows:

13 "CHAPTER

14 SUSTAINABLE LIVING RESEARCH ACT

15 § -1 Short title. This chapter shall be known and may
16 be cited as the Sustainable Living Research Act.

17 § -2 Definitions. As used in this chapter:

18 "Permittee" means a person who holds a sustainable living
19 research permit.

20 "Planning commission" means a county planning commission.

21 "Planning department" means a county planning department.



1 "Sustainable living" means a live-in environment composed
2 of structures and systems that inherently produce utilities and
3 life-support systems that conserve resources and may include:

- 4 (1) The provision of on-site energy needs via renewable
5 resources;
- 6 (2) The provision of water needs while minimizing the
7 withdrawals from ground water and surface water
8 systems in accordance with county and state water law
9 and the rules and policies of the county and state
10 engineers;
- 11 (3) The provision of sewage treatment needs with minimal
12 discharge;
- 13 (4) The reuse of materials discarded by modern society;
- 14 (5) The development of organic foods;
- 15 (6) The developments of renewable fuel; and
- 16 (7) The development and testing of affordable and
17 sustainable structures.

18 "Sustainable living research" means activities conducted at
19 a sustainable living research site that test ideas, concepts, or
20 inventions designed to lead ultimately to sustainable living.



1 "Sustainable living research permit" means a permit issued
2 by the planning commission that designates an area as a
3 sustainable living research site and specifies:

- 4 (1) The sustainable development research that can be
5 conducted within the site by the permittee; and
- 6 (2) The county codes, ordinances, rules, or permits that
7 are not applicable to the permittee and the research.

8 "Sustainable living research site" means an area that is:

- 9 (1) Greater than one acre in size; and
- 10 (2) Subject to a county testing site permit.

11 § -3 **Application for sustainable living research permit;**
12 **evaluation; notice of public hearing.** A person desiring a
13 sustainable living research permit shall submit an application
14 to the planning department for the county in which the proposed
15 sustainable living research site is located. The application
16 shall include:

- 17 (1) A detailed description of the sustainable living
18 research that will be conducted on the sustainable
19 living research site, including an explanation of the
20 ideas, concepts, and inventions that will be tested;
- 21 (2) A site plan of the sustainable living research site;



- 1 (3) The number of inhabitants and employees that are
- 2 expected to occupy the sustainable living research
- 3 site;
- 4 (4) An assessment of the county codes, ordinances, rules,
- 5 or permits relating to construction or building
- 6 requirements, occupancy, zoning, or subdivisions that
- 7 are not practicable for the specific sustainable
- 8 living research site and that may inhibit the proposed
- 9 sustainable living research;
- 10 (5) An application fee set by the planning commission;
- 11 (6) Other information as may be required by rules adopted
- 12 pursuant to section -6 or by rule of the planning
- 13 commission or ordinance of the county;
- 14 (7) Copies of all required state permits, including the
- 15 approval of the wastewater treatment and disposal
- 16 technology on an experimental basis; and
- 17 (8) An affidavit indemnifying the county and state from
- 18 liabilities relating to the building exemptions.

19 § -4 **Application review; decision.** (a) Following the
20 application review, the planning department shall, in writing,
21 make its decision. The planning department shall issue a
22 sustainable living research permit if:



- 1 (1) The department of health has determined that the
- 2 sustainable living research proposed to be conducted
- 3 at the site will not damage land, water, or air
- 4 adjacent to the site or will not cause unreasonable
- 5 damage to the area of the sustainable living research
- 6 site;
- 7 (2) No existing county codes, ordinances, rules, or
- 8 permits, other than those identified in the permit,
- 9 will be violated by the proposed sustainable living
- 10 research at the site;
- 11 (3) The applicant has complied with rules adopted pursuant
- 12 to section -6; and
- 13 (4) The proposed sustainable living research at the site
- 14 may be beneficial to the development of sustainable
- 15 living.
- 16 (b) A sustainable living research permit shall include:
- 17 (1) The specific sustainable living research that may be
- 18 conducted at the sustainable living research site;
- 19 (2) The maximum number of structures that may be
- 20 constructed;
- 21 (3) The maximum number of individuals that may inhabit the
- 22 sustainable living research site;



