

JAN 19 2017

A BILL FOR AN ACT

RELATING TO SUSTAINABLE LIVING.

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

1 SECTION 1. The legislature finds that populations are
2 increasing while resources are decreasing. The result is a need
3 for more sustainable and environmentally appropriate living.
4 Sustainable and environmentally appropriate living is presently
5 inhibited due to zoning regulations that control and regulate
6 conventional development. Some innovations for more sustainable
7 development can only be researched and tested from outside the
8 confines of the State's existing mechanisms.

9 In 2007, New Mexico's governor signed into the law the
10 Sustainable Development Test Site Act that allows counties
11 throughout the state to define a new category of rules that
12 apply to approved sustainable development sites. Taos county,
13 for example, is issuing permits for sites to conduct sustainable
14 development research that would otherwise be restricted due to
15 ordinances that apply to conventional development.

16 Similarly, this Act allows and encourages privately or
17 otherwise funded sustainable projects within a county to



1 research new low-impact ways of living without the limitations
2 imposed by traditional codes and ordinances. This Act allows
3 permittees at designated sites greater than one acre and less
4 than fifteen acres in size within agricultural and rural
5 districts in certain counties to receive exemptions from certain
6 codes for experimental purposes. Under this Act, applicants for
7 permits must provide detailed descriptions of the research to be
8 conducted at the sites as well as annual status reports of
9 research activities. This Act enables the construction of
10 ecovillages, an innovation that is rapidly developing nationwide
11 and internationally, which are not permitted uses under Hawaii's
12 current laws.

13 The short-range goal of sustainable research sites is to
14 develop sustainable resources and practices such as community
15 resource sharing, natural or recycled building materials,
16 thermal and solar heating or cooling systems, renewable power
17 generation, water harvesting, contained sewage treatment
18 systems, and food production. The long-term goal of these sites
19 is to develop research that will contribute to emergency
20 preparedness development in Hawaii and to further the intentions
21 of the Hawaii 2050 sustainability plan.



1 The five principles outlined by the Hawaii 2050
2 sustainability plan created by the Hawaii 2050 sustainability
3 task force pursuant to Act 8, Special Session Laws of Hawaii
4 2005, are integrated philosophies that express the sustainable
5 future of Hawaii and are aligned with the purposes of this Act.
6 These five principles are as follows:

- 7 (1) Living sustainably is part of daily practice in
8 Hawaii;
- 9 (2) Hawaii's diversified and globally competitive economy
10 enables its residents to meaningfully live, work, and
11 play in Hawaii;
- 12 (3) Hawaii's natural resources are responsibly and
13 respectfully used, replenished, and preserved for
14 future generations;
- 15 (4) Hawaii's community is strong, healthy, vibrant, and
16 nurturing and provides safety nets for those in need;
17 and
- 18 (5) Hawaii's kanaka maoli and island cultures and values
19 are thriving and perpetuated.



1 (2) The provision of water needs while minimizing the
2 withdrawals from ground water and surface water
3 systems in accordance with county and state water law
4 and the rules and policies of the county and state
5 engineers;

6 (3) The provision of sewage treatment needs with minimal
7 discharge;

8 (4) The reuse of materials discarded by modern society;

9 (5) The development of organic foods;

10 (6) The development of renewable fuel; and

11 (7) The development and testing of shared living
12 situations.

13 "Sustainable living research" means activities conducted at
14 a sustainable living research site that test ideas, concepts, or
15 inventions designed to promote sustainable living.

16 "Sustainable living research permit" means a permit issued
17 by the planning department that designates an area as a
18 sustainable living research site and specifies:

19 (1) The sustainable living research that can be conducted
20 within the site by the permittee; and



1 (2) The county codes, ordinances, rules, or permits that
2 are not applicable to the permittee and the research.

3 "Sustainable living research site" means an area that is
4 subject to a sustainable living research site permit issued by
5 the planning department.

