
A BILL FOR AN ACT

RELATING TO HOUSING ON AGRICULTURAL LAND.

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, unless a
10 special use permit is granted pursuant to section
11 205-6;
- 12 (7) Bona fide agricultural services and uses that support
13 the agricultural activities of the fee or leasehold
14 owner of the property and accessory to any of the
15 above activities, regardless of whether conducted on
16 the same premises as the agricultural activities to
17 which they are accessory, including farm dwellings [~~as~~
18 ~~defined in section 205-4.5(a)(4)~~] and employee
19 housing[~~7~~] as provided in section 205-4.5(a)(4), farm
20 buildings, mills, storage facilities, processing
21 facilities, photovoltaic, biogas, and other small-



H.B. NO. 1128

1 scale renewable energy systems producing energy solely
2 for use in the agricultural activities of the fee or
3 leasehold owner of the property, agricultural-energy
4 facilities as defined in section 205-4.5(a)(17),
5 vehicle and equipment storage areas, and plantation
6 community subdivisions as defined in section
7 205-4.5(a)(12);

8 (8) Wind machines and wind farms;

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

15 (10) Agricultural parks;

16 (11) Agricultural tourism conducted on a working farm, or a
17 farming operation as defined in section 165-2, for the
18 enjoyment, education, or involvement of visitors;
19 provided that the agricultural tourism activity is
20 accessory and secondary to the principal agricultural
21 use and does not interfere with surrounding farm



1 operations; and provided further that this paragraph
2 shall apply only to a county that has adopted
3 ordinances regulating agricultural tourism under
4 section 205-5;

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

16 (13) Open area recreational facilities;

17 (14) Geothermal resources exploration and geothermal
18 resources development, as defined under section 182-1;
19 and

20 (15) Agricultural-based commercial operations, including:



- 1 (A) A roadside stand that is not an enclosed
2 structure, owned and operated by a producer for
3 the display and sale of agricultural products
4 grown in Hawaii and value-added products that
5 were produced using agricultural products grown
6 in Hawaii;
- 7 (B) Retail activities in an enclosed structure owned
8 and operated by a producer for the display and
9 sale of agricultural products grown in Hawaii,
10 value-added products that were produced using
11 agricultural products grown in Hawaii, logo items
12 related to the producer's agricultural
13 operations, and other food items; and
- 14 (C) A retail food establishment owned and operated by
15 a producer and permitted under title 11, chapter
16 12 of the rules of the department of health that
17 prepares and serves food at retail using products
18 grown in Hawaii and value-added products that
19 were produced using agricultural products grown
20 in Hawaii.



1 The owner of an agricultural-based commercial
2 operation shall certify, upon request of an officer or
3 agent charged with enforcement of this chapter under
4 section 205-12, that the agricultural products
5 displayed or sold by the operation meet the
6 requirements of this paragraph.

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

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

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

14 "(a) Within the agricultural district, all lands with soil
15 classified by the land study bureau's detailed land
16 classification as overall (master) productivity rating class A
17 or B and for solar energy facilities, class B or C, shall be
18 restricted to the following permitted uses:

- 19 (1) Cultivation of crops, including crops for bioenergy,
20 flowers, vegetables, foliage, fruits, forage, and
21 timber;



H.B. NO. 1128

- 1 (2) Game and fish propagation;
- 2 (3) Raising of livestock, including poultry, bees, fish,
3 or other animal or aquatic life that are propagated
4 for economic or personal use;
- 5 (4) Farm dwellings, employee housing, farm buildings, or
6 activities or uses related to farming and animal
7 husbandry[-]; provided that:
- 8 (A) The farm dwellings and employee housing units
9 shall be used exclusively by farmers and their
10 immediate family members who actively and
11 currently farm on agricultural land upon which
12 the dwelling is situated; provided further that
13 the immediate family members of the farmer may
14 reside in separate dwelling units situated on the
15 same designated land;
- 16 (B) Employee housing units shall be used exclusively
17 by employees and their immediate family members
18 who actively and currently work on agricultural
19 land upon which the housing unit is situated;
20 provided further that the immediate family
21 members of the employee shall not reside in



