

JAN 20 2017

---

---

# A BILL FOR AN ACT

RELATING TO AGRICULTURAL BUILDINGS.

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

1           SECTION 1. Section 46-88, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§46-88 Agricultural buildings and structures; exemptions**  
4 **from building permit and building code requirements.** (a)

5 Notwithstanding any law to the contrary, the following  
6 agricultural buildings, structures, and appurtenances thereto  
7 that are not used as dwellings or lodging units are exempt from  
8 building permit and building code requirements where they are no  
9 more than one thousand square feet in floor area[+] and are not  
10 located in a special flood hazard area as delineated on flood  
11 maps issued by the Federal Emergency Management Agency:

12           (1) Nonresidential manufactured pre-engineered commercial  
13 buildings and structures;

14           (2) Single stand alone recycled ocean shipping or cargo  
15 containers that are used as nonresidential commercial  
16 buildings and are properly anchored;



## S.B. NO. 341

- 1           (3) Notwithstanding the one thousand square foot floor  
2           area restriction, agricultural shade cloth structures,  
3           cold frames, or greenhouses not exceeding twenty  
4           thousand square feet in area per structure; provided  
5           that where multiple structures are erected, the  
6           minimum horizontal separation between each shade cloth  
7           structure, cold frame, or greenhouse is fifteen feet;
- 8           (4) Aquacultural or aquaponics structures, including  
9           above-ground water storage or production tanks,  
10          troughs, and raceways with a maximum height of six  
11          feet above grade, and in-ground ponds and raceways,  
12          and piping systems for aeration, carbon dioxide, or  
13          fertilizer or crop protection chemical supplies within  
14          agricultural or aquacultural production facilities;
- 15          (5) Livestock watering tanks, water piping and plumbing  
16          not connected to a source of potable water, or  
17          separated by an air gap from such a source;
- 18          (6) Non-masonry fences not exceeding ten feet in height  
19          and masonry fences not exceeding six feet in height;
- 20          (7) One-story masonry or wood-framed buildings or  
21          structures with a structural span of less than twenty-



1 five feet and a total square footage of no more than  
2 one thousand square feet, including farm buildings  
3 used as:

4 (A) Barns;

5 (B) Greenhouses;

6 (C) Farm production buildings including aquaculture  
7 hatcheries and plant nurseries;

8 (D) Storage buildings for farm equipment or plant or  
9 animal supplies or feed; or

10 (E) Storage or processing buildings for crops;  
11 provided that the height of any stored items  
12 shall not collectively exceed twelve feet in  
13 height;

14 (8) Raised beds containing soil, gravel, cinders, or other  
15 growing media or substrates with wood, metal, or  
16 masonry walls or supports with a maximum height of  
17 four feet;

18 (9) Horticultural tables or benches no more than four feet  
19 in height supporting potted plants or other crops; and

20 (10) Nonresidential indigenous Hawaiian hale that do not  
21 exceed five hundred square feet in size, have no



1 kitchen or bathroom, and are used for traditional  
2 agricultural activities or education;  
3 provided that the buildings, structures, and appurtenances  
4 thereto comply with all applicable state and county zoning  
5 codes.

6 (b) Notwithstanding the one thousand square foot floor  
7 area restriction in subsection (a), the following buildings,  
8 structures, and appurtenances thereto shall be exempt from  
9 building permit requirements when compliant with relevant  
10 building codes or county, national, or international  
11 prescriptive construction standards:

12 (1) Nonresidential manufactured pre-engineered and county  
13 pre-approved commercial buildings and structures  
14 consisting of a total square footage greater than one  
15 thousand square feet but no more than eight thousand  
16 square feet; and

17 (2) One-story wood-framed or masonry buildings or  
18 structures with a structural span of less than twenty-  
19 five feet and a total square footage greater than one  
20 thousand square feet but no more than eight thousand  
21 square feet constructed in accordance with county,



1 national, or international prescriptive construction  
2 standards, including buildings used as:

- 3 (A) Barns;
- 4 (B) Greenhouses;
- 5 (C) Farm production buildings, including aquaculture  
6 hatcheries and plant nurseries;
- 7 (D) Storage buildings for farm equipment, plant or  
8 animal supplies, or feed; or
- 9 (E) Storage or processing buildings for crops;  
10 provided that the height of any stored items  
11 shall not collectively exceed twelve feet in  
12 height.

13 (c) The exemptions in subsections (a) and (b) shall apply;  
14 provided that:

- 15 (1) The aggregate floor area of the exempted agricultural  
16 buildings shall not exceed:
  - 17 (A) Five thousand square feet per zoning lot for lots  
18 of two acres or less;
  - 19 (B) Eight thousand square feet per zoning lot for  
20 lots greater than two acres but not more than  
21 five acres; and



- 1 (C) Eight thousand square feet plus two per cent of  
2 the acreage per zoning lot for lots greater than  
3 five acres; provided that each exempted  
4 agricultural building is compliant with the  
5 square foot area restrictions in subsection (a)  
6 or subsection (b);
- 7 (2) The minimum horizontal separation between each  
8 agricultural building, structure, or appurtenance  
9 thereto is fifteen feet;
- 10 (3) The agricultural buildings, structures, or  
11 appurtenances thereto are located on a commercial farm  
12 or ranch and are used for general agricultural or  
13 aquacultural operations, or for purposes incidental to  
14 such operations;
- 15 (4) The agricultural buildings, structures, or  
16 appurtenances thereto are constructed or installed on  
17 property that is used primarily for agricultural or  
18 aquacultural operations, and is two or more contiguous  
19 acres in area or one or more contiguous acres in area  
20 if located in a nonresidential agricultural or  
21 aquacultural park;