6 § -3 **Application for sustainable living research permit;**

7 **evaluation.** (a) A person desiring a sustainable living
8 research permit shall submit an application to the planning
9 department for the county in which the proposed sustainable
10 living research site is located. The application shall include:

11 (1) A detailed description of the sustainable living
12 research that will be conducted on the sustainable
13 living research site, including an explanation of the
14 ideas, concepts, and inventions that will be tested;

15 (2) A site plan of the sustainable living research site;

16 (3) The number of inhabitants and employees whom are
17 expected to occupy the sustainable living research
18 site;

19 (4) An assessment of the county codes, ordinances, rules,
20 or permits relating to construction or building
21 requirements, occupancy, zoning, or subdivisions that



S.B. NO. 109

1 are not practicable for the specific sustainable
2 living research site and that may inhibit the proposed
3 sustainable living research;

4 (5) An application fee, if any, set by the planning
5 department;

6 (6) Other information as may be required by conditions
7 adopted pursuant to section -7, rules adopted by
8 the planning department or planning commission, or
9 county ordinance;

10 (7) Copies of all required state permits, including the
11 approval of the wastewater treatment and disposal
12 technology on an experimental basis; and

13 (8) An affidavit indemnifying the county and State from
14 liabilities relating to the building exemptions.

15 An application shall be complete upon submission of all of the
16 above items to the planning department.

17 (b) Within ten days of receipt of a completed application,
18 the planning department shall forward a copy of the application
19 to the department of health. Upon receipt of the application,
20 the department of health shall have thirty days to submit
21 comments to the planning department regarding the proposed



1 sustainable living research site and to make a determination as
2 to whether the sustainable living research proposed to be
3 conducted will have a detrimental environmental impact on the
4 proposed sustainable living research site or the surrounding
5 area; provided that any proposed sustainable living research
6 that is subject to chapter 343 shall meet the requirements of
7 that chapter. During the review of the application, the
8 department of health shall also determine whether it is
9 appropriate to grant the applicant a waiver of its regulations
10 pertaining to composting toilets and greywater systems,
11 including its regulations pertaining to individual wastewater
12 systems on agricultural land, and to approve an applicant's
13 self-designed, innovative, or otherwise not yet approved
14 systems. The department of health may grant a waiver if it
15 finds that the proposed system will not have a detrimental
16 impact upon human health or environment.

17 § -4 **Application review; decision; permit.** (a)

18 Following the application review, the planning department shall
19 issue its decision in writing. The planning department shall
20 issue a sustainable living research permit if:



S.B. NO. 109

- 1 (1) The department of health has determined that the
2 sustainable living research proposed to be conducted
3 will not have a detrimental environmental impact on
4 the proposed sustainable living research site or the
5 surrounding area;
- 6 (2) No existing county codes, ordinances, rules, or
7 permits relating to construction or building
8 requirements, occupancy, zoning, or subdivisions,
9 other than those identified in the application, will
10 be violated by the proposed sustainable living
11 research at the site;
- 12 (3) The applicant has complied with applicable rules and
13 conditions adopted pursuant to section -7 and
14 chapter 91, if any; and
- 15 (4) The proposed sustainable living research at the site
16 may be beneficial to the development of sustainable
17 living.
- 18 (b) A sustainable living research permit shall include:
- 19 (1) The specific sustainable living research that may be
20 conducted at the sustainable living research site;



S.B. NO. 109

- 1 (2) The maximum number of structures that may be
2 constructed;
- 3 (3) The maximum number of individuals that may inhabit the
4 sustainable living research site;
- 5 (4) The specific county codes, ordinances, rules, and
6 permits relating to construction or building
7 requirements, occupancy, zoning, or subdivisions that
8 the permittee and sustainable living research
9 conducted are excepted from pursuant to the permit;
- 10 (5) Other restrictions on the sustainable living research
11 site and the permittee's activities as required by
12 rules adopted pursuant to section -7 and chapter
13 91, if any; and
- 14 (6) Reasonable modifications and conditions imposed by the
15 planning department, if any.
- 16 (c) The sustainable living research permit shall be filed
17 and recorded in the office of the county clerk. Pursuant to
18 this chapter, all the benefits and burdens of the permit shall
19 run with the land.
- 20 (d) The planning department shall approve or deny an
21 application for a sustainable living research permit within



1 ninety days of its receipt of a complete application. This
2 deadline may be extended upon mutual agreement of the applicant
3 and the planning department.

