
A BILL FOR AN ACT

RELATING TO HOUSING ON AGRICULTURAL LAND.

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

1 SECTION 1. The legislature finds that the lack of housing
2 on agricultural lands has created hardships for many low-income
3 farmworkers and farm employers. Unable to find housing,
4 agricultural workers may pay higher rents, commute longer
5 distances, and have less opportunity to accumulate assets.
6 Without the ability to provide housing, many employers find it
7 difficult to recruit and retain a viable workforce, causing many
8 small and family-owned farms financial distress.

9 The purpose of this Act is to allow agricultural land
10 owners to develop on-farm and near-farm housing serving the
11 needs of both farmworkers and agricultural employers. The
12 development of secure, safe, efficient, and affordable housing
13 will help support Hawaii's valuable agricultural industry.
14 Further, farmworker housing can be one method to help achieve
15 Hawaii's affordable housing goals by fostering an adequate and
16 diverse supply.



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

"(d) Agricultural districts shall include:

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

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

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

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

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

(6) Solar energy facilities; provided that:

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



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),~~] and employee
15 housing[~~7~~] as provided in section 205-4.5(a)(4), farm
16 buildings, mills, storage facilities, processing
17 facilities, photovoltaic, biogas, and other small-
18 scale renewable energy systems producing energy solely
19 for use in the agricultural activities of the fee or
20 leasehold owner of the property, agricultural-energy
21 facilities as defined in section 205-4.5(a)(17),



1 vehicle and equipment storage areas, and plantation
2 community subdivisions as defined in section
3 205-4.5(a)(12);

4 (8) Wind machines and wind farms;

5 (9) Small-scale meteorological, air quality, noise, and
6 other scientific and environmental data collection and
7 monitoring facilities occupying less than one-half
8 acre of land; provided that these facilities shall not
9 be used as or equipped for use as living quarters or
10 dwellings;

11 (10) Agricultural parks;

12 (11) Agricultural tourism conducted on a working farm, or a
13 farming operation as defined in section 165-2, for the
14 enjoyment, education, or involvement of visitors;
15 provided that the agricultural tourism activity is
16 accessory and secondary to the principal agricultural
17 use and does not interfere with surrounding farm
18 operations; and provided further that this paragraph
19 shall apply only to a county that has adopted
20 ordinances regulating agricultural tourism under
21 section 205-5;



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

(13) Open area recreational facilities;

(14) Geothermal resources exploration and geothermal resources development, as defined under section 182-1;

(15) Agricultural-based commercial operations registered in Hawaii, including:

(A) A roadside stand that is not an enclosed structure, owned and operated by a producer for the display and sale of agricultural products grown in Hawaii and value-added products that



1 were produced using agricultural products grown
2 in Hawaii;

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

10 (C) A retail food establishment owned and operated by
11 a producer and permitted under chapter 11-50,
12 Hawaii administrative rules, that prepares and
13 serves food at retail using products grown in
14 Hawaii and value-added products that were
15 produced using agricultural products grown in
16 Hawaii;

17 (D) A farmers' market, which is an outdoor market
18 limited to producers selling agricultural
19 products grown in Hawaii and value-added products
20 that were produced using agricultural products
21 grown in Hawaii; and



(E) A food hub, which is a facility that may contain a commercial kitchen and provides for the storage, processing, distribution, and sale of agricultural products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii.

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

(16) Hydroelectric facilities as described in section 205-4.5(a)(23).

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

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

SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



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

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

(2) Game and fish propagation;

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

(4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry[-]; provided that:

(A) The farm dwellings shall be used exclusively by farmers and their immediate family members who actively and currently farm on agricultural land upon which the dwelling is situated; provided further that the immediate family members of the



1 farmer may reside in separate dwelling units
2 situated on the same designated land;

3 (B) Employee housing units shall be used exclusively
4 by farmers' employees, and their immediate family
5 members who actively and currently work on
6 agricultural land upon which the housing unit is
7 situated; provided further that the immediate
8 family members of the employee shall not reside
9 in separate housing units and shall reside with
10 the employee;

11 (C) The farm dwellings and employee housing units and
12 all appurtenances shall not occupy more than five
13 per cent of the total agricultural land area
14 controlled by the farmer or the employee's
15 employer or fifty acres, whichever is less;

16 (D) No farm dwelling or employee housing unit shall
17 exceed one dwelling per five acres. The owner or
18 lessee of the lot shall meet two of the following
19 three criteria:

20 (i) Provide proof of at least \$35,000 of gross
21 sales of agricultural products per year, for



1 the preceding two consecutive years, for
2 each farm labor dwelling on the lot, as
3 shown by state general excise tax forms and
4 federal Form 1040 Schedule F filings;

5 (ii) Provide certification by the department of
6 water supply that agricultural water rates
7 are being paid if the subject lot is served
8 by the county water system; or

