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## A BILL FOR AN ACT

RELATING TO AGRICULTURAL DISTRICTS.

**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:



## H.B. NO. 1270

- 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 granny units and  
18 farm dwellings as defined in section 205-4.5(a)(4),  
19 employee housing, farm buildings, mills, storage  
20 facilities, processing facilities, photovoltaic,  
21 biogas, and other small-scale renewable energy systems



## H.B. NO. 1270

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

7 (8) Wind machines and wind farms;

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

14 (10) Agricultural parks;

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



1 shall apply only to a county that has adopted  
2 ordinances regulating agricultural tourism under  
3 section 205-5;

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

15 (13) Open area recreational facilities;

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

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

20 (A) A roadside stand that is not an enclosed  
21 structure, owned and operated by a producer for



# H.B. NO. 1270

1           the display and sale of agricultural products  
2           grown in Hawaii and value-added products that  
3           were produced using agricultural products grown  
4           in Hawaii;

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

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

19          The owner of an agricultural-based commercial  
20          operation shall certify, upon request of an officer or  
21          agent charged with enforcement of this chapter under



1 section 205-12, that the agricultural products  
2 displayed or sold by the operation meet the  
3 requirements of this paragraph.

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

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

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

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

16 (1) Cultivation of crops, including crops for bioenergy,  
17 flowers, vegetables, foliage, fruits, forage, and  
18 timber;

19 (2) Game and fish propagation;



## H.B. NO. 1270

- 1           (3) Raising of livestock, including poultry, bees, fish,  
2                    or other animal or aquatic life that are propagated  
3                    for economic or personal use;
- 4           (4) Farm dwellings, employee housing, farm buildings, or  
5                    activities or uses related to farming and animal  
6                    husbandry. "Farm dwelling", as used in this  
7                    paragraph, means a single-family dwelling located on  
8                    and used in connection with a farm, including clusters  
9                    of single-family farm dwellings permitted within  
10                  agricultural parks developed by the State, or where  
11                  agricultural activity provides income to the family  
12                  occupying the dwelling[+]. For any county of more  
13                  than one hundred eighty thousand but less than five  
14                  hundred thousand persons, "farm dwelling" shall also  
15                  mean a "granny unit", where a "granny unit" is defined  
16                  as a second dwelling unit constructed within the  
17                  approximate footprint of the primary existing or new  
18                  dwelling and sharing with that primary unit the same  
19                  septic system, cesspool, or other wastewater  
20                  management system. A "granny unit" may be occupied by  
21                  family or non-family of the owner or operator of the



# H.B. NO. 1270

- 1           primary dwelling and may provide rental income to the  
2           owner or operator;
- 3           (5) Public institutions and buildings that are necessary  
4           for agricultural practices;
- 5           (6) Public and private open area types of recreational  
6           uses, including day camps, picnic grounds, parks, and  
7           riding stables, but not including dragstrips,  
8           airports, drive-in theaters, golf courses, golf  
9           driving ranges, country clubs, and overnight camps;
- 10          (7) Public, private, and quasi-public utility lines and  
11          roadways, transformer stations, communications  
12          equipment buildings, solid waste transfer stations,  
13          major water storage tanks, and appurtenant small  
14          buildings such as booster pumping stations, but not  
15          including offices or yards for equipment, material,  
16          vehicle storage, repair or maintenance, treatment  
17          plants, corporation yards, or other similar  
18          structures;
- 19          (8) Retention, restoration, rehabilitation, or improvement  
20          of buildings or sites of historic or scenic interest;





# H.B. NO. 1270

- 1           (9) Agricultural-based commercial operations as described  
2           in section 205-2(d)(15);
- 3           (10) Buildings and uses, including mills, storage, and  
4           processing facilities, maintenance facilities,  
5           photovoltaic, biogas, and other small-scale renewable  
6           energy systems producing energy solely for use in the  
7           agricultural activities of the fee or leasehold owner  
8           of the property, and vehicle and equipment storage  
9           areas that are normally considered directly accessory  
10          to the above-mentioned uses and are permitted under  
11          section 205-2(d);
- 12          (11) Agricultural parks;
- 13          (12) Plantation community subdivisions, which as used in  
14          this chapter means an established subdivision or  
15          cluster of employee housing, community buildings, and  
16          agricultural support buildings on land currently or  
17          formerly owned, leased, or operated by a sugar or  
18          pineapple plantation; provided that the existing  
19          structures may be used or rehabilitated for use, and  
20          new employee housing and agricultural support



# H.B. NO. 1270

1 buildings may be allowed on land within the  
2 subdivision as follows:

3 (A) The employee housing is occupied by employees or  
4 former employees of the plantation who have a  
5 property interest in the land;

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

9 (C) The agricultural support buildings shall be  
10 rented or leased to agricultural business  
11 operators or agricultural support services;

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



- 1           (14) 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          (15) Wind energy facilities, including the appurtenances  
13          associated with the production and transmission of  
14          wind generated energy; provided that the wind energy  
15          facilities and appurtenances are compatible with  
16          agriculture uses and cause minimal adverse impact on  
17          agricultural land;
- 18          (16) Biofuel processing facilities, including the  
19          appurtenances associated with the production and  
20          refining of biofuels that is normally considered  
21          directly accessory and secondary to the growing of the



# H.B. NO. 1270

1 energy feedstock; provided that biofuel processing  
2 facilities and appurtenances do not adversely impact  
3 agricultural land and other agricultural uses in the  
4 vicinity.