4 (e) If the planning department denies an application for a
5 sustainable living research permit or fails to rule on an
6 application within ninety days after the complete application is
7 submitted, the applicant may appeal the planning department's
8 decision or failure to rule to the appropriate planning
9 commission within thirty days.

10 § -5 **Sustainable living research site; requirements.** A
11 sustainable living research site shall be:

- 12 (1) Greater than one acre but less than fifteen acres;
13 (2) Built with thirty foot setbacks from adjacent
14 properties;
15 (3) Located within a county with a population of at least
16 one hundred thousand and less than five hundred
17 thousand; and
18 (4) Subject to state and federal laws, rules, and
19 regulations.

20 § -6 **Sustainable living research permitted; enforcement.**

21 (a) The permittee, when conducting sustainable living research



1 that is specified in the sustainable living research permit,
2 shall comply with all applicable laws and rules except those
3 county codes, ordinances, rules, or permits specified in the
4 permit as inapplicable to the permittee and the research.

5 (b) Nothing in this chapter or the sustainable living
6 research permit shall be deemed to allow the permittee to
7 appropriate or otherwise use underground or surface water
8 without first obtaining a water rights permit or approval if
9 otherwise required pursuant to chapter 174C. New appropriations
10 of water and water rights transfers shall in no event be
11 exempted from state water law and rules.

12 (c) Nothing in this chapter or the sustainable living
13 research permit shall be deemed to exempt the permittee from
14 preparing an environmental assessment or environmental impact
15 statement where such statement or assessment is otherwise
16 required by law.

17 (d) Relevant employees and agents of the State or the
18 county, at all reasonable times and with reasonable notice, may
19 enter the sustainable living research site for the purpose of
20 inspecting the site and activities conducted on the site to



1 ensure that conditions specified in the sustainable living
2 research permit are being met.

3 (e) The permittee shall annually submit a report to the
4 planning department describing the sustainable living research
5 and activities conducted during the preceding twelve months and
6 summarizing the research findings. All information contained in
7 the report and all other information learned from activities
8 pursuant to the sustainable living research permit shall be made
9 available to the public.

10 (f) The planning commission may revoke the sustainable
11 living research permit if it finds, after a public hearing, that
12 the permittee has substantially violated a sustainable living
13 research permit provision, this chapter, or an applicable rule
14 adopted pursuant to this chapter or chapter 91, and has failed
15 to correct the violation within thirty days of notification of
16 the violation.

17 (g) A permittee may apply to have a sustainable living
18 research permit amended by submitting a new application pursuant
19 to section -3. If the planning department determines that
20 the proposed amendment will substantially alter the sustainable
21 living research or other activities conducted at the sustainable



1 living research site and does not approve those changes, the
2 permittee may appeal that decision to the appropriate planning
3 commission within thirty days.

4 **§ -7 Adoption of conditions.** The planning department
5 may include, as part of the permit issued pursuant to this
6 chapter, special rules and conditions that are consistent with
7 the purpose of this chapter and other applicable laws and
8 policies. If the applicant is not in agreement with any special
9 rules and conditions imposed by the planning department, the
10 applicant may appeal to the appropriate planning commission.

11 **§ -8 Rules.** No later than June 30, 2018, the planning
12 department of each county shall adopt rules pursuant to chapter
13 91 to implement the requirements of this chapter."

14 SECTION 3. Section 205-2, Hawaii Revised Statutes, is
15 amended by amending subsections (c) and (d) to read as follows:

16 "(c) Rural districts shall include activities or uses as
17 characterized by low density residential lots of not more than
18 one dwelling house per one-half acre, except as provided by
19 county ordinance pursuant to section 46-4(c), in areas where
20 "city-like" concentration of people, structures, streets, and
21 urban level of services are absent, and where small farms are



1 intermixed with low density residential lots except that within
2 a subdivision, as defined in section 484-1, the commission for
3 good cause may allow one lot of less than one-half acre, but not
4 less than eighteen thousand five hundred square feet, or an
5 equivalent residential density, within a rural subdivision and
6 permit the construction of one dwelling on such lot; provided
7 that all other dwellings in the subdivision shall have a minimum
8 lot size of one-half acre or 21,780 square feet. Such petition
9 for variance may be processed under the special permit
10 procedure. These districts may include contiguous areas which
11 are not suited to low density residential lots or small farms by
12 reason of topography, soils, and other related characteristics.
13 Rural districts shall also include golf courses, golf driving
14 ranges, and golf-related facilities.