- 1           (5) Upon completion of construction or installation, the  
2           owner or occupier shall provide written notice to the  
3           appropriate county fire department and county building  
4           permitting agency of the size, type, and locations of  
5           the building, structure, or appurtenance thereto.  
6           Such written notification shall be provided to the  
7           county agencies within thirty days of the completion  
8           of the building, structure, or appurtenance thereto.  
9           Failure to provide such written notice may void the  
10          building permit or building code exemption, or both,  
11          which voidance for such failure is subject to the sole  
12          discretion of the appropriate county building  
13          permitting agency;
- 14          (6) No electrical power and no plumbing systems shall be  
15          connected to the building or structure without first  
16          obtaining the appropriate county electrical or  
17          plumbing permit, and all such installations shall be  
18          installed under the supervision of a licensed  
19          electrician or plumber, as appropriate, and inspected  
20          and approved by an appropriate county or licensed  
21          inspector or, if a county building agency is unable to



1           issue an electrical permit because the building or  
2           structure is permit-exempt, an electrical permit shall  
3           be issued for an electrical connection to a meter on a  
4           pole beyond the permit-exempt structure in accordance  
5           with the installation, inspection, and approval  
6           requirements in this paragraph;

7           (7) Disposal of wastewater from any building or structure  
8           constructed or installed pursuant to this section  
9           shall comply with chapter 342D; and

10          (8) Permit-exempt structures shall be exempt from any  
11          certificate of occupancy requirements.

12          (d) As used in this section:

13           "Agricultural building" means a nonresidential building or  
14          structure, built for agricultural or aquacultural purposes,  
15          located on a commercial farm or ranch constructed or installed  
16          to house farm or ranch implements, agricultural or aquacultural  
17          feeds or supplies, livestock, poultry, or other agricultural or  
18          aquacultural products, used in or necessary for the operation of  
19          the farm or ranch, or for the processing and selling of farm or  
20          ranch products.





1 "Agricultural operation" means the planting, cultivating,  
2 harvesting, processing, or storage of crops, including those  
3 planted, cultivated, harvested, and processed for food,  
4 ornamental, grazing, feed, or forestry purposes, as well as the  
5 feeding, breeding, management, and sale of animals including  
6 livestock, poultry, honeybees, and their products.

7 "Appurtenance" means an object or device in, on, or  
8 accessory to a building or structure, and which enhances or is  
9 essential to the usefulness of the building or structure,  
10 including but not limited to work benches, horticultural and  
11 floricultural growing benches, aquacultural, aquaponic, and  
12 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,  
13 when situated within a structure.

14 "Aquacultural operation" means the propagation,  
15 cultivation, farming, harvesting, processing, and storage of  
16 aquatic plants and animals in controlled or selected  
17 environments for research, commercial, or stocking purposes and  
18 includes aquaponics or any growing of plants or animals in or  
19 with aquaculture effluents.

20 "Manufactured pre-engineered commercial building or  
21 structure" means a building or structure whose specifications



1 comply with appropriate county codes, and have been pre-approved  
2 by a county or building official.

3 "Nonresidential building or structure" means a building or  
4 structure, including an agricultural building, that is used only  
5 for agricultural or aquacultural operations and is not intended  
6 for use as, or used as, a dwelling.

7 (e) This section shall not apply to buildings or  
8 structures otherwise exempted from building permitting or  
9 building code requirements by applicable county ordinance.

10 (f) This section shall not be construed to supersede  
11 public or private lease conditions.

12 (g) This section shall not apply to the construction or  
13 installation of any building or structure on land in an urban  
14 district.

15 (h) The State or any county shall not be liable for claims  
16 arising from the construction of agricultural buildings,  
17 structures, or appurtenances thereto exempt from the building  
18 code and permitting process as described in this section, unless  
19 the claim arises out of gross negligence or intentional  
20 misconduct by the State or county.



# S.B. NO. 341

1 (i) This section shall not apply to buildings or  
 2 structures used to store pesticides or other hazardous material  
 3 unless stored in accordance with federal and state law.

4 (j) Failure to comply with the conditions of this section  
 5 shall result in penalties consistent with county building  
 6 department provisions.

7 (k) This section shall not apply to agricultural  
 8 buildings, structures, or appurtenances thereto located in a  
 9 special flood hazard area as delineated on flood maps issued by  
 10 the Federal Emergency Management Agency."

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

13 SECTION 3. This Act shall take effect upon its approval.  
 14

INTRODUCED BY:

~~DR. Rich-Allen~~  
Paul Rhoads  
Maureen R. Brown



# S.B. NO. 341

**Report Title:**

Agricultural Buildings; Exemptions; Special Flood Hazard Area

**Description:**

Removes agricultural buildings located in a special flood hazard area from the exemptions from building permit and building code requirements.

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