1 (4) The specific county codes, ordinances, rules, and
2 permits relating to construction or building
3 requirements, occupancy, zoning, or subdivisions
4 otherwise applicable to the permittee and the
5 permittee's sustainable living research on the site
6 but that do not apply to the permittee and research
7 conducted pursuant to the permit; and

8 (5) Other restrictions on the sustainable living research
9 site and the permittee's activities as required by
10 rules adopted pursuant to section -6.

11 (c) The permit shall be filed and recorded in the records
12 of the county clerk, and pursuant to this chapter, all the
13 benefits and burdens of the permit shall run with the land.

14 (d) If the planning department denies an application for a
15 sustainable living research permit or fails to rule on an
16 application within ninety days after the application is filed,
17 the applicant may appeal, within thirty days thereafter, the
18 planning department's decision or failure to rule, to the
19 appropriate planning commission.

20 § -5 **Sustainable living research permit.** (a) The
21 permittee, when conducting sustainable living research that is
22 specified in the sustainable living research permit, shall



1 comply with all applicable laws and rules except those county
2 codes, ordinances, rules, or permits specified in the permit as
3 inapplicable to the permittee and the research.

4 (b) Nothing in this chapter or the sustainable living
5 research permit shall be deemed to allow the permittee to
6 appropriate or otherwise use underground or surface water
7 without first obtaining a water rights permit or approval
8 pursuant to chapter 174C. New appropriations of water and water
9 rights transfers shall in no event be exempted from state water
10 law and the rules.

11 (c) Relevant employees and agents of the State or the
12 county, at all reasonable times, may enter the sustainable
13 living research site for the purpose of inspecting the site and
14 activities conducted on the site to ensure that conditions
15 specified in the sustainable living research permit are being
16 met.

17 (d) The permittee shall annually submit a report to the
18 planning department and the department of health, describing the
19 sustainable living research and activities conducted during the
20 preceding twelve months and summarizing the results. All
21 information contained in the report and all other information



1 learned from activities pursuant to the sustainable living
2 research permit shall be made available to the public.

3 (e) The planning commission may revoke the sustainable
4 living research permit if it finds, after a public hearing, that
5 the permittee has substantially violated a sustainable living
6 research permit provision, this chapter or a rule adopted
7 pursuant to this chapter, and has failed to correct the
8 violation within thirty days of notification of the violation.

9 (f) A permittee may apply to have a sustainable living
10 research permit amended by submitting a new application pursuant
11 to section -3. If the planning department determines that
12 the proposed amendment will substantially alter the sustainable
13 living research or other activities conducted at the sustainable
14 living research site and does not approve those changes, the
15 permittee may appeal to the planning commission.

16 § -6 **Adoption of rules.** The planning department may
17 include, as part of the permit issued pursuant to this chapter,
18 special rules and conditions that are consistent with the
19 purpose and provisions of this chapter and other applicable laws
20 and policies. If the applicant is not in agreement with any
21 special rules and conditions imposed by the planning department,



1 the applicant may appeal to the appropriate planning
2 commission."

3 SECTION 3. No later than October 1, 2013, the planning
4 department of each county shall adopt rules pursuant to chapter
5 91, Hawaii Revised Statutes, regarding the issuance of permits
6 pursuant to this Act.

7 SECTION 4. This Act shall take effect on July 1, 2013.
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S.B. NO. 361

Report Title:

Sustainable Living Research Act

Description:

Enacts the Sustainable Living Research Act, which allows, subject to regulation by the county planning department, the use of certain land for research, development, and testing of promising, innovative practices, designs and technologies for community development, natural resource conservation, soil improvement, food and timber production, water and energy production, conservation and harvesting, material-conserving construction, and on-site waste management.

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