- 1 separate housing units and shall reside with the
- 2 employee;
- 3 (C) The total land area upon which the farm dwellings
- 4 and employee housing units and all appurtenances
- 5 are situated shall not occupy more than five per
- 6 cent of the total agricultural land area
- 7 controlled by the farmer or the employee's
- 8 employer or fifty acres, whichever is less;
- 9 (D) No farm dwelling or employee housing unit shall
- 10 exceed square feet;
- 11 (E) The farm dwellings and employee housing units
- 12 shall meet all applicable building code
- 13 requirements;
- 14 (F) Notwithstanding section 205-4.5(a)(12), the
- 15 landowner shall not plan or develop a residential
- 16 subdivision on the agricultural land;
- 17 (G) Consideration may be given to the cluster
- 18 development of farm dwellings and employee
- 19 housing units to maximize the land area available
- 20 for agricultural production; and



1 (H) The plans for farm dwellings and employee housing
2 units shall be supported by agricultural plans
3 that are approved by the department of
4 agriculture.

5 "Farm dwelling", as used in this paragraph, means a
6 single-family dwelling located on and used in
7 connection with a farm, including clusters of single-
8 family farm dwellings permitted within agricultural
9 parks developed by the State, or where agricultural
10 activity provides income to the family occupying the
11 dwelling;

12 (5) Public institutions and buildings that are necessary
13 for agricultural practices;

14 (6) Public and private open area types of recreational
15 uses, including day camps, picnic grounds, parks, and
16 riding stables, but not including dragstrips,
17 airports, drive-in theaters, golf courses, golf
18 driving ranges, country clubs, and overnight camps;

19 (7) Public, private, and quasi-public utility lines and
20 roadways, transformer stations, communications
21 equipment buildings, solid waste transfer stations,



1 major water storage tanks, and appurtenant small
2 buildings such as booster pumping stations, but not
3 including offices or yards for equipment, material,
4 vehicle storage, repair or maintenance, treatment
5 plants, corporation yards, or other similar
6 structures;

7 (8) Retention, restoration, rehabilitation, or improvement
8 of buildings or sites of historic or scenic interest;

9 (9) Agricultural-based commercial operations as described
10 in section 205-2(d)(15);

11 (10) Buildings and uses, including mills, storage, and
12 processing facilities, maintenance facilities,
13 photovoltaic, biogas, and other small-scale renewable
14 energy systems producing energy solely for use in the
15 agricultural activities of the fee or leasehold owner
16 of the property, and vehicle and equipment storage
17 areas that are normally considered directly accessory
18 to the above-mentioned uses and are permitted under
19 section 205-2(d);

20 (11) Agricultural parks;



- 1 (12) Plantation community subdivisions, which as used in
2 this chapter means an established subdivision or
3 cluster of employee housing, community buildings, and
4 agricultural support buildings on land currently or
5 formerly owned, leased, or operated by a sugar or
6 pineapple plantation; provided that the existing
7 structures may be used or rehabilitated for use, and
8 new employee housing and agricultural support
9 buildings may be allowed on land within the
10 subdivision as follows:
- 11 (A) The employee housing is occupied by employees or
12 former employees of the plantation who have a
13 property interest in the land;
- 14 (B) The employee housing units not owned by their
15 occupants shall be rented or leased at affordable
16 rates for agricultural workers; or
- 17 (C) The agricultural support buildings shall be
18 rented or leased to agricultural business
19 operators or agricultural support services;
- 20 (13) Agricultural tourism conducted on a working farm, or a
21 farming operation as defined in section 165-2, for the



