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# A BILL FOR AN ACT

RELATING TO SOLAR ENERGY FACILITIES.

**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; and
- 12 (C) In a county with a resident population of greater  
13 than one hundred seventy thousand but fewer than  
14 five hundred thousand, for solar energy  
15 production equipment placed on a single or on  
16 multiple lots:
- 17 (i) That, prior to January 1, 2016, was or were  
18 divided from a larger parcel for the purpose  
19 of disposition into two or more lots,  
20 parcels, units, or interests; and



1           (ii) That also include any land, whether  
2                   contiguous or noncontiguous, if two or more  
3                   lots, parcels, units, or interests were  
4                   offered as a part of a common promotional  
5                   plan of advertising and sale, for the  
6                   purpose, in the majority of such lots, of  
7                   agriculture, including the construction of  
8                   farm dwellings pursuant to this section,  
9                   whether now considered to be a conforming or  
10                  a nonconforming subdivision,  
11                  the county may require special permit approval  
12                  pursuant to section 205-6 when the capacity of  
13                  solar energy production totals more than twenty-  
14                  five kilowatts;

15           (7) Bona fide agricultural services and uses that support  
16                  the agricultural activities of the fee or leasehold  
17                  owner of the property and accessory to any of the  
18                  above activities, regardless of whether conducted on  
19                  the same premises as the agricultural activities to  
20                  which they are accessory, including farm dwellings as  
21                  defined in section 205-4.5(a) (4), employee housing,

1 farm buildings, mills, storage facilities, processing  
2 facilities, photovoltaic, biogas, and other small-  
3 scale renewable energy systems producing energy solely  
4 for use in the agricultural activities of the fee or  
5 leasehold owner of the property, agricultural-energy  
6 facilities as defined in section 205-4.5(a)(17),  
7 hydroelectric facilities in accordance with section  
8 205-4.5(a)(23), vehicle and equipment storage areas,  
9 and plantation community subdivisions as defined in  
10 section 205-4.5(a)(12);

11 (8) Wind machines and wind farms;

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

18 (10) Agricultural parks;

19 (11) Agricultural tourism conducted on a working farm, or a  
20 farming operation as defined in section 165-2, for the  
21 enjoyment, education, or involvement of visitors;



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

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

19 (13) Open area recreational facilities;



- 1       (14)    Geothermal resources exploration and geothermal
- 2                   resources development, as defined under section 182-1;
- 3                   and
- 4       (15)    Agricultural-based commercial operations, including:
- 5                   (A)    A roadside stand that is not an enclosed
- 6                               structure, owned and operated by a producer for
- 7                               the display and sale of agricultural products
- 8                               grown in Hawaii and value-added products that
- 9                               were produced using agricultural products grown
- 10                              in Hawaii;
- 11                  (B)    Retail activities in an enclosed structure owned
- 12                               and operated by a producer for the display and
- 13                               sale of agricultural products grown in Hawaii,
- 14                               value-added products that were produced using
- 15                               agricultural products grown in Hawaii, logo items
- 16                               related to the producer's agricultural
- 17                               operations, and other food items; and
- 18                  (C)    A retail food establishment owned and operated by
- 19                               a producer and permitted under title 11, chapter
- 20                               12 of the rules of the department of health that
- 21                               prepares and serves food at retail using products



1 grown in Hawaii and value-added products that  
2 were produced using agricultural products grown  
3 in Hawaii.

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

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

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

15 SECTION 2. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect on January 1, 2017.



**Report Title:**

Solar Energy Facilities; Agricultural Districts

**Description:**

Allows a county that meets certain conditions to require solar energy facilities in farm dwellings in agricultural districts with a capacity of more than twenty-five kilowatts to obtain a special permit. (HB2636 HD1)

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

