



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 11, 2017

GOV. MSG. NO. 1262

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott D. Saiki, Speaker
and Members of the House
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB2 HD2 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB2 HD2 SD1 CD1

RELATING TO AGRICULTURE

Sincerely,

DAVID Y. IGE
Governor, State of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 11, 2017

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2

Honorable Members
Twenty-Ninth Legislature
State of Hawai'i


Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 2, entitled "A Bill for an Act Relating to Agriculture."

The purpose of this bill is to authorize the placement of "tiny homes" of 500 square feet of living space or less within the State agricultural district in Hawaii County for farm workers or their immediate family members on farms currently engaged in agricultural production.

This bill is objectionable because the State Land Use Law, chapter 205, Hawaii Revised Statutes, and Hawaii County Zoning Code chapter 25 already allow for "employee housing" and/or "farm dwellings" of any size as permitted uses of agricultural-zoned lands. "Tiny homes" as defined in this bill are a subset of either employee housing or farm dwellings. As the law already allows "tiny homes," there is no need for this bill.

For the foregoing reason, I am returning House Bill No. 2 without my approval.

Respectfully,



DAVID Y. IGE
Governor of Hawai'i

P R O C L A M A T I O N

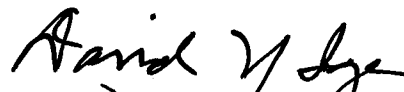
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawai'i, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2, entitled "A Bill for an Act Relating to Agriculture," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2 is unacceptable to the Governor of the State of Hawai'i;

NOW, THEREFORE, I, DAVID Y. IGE, Governor of the State of Hawai'i, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawai'i, giving notice of my plan to return House Bill No. 2 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawai'i, this 11
day of July, 2017.



DAVID Y. IGE
Governor of Hawai'i

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that a lack of affordable
2 housing for farm workers has made it difficult for working farms
3 to attract and retain employees and to operate farms in an
4 economical manner. The production of locally grown crops is
5 important to the economy, food security, and health of the State
6 and its population. Authorizing the construction and use of
7 "tiny homes" as affordable housing for farm workers will
8 encourage healthy and productive farming. "Tiny homes" are
9 small dwelling units of less than five hundred square feet,
10 built on the ground or on a mobile trailer base, that can be
11 constructed faster and at a more affordable cost than
12 traditional homes.

13 Accordingly, the purpose of this Act is to authorize the
14 construction of tiny homes within agricultural districts, on
15 farms that are currently engaged in agricultural production, in
16 a county with a population of more than one hundred eighty
17 thousand but less than two hundred fifty thousand.



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

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

8 (1) Cultivation of crops, including crops for bioenergy,
9 flowers, vegetables, foliage, fruits, forage, and
10 timber;

11 (2) Game and fish propagation;

12 (3) Raising of livestock, including poultry, bees, fish,
13 or other animal or aquatic life that are propagated
14 for economic or personal use;

15 (4) Farm dwellings, employee housing, farm buildings, or
16 activities or uses related to farming and animal
17 husbandry. "Farm dwelling", as used in this
18 paragraph, means a single-family dwelling located on
19 and used in connection with a farm, including:

20 (A) [clusters] Clusters of single-family farm
21 dwellings permitted within agricultural parks



1 developed by the State, or where agricultural
2 activity provides income to the family occupying
3 the dwelling; and

4 (B) Tiny homes, in a county with a population of more
5 than one hundred eighty thousand but less than
6 two hundred fifty thousand; provided that:

7 (i) The county council may adopt ordinances for
8 the oversight of tiny homes;

9 (ii) Tiny homes shall be occupied only by farm
10 workers or their immediate family members on
11 farms that have obtained a business license
12 and are currently engaged in agricultural
13 production;

14 (iii) All tiny homes shall be removed from a
15 property when that property is no longer in
16 agricultural use.

17 "Tiny home", as used in this paragraph, means a
18 dwelling that is either stationary or mobile and
19 includes less than five hundred square feet of living
20 space;



- 1 (5) Public institutions and buildings that are necessary
- 2 for agricultural practices;
- 3 (6) Public and private open area types of recreational
- 4 uses, including day camps, picnic grounds, parks, and
- 5 riding stables, but not including dragstrips,
- 6 airports, drive-in theaters, golf courses, golf
- 7 driving ranges, country clubs, and overnight camps;
- 8 (7) Public, private, and quasi-public utility lines and
- 9 roadways, transformer stations, communications
- 10 equipment buildings, solid waste transfer stations,
- 11 major water storage tanks, and appurtenant small
- 12 buildings such as booster pumping stations, but not
- 13 including offices or yards for equipment, material,
- 14 vehicle storage, repair or maintenance, treatment
- 15 plants, corporation yards, or other similar
- 16 structures;
- 17 (8) Retention, restoration, rehabilitation, or improvement
- 18 of buildings or sites of historic or scenic interest;
- 19 (9) Agricultural-based commercial operations as described
- 20 in section 205-2(d)(15);



