
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The legislature finds that the percentage of
2 Hawaii's residents aged sixty-five years or older was 15.9 per
3 cent in 2012 and is projected to reach approximately twenty per
4 cent by the year 2030. The legislature further finds that many
5 federal housing programs, recognizing the unique needs of our
6 senior population, have provisions that are specifically
7 designed to support persons who are over sixty-two years old.

8 Many individuals transitioning into retirement have
9 diminished income and are unable to meet the costs of
10 maintaining their homes, causing many of them to downsize, sell
11 their homes, and move into smaller rental apartments or other
12 living accommodations. According to the *2003 American Housing*
13 *Survey* sponsored by the United States Department of Housing and
14 Urban Development, nearly one-third of elderly households were
15 experiencing housing affordability problems. In addition, many
16 of Hawaii's senior citizens have left the State for places with
17 lower living costs.



1 The legislature further finds that to successfully provide
2 for this burgeoning population, resources and services across
3 every aspect of an elder's daily life must be planned for and
4 supported, including the great need for elderly housing to
5 promote an exceptional quality of life for an individual in his
6 or her golden years.

7 The legislature further finds that within our island state,
8 the island of Oahu has the highest cost of housing—close to the
9 highest in the nation. In contrast, the neighbor islands have
10 much lower housing costs, in large part due to the availability
11 of inexpensive, fee-simple land. For example, on the island of
12 Hawaii there is a subdivision of approximately twelve thousand
13 one-acre lots where a single lot may be purchased for as little
14 as \$10,000. Further, much of the land on Hawaii island is
15 unused or underutilized land that is classified as agricultural
16 land, but arguably holds only limited or marginal agricultural
17 value because of the terrain, including steepness of slopes,
18 inadequate rainfall, poor soil, and problems with access and
19 infrastructure. It would be unlikely that an individual would
20 be able to make a reasonable return on a land purchase in many
21 of these areas.



1 Recognizing the critical importance of the State's
2 agricultural land, the legislature is committed to conserving
3 and protecting agricultural lands, promoting diversified
4 agriculture, increasing agricultural self-sufficiency, and
5 assuring the availability of agriculturally suitable lands.
6 However, the legislature recognizes that there are areas
7 throughout our State that are underutilized or not best suited
8 for food production despite being classified as agricultural
9 land. For example, the island of Hawaii has many acres of
10 agricultural lands classified as class D or E that may not be
11 suitable for agricultural purposes.

12 Allowing housing for the elderly on small farms situated on
13 marginal agricultural lands offers an opportunity to provide
14 rental income and a potential workforce to the farmer, while
15 greatly benefitting the life of the kupuna. Small houses,
16 suitable for an older couple or individual, could both enhance
17 the function of the farm while providing housing and the
18 possibility of growing or raising food for the occupants of
19 these dwellings. Activities of gardening or farming, if engaged
20 in by the occupants, could enhance physical and mental well-
21 being, as well as provide food for the occupants and the



1 surrounding community. While such housing could be provided by
2 special permit on a case-by-case basis, making these permissible
3 uses on certain classes of agricultural land on the island of
4 Hawaii could enhance the function of the State's agricultural
5 land.

6 The purpose of this Act is to encourage housing initiatives
7 for the rapidly growing elderly population by including dwelling
8 units and housing facilities for the elderly as a permissible
9 use on agricultural lands with soil classified by the land study
10 bureau's detailed land classification as overall (master)
11 productivity rating class D or E.

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

14 "(d) Agricultural districts shall include:

- 15 (1) Activities or uses as characterized by the cultivation
16 of crops, crops for bioenergy, orchards, forage, and
17 forestry;
- 18 (2) Farming activities or uses related to animal husbandry
19 and game and fish propagation;



- 1 (3) Aquaculture, which means the production of aquatic
- 2 plant and animal life within ponds and other bodies of
- 3 water;
- 4 (4) Wind generated energy production for public, private,
- 5 and commercial use;
- 6 (5) Biofuel production, as described in section
- 7 205-4.5(a)(16), for public, private, and commercial
- 8 use;
- 9 (6) Solar energy facilities; provided that:
- 10 (A) This paragraph shall apply only to land with soil
- 11 classified by the land study bureau's detailed
- 12 land classification as overall (master)
- 13 productivity rating class B, C, D, or E; and
- 14 (B) Solar energy facilities placed within land with
- 15 soil classified as overall productivity rating
- 16 class B or C shall not occupy more than ten per
- 17 cent of the acreage of the parcel, or twenty
- 18 acres of land, whichever is lesser, unless a
- 19 special use permit is granted pursuant to section
- 20 205-6;



- 1 (7) Bona fide agricultural services and uses that support
2 the agricultural activities of the fee or leasehold
3 owner of the property and accessory to any of the
4 above activities, regardless of whether conducted on
5 the same premises as the agricultural activities to
6 which they are accessory, including farm dwellings as
7 defined in section 205-4.5(a)(4), employee housing,
8 farm buildings, mills, storage facilities, processing
9 facilities, photovoltaic, biogas, and other small-
10 scale renewable energy systems producing energy solely
11 for use in the agricultural activities of the fee or
12 leasehold owner of the property, agricultural-energy
13 facilities as defined in section 205-4.5(a)(17),
14 hydroelectric facilities in accordance with section
15 205-4.5(a)(23), vehicle and equipment storage areas,
16 and plantation community subdivisions as defined in
17 section 205-4.5(a)(12);
- 18 (8) Wind machines and wind farms;
- 19 (9) Small-scale meteorological, air quality, noise, and
20 other scientific and environmental data collection and
21 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



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

5 (13) Open area recreational facilities;

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

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

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

16 (B) Retail activities in an enclosed structure owned
17 and operated by a producer for the display and
18 sale of agricultural products grown in Hawaii,
19 value-added products that were produced using
20 agricultural products grown in Hawaii, logo items



1 related to the producer's agricultural
 2 operations, and other food items; and
 3 (C) A retail food establishment owned and operated by
 4 a producer and permitted under title 11, chapter
 5 12 of the rules of the department of health that
 6 prepares and serves food at retail using products
 7 grown in Hawaii and value-added products that
 8 were produced using agricultural products grown
 9 in Hawaii.

10 The owner of an agricultural-based commercial
 11 operation shall certify, upon request of an officer or
 12 agent charged with enforcement of this chapter under
 13 section 205-12, that the agricultural products
 14 displayed or sold by the operation meet the
 15 requirements of this paragraph[-]; and

16 (16) Dwelling units and housing facilities for the elderly;
 17 provided that the dwelling units or housing facilities
 18 shall be located solely on lands with soil classified
 19 by the land study bureau's detailed land
 20 classification as overall (master) productivity rating
 21 class D or E. For the purposes of this paragraph,



1 "elderly" means a person or a person's spouse,
2 reciprocal beneficiary, or civil union partner, who is
3 a resident of the State and sixty-five years of age or
4 older.

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

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

10 SECTION 2. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect upon its approval.

13

INTRODUCED BY: Richard Lunge

JAN 27 2016



H.B. NO. 2757

Report Title:

Elderly Housing; Agricultural District; Class D or E

Description:

Allows dwelling units and housing facilities for the elderly on class D or E lands in the agricultural districts.

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