15 In addition to the uses listed in this subsection, rural
16 districts shall include ~~[geothermal]~~ as permissible uses:

17 (1) Geothermal resources exploration and geothermal
18 resources development, as defined under section
19 182-1 ~~[, as permissible uses.]~~; and

20 (2) Sustainable living research sites pursuant to chapter

21 _____.



S.B. NO. 109

1 (d) Agricultural districts shall include[+] as permissible

2 uses:

3 (1) Activities or uses as characterized by the cultivation
4 of crops, crops for bioenergy, orchards, forage, and
5 forestry;

6 (2) Farming activities or uses related to animal husbandry
7 and game and fish propagation;

8 (3) Aquaculture, which means the production of aquatic
9 plant and animal life within ponds and other bodies of
10 water;

11 (4) Wind generated energy production for public, private,
12 and commercial use;

13 (5) Biofuel production, as described in section
14 205-4.5(a)(16), for public, private, and commercial
15 use;

16 (6) Solar energy facilities; provided that:

17 (A) This paragraph shall apply only to land with soil
18 classified by the land study bureau's detailed
19 land classification as overall (master)
20 productivity rating class B, C, D, or E; and



S.B. NO. 109

1 (B) Solar energy facilities placed within land with
2 soil classified as overall productivity rating
3 class B or C shall not occupy more than ten per
4 cent of the acreage of the parcel, or twenty
5 acres of land, whichever is lesser, unless a
6 special use permit is granted pursuant to section
7 205-6;

8 (7) Bona fide agricultural services and uses that support
9 the agricultural activities of the fee or leasehold
10 owner of the property and accessory to any of the
11 above activities, regardless of whether conducted on
12 the same premises as the agricultural activities to
13 which they are accessory, including farm dwellings as
14 defined in section 205-4.5(a)(4), employee housing,
15 farm buildings, mills, storage facilities, processing
16 facilities, photovoltaic, biogas, and other small-
17 scale renewable energy systems producing energy solely
18 for use in the agricultural activities of the fee or
19 leasehold owner of the property, agricultural-energy
20 facilities as defined in section 205-4.5(a)(17),
21 vehicle and equipment storage areas, and plantation



S.B. NO. 109

- 1 community subdivisions as defined in section
2 205-4.5(a)(12);
- 3 (8) Wind machines and wind farms;
- 4 (9) Small-scale meteorological, air quality, noise, and
5 other scientific and environmental data collection and
6 monitoring facilities occupying less than one-half
7 acre of land; provided that these facilities shall not
8 be used as or equipped for use as living quarters or
9 dwellings;
- 10 (10) Agricultural parks;
- 11 (11) Agricultural tourism conducted on a working farm, or a
12 farming operation as defined in section 165-2, for the
13 enjoyment, education, or involvement of visitors;
14 provided that the agricultural tourism activity is
15 accessory and secondary to the principal agricultural
16 use and does not interfere with surrounding farm
17 operations; and provided further that this paragraph
18 shall apply only to a county that has adopted
19 ordinances regulating agricultural tourism under
20 section 205-5;



S.B. NO. 109

- 1 (12) 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 (13) Open area recreational facilities;
- 13 (14) Geothermal resources exploration and geothermal
14 resources development, as defined under section 182-1;
- 15 (15) Agricultural-based commercial operations, including:
- 16 (A) A roadside stand that is not an enclosed
17 structure, owned and operated by a producer for
18 the display and sale of agricultural products
19 grown in Hawaii and value-added products that
20 were produced using agricultural products grown
21 in Hawaii;



S.B. NO. 109

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

8 (C) A retail food establishment owned and operated by
9 a producer and permitted under title 11, chapter
10 12 of the rules of the department of health that
11 prepares and serves food at retail using products
12 grown in Hawaii and value-added products that
13 were produced using agricultural products grown
14 in Hawaii.