9 (iii) Provide a five-year farm plan, approved by
10 the department of agriculture, demonstrating
11 the feasibility of commercial agricultural
12 production, after which the \$35,000 of gross
13 sales of agricultural products per year
14 requirement must be met;

15 (E) The farm dwellings and employee housing units
16 shall meet all applicable building code
17 requirements;

18 (F) Notwithstanding section 205-4.5(a)(12), the
19 landowner shall not plan or develop a residential
20 subdivision on the agricultural land;



1 (G) Consideration may be given to the cluster
2 development of farm dwellings and employee
3 housing units to maximize the land area available
4 for agricultural production; and

5 (H) The plans for farm dwellings and employee housing
6 units shall be supported by the five-year farm
7 plan, approved by the department of agriculture,
8 demonstrating the feasibility of commercial
9 agricultural production, after which the \$35,000
10 of gross sales of agricultural products per year
11 requirement must be met.

12 For purposes of this paragraph:

13 "Farm dwelling" [~~as used in this paragraph,~~]
14 means a single-family dwelling located on and used in
15 connection with a farm, including clusters of single-
16 family farm dwellings permitted within agricultural
17 parks developed by the State, or where agricultural
18 activity provides income to the family occupying the
19 dwelling [~~+~~] _.



1 "Immediate family member" means grandparent,
2 parent, sibling, spouse or reciprocal beneficiary,
3 child, or legal guardian;

4 (5) Public institutions and buildings that are necessary
5 for agricultural practices;

6 (6) Public and private open area types of recreational
7 uses, including day camps, picnic grounds, parks, and
8 riding stables, but not including dragstrips,
9 airports, drive-in theaters, golf courses, golf
10 driving ranges, country clubs, and overnight camps;

11 (7) Public, private, and quasi-public utility lines and
12 roadways, transformer stations, communications
13 equipment buildings, solid waste transfer stations,
14 major water storage tanks, and appurtenant small
15 buildings such as booster pumping stations, but not
16 including offices or yards for equipment, material,
17 vehicle storage, repair or maintenance, treatment
18 plants, corporation yards, or other similar
19 structures;

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



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

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

(11) Agricultural parks;

(12) Plantation community subdivisions, which as used in
this chapter means an established subdivision or
cluster of employee housing, community buildings, and
agricultural support buildings on land currently or
formerly owned, leased, or operated by a sugar or
pineapple plantation; provided that the existing
structures may be used or rehabilitated for use, and
new employee housing and agricultural support



1 buildings may be allowed on land within the
2 subdivision as follows:

3 (A) The employee housing is occupied by employees or
4 former employees of the plantation who have a
5 property interest in the land;

6 (B) The employee housing units not owned by their
7 occupants shall be rented or leased at affordable
8 rates for agricultural workers; or

9 (C) The agricultural support buildings shall be
10 rented or leased to agricultural business
11 operators or agricultural support services;

12 (13) Agricultural tourism conducted on a working farm, or a
13 farming operation as defined in section 165-2, for the
14 enjoyment, education, or involvement of visitors;
15 provided that the agricultural tourism activity is
16 accessory and secondary to the principal agricultural
17 use and does not interfere with surrounding farm
18 operations; and provided further that this paragraph
19 shall apply only to a county that has adopted
20 ordinances regulating agricultural tourism under
21 section 205-5;



1 (14) 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 (15) Wind energy facilities, including the appurtenances
13 associated with the production and transmission of
14 wind generated energy; provided that the wind energy
15 facilities and appurtenances are compatible with
16 agriculture uses and cause minimal adverse impact on
17 agricultural land;

18 (16) Biofuel processing facilities, including the
19 appurtenances associated with the production and
20 refining of biofuels that is normally considered
21 directly accessory and secondary to the growing of the



1 energy feedstock; provided that biofuel processing
2 facilities and appurtenances do not adversely impact
3 agricultural land and other agricultural uses in the
4 vicinity.

5 For the purposes of this paragraph:

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

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

18 (17) Agricultural-energy facilities, including
19 appurtenances necessary for an agricultural-energy
20 enterprise; provided that the primary activity of the
21 agricultural-energy enterprise is agricultural



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

9 As used in this paragraph:

10 "Agricultural activity" means any activity
11 described in paragraphs (1) to (3) of this subsection.

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

16 "Agricultural-energy facility" means a facility
17 that generates, stores, or distributes renewable
18 energy as defined in section 269-91 or renewable fuel
19 including electrical or thermal energy or liquid or
20 gaseous fuels from products of agricultural activities
21 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 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 31, 2150;
11 provided that the amendments made to section 205-4.5(a), Hawaii
12 Revised Statutes, by section 3 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.



Report Title:

Agricultural Land; Farm Dwellings; Employee Housing

Description:

Establishes requirements, conditions, and restrictions for farm dwellings and employee housing on agricultural land. Limits farm dwellings and employee housing on agricultural land to farmers and employees and immediate family members. (HB2632 HD2)

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