1 enjoyment, education, or involvement of visitors;
2 provided that the agricultural tourism activity is
3 accessory and secondary to the principal agricultural
4 use and does not interfere with surrounding farm
5 operations; and provided further that this paragraph
6 shall apply only to a county that has adopted
7 ordinances regulating agricultural tourism under
8 section 205-5;

9 (14) Agricultural tourism activities, including overnight
10 accommodations of twenty-one days or less, for any one
11 stay within a county; provided that this paragraph
12 shall apply only to a county that includes at least
13 three islands and has adopted ordinances regulating
14 agricultural tourism activities pursuant to section
15 205-5; provided further that the agricultural tourism
16 activities coexist with a bona fide agricultural
17 activity. For the purposes of this paragraph, "bona
18 fide agricultural activity" means a farming operation
19 as defined in section 165-2;

20 (15) Wind energy facilities, including the appurtenances
21 associated with the production and transmission of



1 wind generated energy; provided that the wind energy
2 facilities and appurtenances are compatible with
3 agriculture uses and cause minimal adverse impact on
4 agricultural land;

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

13 For the purposes of this paragraph:

14 "Appurtenances" means operational infrastructure
15 of the appropriate type and scale for economic
16 commercial storage and distribution, and other similar
17 handling of feedstock, fuels, and other products of
18 biofuel processing facilities.

19 "Biofuel processing facility" means a facility
20 that produces liquid or gaseous fuels from organic
21 sources such as biomass crops, agricultural residues,



1 and oil crops, including palm, canola, soybean, and
2 waste cooking oils; grease; food wastes; and animal
3 residues and wastes that can be used to generate
4 energy;

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

17 As used in this paragraph:

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

20 "Agricultural-energy enterprise" means an
21 enterprise that integrally incorporates an



1 agricultural activity with an agricultural-energy
2 facility.

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

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

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



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

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

19 (20) Solar energy facilities that do not occupy more than
20 ten per cent of the acreage of the parcel, or twenty
21 acres of land, whichever is lesser or for which a



1 special use permit is granted pursuant to section 205-
2 6; provided that this use shall not be permitted on
3 lands with soil classified by the land study bureau's
4 detailed land classification as overall (master)
5 productivity rating class A unless the solar energy
6 facilities are:

7 (A) Located on a paved or unpaved road in existence
8 as of December 31, 2013, and the parcel of land
9 upon which the paved or unpaved road is located
10 has a valid county agriculture tax dedication
11 status or a valid agricultural conservation
12 easement;

13 (B) Placed in a manner that still allows vehicular
14 traffic to use the road; and

15 (C) Granted a special use permit by the commission
16 pursuant to section 205-6;

17 (21) Solar energy facilities on lands with soil classified
18 by the land study bureau's detailed land
19 classification as overall (master) productivity rating
20 B or C for which a special use permit is granted
21 pursuant to section 205-6; provided that:



- 1 (A) The area occupied by the solar energy facilities
- 2 is also made available for compatible
- 3 agricultural activities at a lease rate that is
- 4 at least fifty per cent below the fair market
- 5 rent for comparable properties;
- 6 (B) Proof of financial security to decommission the
- 7 facility is provided to the satisfaction of the
- 8 appropriate county planning commission prior to
- 9 date of commencement of commercial generation;
- 10 and
- 11 (C) Solar energy facilities shall be decommissioned
- 12 at the owner's expense according to the following
- 13 requirements:
- 14 (i) Removal of all equipment related to the
- 15 solar energy facility within twelve months
- 16 of the conclusion of operation or useful
- 17 life; and
- 18 (ii) Restoration of the disturbed earth to
- 19 substantially the same physical condition as
- 20 existed prior to the development of the
- 21 solar energy facility.



1 For the purposes of this paragraph, "agricultural
 2 activities" means the activities described in
 3 paragraphs (1) to (3); or

4 (22) Geothermal resources exploration and geothermal
 5 resources development, as defined under section
 6 182-1."

7 SECTION 3. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval.

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H.B. NO. 1128

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.

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