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



- 1 (A) The employee housing is occupied by employees or
- 2 former employees of the plantation who have a
- 3 property interest in the land;
- 4 (B) The employee housing units not owned by their
- 5 occupants shall be rented or leased at affordable
- 6 rates for agricultural workers; or
- 7 (C) The agricultural support buildings shall be
- 8 rented or leased to agricultural business
- 9 operators or agricultural support services;
- 10 (13) Agricultural tourism conducted on a working farm, or a
- 11 farming operation as defined in section 165-2, for the
- 12 enjoyment, education, or involvement of visitors;
- 13 provided that the agricultural tourism activity is
- 14 accessory and secondary to the principal agricultural
- 15 use and does not interfere with surrounding farm
- 16 operations; and provided further that this paragraph
- 17 shall apply only to a county that has adopted
- 18 ordinances regulating agricultural tourism under
- 19 section 205-5;
- 20 (14) Agricultural tourism activities, including overnight
- 21 accommodations of twenty-one days or less, for any one



1 stay within a county; provided that this paragraph
 2 shall apply only to a county that includes at least
 3 three islands and has adopted ordinances regulating
 4 agricultural tourism activities pursuant to section
 5 205-5; provided further that the agricultural tourism
 6 activities coexist with a bona fide agricultural
 7 activity. For the purposes of this paragraph, "bona
 8 fide agricultural activity" means a farming operation
 9 as defined in section 165-2;

10 (15) Wind energy facilities, including the appurtenances
 11 associated with the production and transmission of
 12 wind generated energy; provided that the wind energy
 13 facilities and appurtenances are compatible with
 14 agriculture uses and cause minimal adverse impact on
 15 agricultural land;

16 (16) Biofuel processing facilities, including the
 17 appurtenances associated with the production and
 18 refining of biofuels that is normally considered
 19 directly accessory and secondary to the growing of the
 20 energy feedstock; provided that biofuel processing
 21 facilities and appurtenances do not adversely impact



1 agricultural land and other agricultural uses in the
2 vicinity.

3 For the purposes of this paragraph:

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

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

16 (17) Agricultural-energy facilities, including
17 appurtenances necessary for an agricultural-energy
18 enterprise; provided that the primary activity of the
19 agricultural-energy enterprise is agricultural
20 activity. To be considered the primary activity of an
21 agricultural-energy enterprise, the total acreage



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

7 As used in this paragraph:

8 "Agricultural activity" means any activity
9 described in paragraphs (1) to (3) [~~of this~~
10 ~~subsection~~].

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

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



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;



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 paragraph, "agricultural education programs"
 7 means activities or events designed to promote
 8 knowledge and understanding of agricultural activities
 9 and practices conducted on a farming operation as
 10 defined in section 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



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



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);

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

20 (23) Hydroelectric facilities, including the appurtenances
21 associated with the production and transmission of



1 hydroelectric energy, subject to section 205-2;
2 provided that the hydroelectric facilities and their
3 appurtenances:

4 (A) Shall consist of a small hydropower facility as
5 defined by the United States Department of
6 Energy, including:

7 (i) Impoundment facilities using a dam to store
8 water in a reservoir;

9 (ii) A diversion or run-of-river facility that
10 channels a portion of a river through a
11 canal or channel; and

12 (iii) Pumped storage facilities that store energy
13 by pumping water uphill to a reservoir at
14 higher elevation from a reservoir at a lower
15 elevation to be released to turn a turbine
16 to generate electricity;

17 (B) Comply with the state water code, chapter 174C;

18 (C) Shall, if over five hundred kilowatts in
19 hydroelectric generating capacity, have the
20 approval of the commission on water resource
21 management, including a new instream flow



1 standard established for any new hydroelectric
 2 facility; and
 3 (D) Do not impact or impede the use of agricultural
 4 land or the availability of surface or ground
 5 water for all uses on all parcels that are served
 6 by the ground water sources or streams for which
 7 hydroelectric facilities are considered."

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

10 SECTION 4. This Act shall take effect upon approval;
 11 provided that the amendments made to section 205-4.5(a), Hawaii
 12 Revised Statutes, by section 2 of this Act shall not be repealed
 13 when that section is reenacted on June 30, 2019, pursuant to
 14 section 3(1) of Act 52, Session Laws of Hawaii 2014.

APPROVED this day of , 2017

GOVERNOR OF THE STATE OF HAWAII

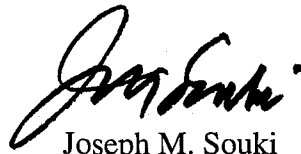


HB No. 2, HD 2, SD 1, CD 1

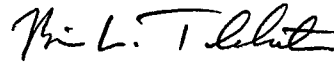
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki
Speaker
House of Representatives

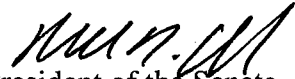


Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.



President of the Senate



Clerk of the Senate