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



1 (16) Hydroelectric facilities as described in section
2 205-4.5(a)(23) [~~-~~]; and

3 (17) Sustainable living research sites pursuant to chapter
4 _____.

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

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

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

20 (2) Game and fish propagation;



S.B. NO. 109

- 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;
- 13 (5) Public institutions and buildings that are necessary
14 for agricultural practices;
- 15 (6) Public and private open area types of recreational
16 uses, including day camps, picnic grounds, parks, and
17 riding stables, but not including dragstrips,
18 airports, drive-in theaters, golf courses, golf
19 driving ranges, country clubs, and overnight camps;
- 20 (7) Public, private, and quasi-public utility lines and
21 roadways, transformer stations, communications



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

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

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

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

21 (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 paragraph, "agricultural education programs"
15 means activities or events designed to promote
16 knowledge and understanding of agricultural activities
17 and practices conducted on a farming operation as
18 defined in section 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



S.B. NO. 109

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



S.B. NO. 109

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

4 (22) Geothermal resources exploration and geothermal
5 resources development, as defined under section 182-1;
6 [~~or~~]

7 (23) Hydroelectric facilities, including the appurtenances
8 associated with the production and transmission of
9 hydroelectric energy, subject to section 205-2;
10 provided that the hydroelectric facilities and their
11 appurtenances:

12 (A) Shall consist of a small hydropower facility as
13 defined by the United States Department of
14 Energy, including:

15 (i) Impoundment facilities using a dam to store
16 water in a reservoir;

17 (ii) A diversion or run-of-river facility that
18 channels a portion of a river through a
19 canal or channel; and

20 (iii) Pumped storage facilities that store energy
21 by pumping water uphill to a reservoir at



S.B. NO. 109

1 higher elevation from a reservoir at a lower
2 elevation to be released to turn a turbine
3 to generate electricity;

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

5 (C) Shall, if over five hundred kilowatts in
6 hydroelectric generating capacity, have the
7 approval of the commission on water resource
8 management, including a new instream flow
9 standard established for any new hydroelectric
10 facility; and

11 (D) Do not impact or impede the use of agricultural
12 land or the availability of surface or ground
13 water for all uses on all parcels that are served
14 by the ground water sources or streams for which
15 hydroelectric facilities are considered[-]; or

16 (24) Sustainable living research sites pursuant to chapter
17 _____."

18 SECTION 5. Section 205-5, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:



1 "(c) Unless authorized by special permit issued pursuant
2 to this chapter, only the following uses shall be permitted
3 within rural districts:

- 4 (1) Low density residential uses;
- 5 (2) Agricultural uses;
- 6 (3) Golf courses, golf driving ranges, and golf-related
7 facilities;
- 8 (4) Public, quasi-public, and public utility facilities;
- 9 [and]
- 10 (5) Geothermal resources exploration and geothermal
11 resources development, as defined under section
12 182-1[-]; and
- 13 (6) Sustainable living research sites pursuant to chapter
14 _____.

15 In addition, the minimum lot size for any low density
16 residential use shall be one-half acre and there shall be but
17 one dwelling house per one-half acre, except as provided for in
18 section 205-2."

19 SECTION 6. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2017-2018 and



S.B. NO. 109

1 the same sum or so much thereof as may be necessary for fiscal
2 year 2018-2019 for the department of health to conduct a study
3 to determine the impact on human health if the drinking water
4 system of a sustainable living research site falls below the
5 threshold for a public water system.

6 The sums appropriated shall be expended by the department
7 of health for the purposes of this Act.

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

10 SECTION 8. This Act shall take effect on July 1, 2017.

11

INTRODUCED BY:

Kal Rhoads (B/R)



S.B. NO. 109

Report Title:

Sustainable Living Research; Permit; Appropriations

Description:

Establishes a permit that exempts sustainable living research and sites from certain county codes, ordinances, and rules. Appropriates funds.

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