5 For the purposes of this paragraph:

6 "Appurtenances" means operational infrastructure  
7 of the appropriate type and scale for economic  
8 commercial storage and distribution, and other similar  
9 handling of feedstock, fuels, and other products of  
10 biofuel processing facilities.

11 "Biofuel processing facility" means a facility  
12 that produces liquid or gaseous fuels from organic  
13 sources such as biomass crops, agricultural residues,  
14 and oil crops, including palm, canola, soybean, and  
15 waste cooking oils; grease; food wastes; and animal  
16 residues and wastes that can be used to generate  
17 energy;

18 (17) Agricultural-energy facilities, including  
19 appurtenances necessary for an agricultural-energy  
20 enterprise; provided that the primary activity of the  
21 agricultural-energy enterprise is agricultural



1 activity. To be considered the primary activity of an  
2 agricultural-energy enterprise, the total acreage  
3 devoted to agricultural activity shall be not less  
4 than ninety per cent of the total acreage of the  
5 agricultural-energy enterprise. The agricultural-  
6 energy facility shall be limited to lands owned,  
7 leased, licensed, or operated by the entity conducting  
8 the agricultural activity.

9 As used in this paragraph:

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

12 "Agricultural-energy enterprise" means an  
13 enterprise that integrally incorporates an  
14 agricultural activity with an agricultural-energy  
15 facility.

16 "Agricultural-energy facility" means a facility  
17 that generates, stores, or distributes renewable  
18 energy as defined in section 269-91 or renewable fuel  
19 including electrical or thermal energy or liquid or  
20 gaseous fuels from products of agricultural activities  
21 from agricultural lands located in the State.



## H.B. NO. 1270

1           "Appurtenances" means operational infrastructure  
2 of the appropriate type and scale for the economic  
3 commercial generation, storage, distribution, and  
4 other similar handling of energy, including equipment,  
5 feedstock, fuels, and other products of agricultural-  
6 energy facilities;

7       (18) Construction and operation of wireless communication  
8 antennas; provided that, for the purposes of this  
9 paragraph, "wireless communication antenna" means  
10 communications equipment that is either freestanding  
11 or placed upon or attached to an already existing  
12 structure and that transmits and receives  
13 electromagnetic radio signals used in the provision of  
14 all types of wireless communications services;  
15 provided further that nothing in this paragraph shall  
16 be construed to permit the construction of any new  
17 structure that is not deemed a permitted use under  
18 this subsection;

19       (19) Agricultural education programs conducted on a farming  
20 operation as defined in section 165-2, for the  
21 education and participation of the general public;



## H.B. NO. 1270

1 provided that the agricultural education programs are  
2 accessory and secondary to the principal agricultural  
3 use of the parcels or lots on which the agricultural  
4 education programs are to occur and do not interfere  
5 with surrounding farm operations. For the purposes of  
6 this section, "agricultural education programs" means  
7 activities or events designed to promote knowledge and  
8 understanding of agricultural activities and practices  
9 conducted on a farming operation as defined in section  
10 165-2;

11 (20) Solar energy facilities that do not occupy more than  
12 ten per cent of the acreage of the parcel, or twenty  
13 acres of land, whichever is lesser or for which a  
14 special use permit is granted pursuant to section 205-  
15 6; provided that this use shall not be permitted on  
16 lands with soil classified by the land study bureau's  
17 detailed land classification as overall (master)  
18 productivity rating class A unless the solar energy  
19 facilities are:

20 (A) Located on a paved or unpaved road in existence  
21 as of December 31, 2013, and the parcel of land



# H.B. NO. 1270

1           upon which the paved or unpaved road is located  
2           has a valid county agriculture tax dedication  
3           status or a valid agricultural conservation  
4           easement;

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

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

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

14          (A) The area occupied by the solar energy facilities  
15          is also made available for compatible  
16          agricultural activities at a lease rate that is  
17          at least fifty per cent below the fair market  
18          rent for comparable properties;

19          (B) Proof of financial security to decommission the  
20          facility is provided to the satisfaction of the  
21          appropriate county planning commission prior to





# H.B. NO. 1270

- 1                   date of commencement of commercial generation;  
2                   and  
3           (C) Solar energy facilities shall be decommissioned  
4                   at the owner's expense according to the following  
5                   requirements:  
6                   (i) Removal of all equipment related to the  
7                               solar energy facility within twelve months  
8                               of the conclusion of operation or useful  
9                               life; and  
10                  (ii) Restoration of the disturbed earth to  
11                               substantially the same physical condition as  
12                               existed prior to the development of the  
13                               solar energy facility.

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

- 17           (22) Geothermal resources exploration and geothermal  
18           resources development, as defined under section  
19           182-1."



# H.B. NO. 1270


1 SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

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

6 SECTION 5. This Act shall take effect upon its approval;  
7 provided that the amendments made to section 205-4.5, Hawaii  
8 Revised Statutes, in section 2 of this Act shall not be repealed  
9 when section 205-4.5, Hawaii Revised Statutes, is reenacted on  
10 June 30, 2019, pursuant to section 3(1) of Act 52, Session Laws  
11 of Hawaii 2014.

12

INTRODUCED BY:



JAN 28 2015



# H.B. NO. 1270

**Report Title:**

Zoning; Agricultural Districts; Granny Units

**Description:**

Authorizes granny units in the agricultural districts of counties with a population of more than 180,000 but less than 500,000.

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

