
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 the purpose of Act
2 203, Session Laws of Hawaii 2013 (Act 203), is to encourage and
3 support the Governor's "New Day" initiative for diversified
4 agriculture and agricultural self-sufficiency in the State by
5 providing certain exemptions from building code requirements and
6 expanding certain building permit exemptions for nonresidential
7 buildings and structures on farms and ranches located outside
8 the urban district. However, the exemptions afforded by Act 203
9 apply only to lands that are "two or more contiguous acres in
10 area," unless the land is located in a nonresidential
11 agricultural or aquacultural park where the acreage restriction
12 is then lowered to one or more contiguous acres in area. These
13 acreage restrictions may be acceptable and appropriate for small
14 counties, but in a large county with a land area of three
15 thousand square miles or more, a one-acre limit would be more
16 reasonable and appropriate. In large counties, there are areas
17 where there are thousands of contiguous one-acre lots, many of



1 which are used for commercial agriculture, including lettuce
 2 farms, plant nurseries, flower farms, tea plantations, and
 3 aquaculture. The legislature finds that small farms provide a
 4 significant source of income for farm owners and contribute to
 5 the State's economy and that small farms in large counties
 6 should not be deprived of the benefits of Act 203.

7 SECTION 2. Section 46-88, Hawaii Revised Statutes, is
 8 amended as follows:

9 1. By amending its title to read:

10 "§46-88 Agricultural buildings and structures; exemptions
 11 from building permit and building code requirements[-]; large
 12 counties."

13 2. By amending subsections (c) and (d) to read:

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

16 (1) The aggregate floor area of the exempted agricultural
 17 buildings shall not exceed:

18 (A) Five thousand square feet per zoning lot for lots
 19 of two acres or less;



- 1 (B) Eight thousand square feet per zoning lot for
2 lots greater than two acres but not more than
3 five acres; and
- 4 (C) Eight thousand square feet plus two per cent of
5 the acreage per zoning lot for lots greater than
6 five acres; provided that each exempted
7 agricultural building is compliant with the
8 square foot area restrictions in subsection (a)
9 or subsection (b); provided further that in a
10 large county, for each zoning lot of one acre or
11 greater but not more than two acres, the
12 aggregate floor area of one-story wood-framed or
13 similar agricultural buildings shall not exceed
14 three thousand square feet, plus, if one of the
15 buildings is a greenhouse, an additional area of
16 up to twenty thousand square feet comprising the
17 greenhouse;
- 18 (2) The minimum horizontal separation between each
19 agricultural building, structure, or appurtenance
20 thereto is fifteen feet;



- 1 (3) The agricultural buildings, structures, or
2 appurtenances thereto are located on a commercial farm
3 or ranch and are used for general agricultural or
4 aquacultural operations, or for purposes incidental to
5 such operations;
- 6 (4) The agricultural buildings, structures, or
7 appurtenances thereto are constructed or installed on
8 property that is used primarily for agricultural or
9 aquacultural operations, and is two or more contiguous
10 acres in area or one or more contiguous acres in area
11 if located in a nonresidential agricultural or
12 aquacultural park; provided further that in a large
13 county, the required acreage shall be one acre or
14 less;
- 15 (5) An owner or occupier that intends to utilize the
16 exemptions under this section shall provide written
17 notice to the appropriate county agency of the size,
18 type, and location of the proposed building,
19 structure, related appurtenances, or development. No
20 work shall commence until the county agency has
21 determined that a building permit for the proposed



1 building, structure, related appurtenances, or
2 development is not required for compliance with
3 county, state, or federal floodplain management
4 development standards, ordinances, codes, statutes,
5 rules, or regulations pursuant to the National Flood
6 Insurance Program requirements;

7 (6) The appropriate county agency shall certify the
8 building, structure, related appurtenances, or
9 development within thirty calendar days upon the
10 receipt of the written notice from the owner or
11 occupier, pursuant to paragraph (5);

12 (7) The owner or occupier shall provide a final as-built
13 written notice to the appropriate county building
14 permitting agency of the final as-built size, type,
15 and location of the building, structure, related
16 appurtenances, or development. Such final as-built
17 written notification shall be provided to the county
18 agency within thirty calendar days of the completion,
19 occupancy, or use of the building, structure, related
20 appurtenances, or development. Failure to provide
21 such written notice may void the building permit or



1 building code exemption, or both, which voidance for
2 such failure is subject to the sole discretion of the
3 appropriate county building permitting agency;

4 (8) No electrical power and no plumbing systems shall be
5 connected to the building or structure without first
6 obtaining the appropriate county electrical or
7 plumbing permit, and all such installations shall be
8 installed under the supervision of a licensed
9 electrician or plumber, as appropriate, and inspected
10 and approved by an appropriate county or licensed
11 inspector or, if a county building agency is unable to
12 issue an electrical permit because the building or
13 structure is permit-exempt, an electrical permit shall
14 be issued for an electrical connection to a meter on a
15 pole beyond the permit-exempt structure in accordance
16 with the installation, inspection, and approval
17 requirements in this paragraph;

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



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

3 (d) As used in this section:

4 "Agricultural building" means a development, including a
5 nonresidential building or structure, built for agricultural or
6 aquacultural purposes, located on a commercial farm or ranch
7 constructed or installed to house farm or ranch implements,
8 agricultural or aquacultural feeds or supplies, livestock,
9 poultry, or other agricultural or aquacultural products, used in
10 or necessary for the operation of the farm or ranch, or for the
11 processing and selling of farm or ranch products.

12 "Agricultural operation" means the planting, cultivating,
13 harvesting, processing, or storage of crops, including those
14 planted, cultivated, harvested, and processed for food,
15 ornamental, grazing, feed, or forestry purposes, as well as the
16 feeding, breeding, management, and sale of animals including
17 livestock, poultry, honeybees, and their products.

18 "Appurtenance" means an object or device in, on, or
19 accessory to a building or structure, and which enhances or is
20 essential to the usefulness of the building or structure,
21 including but not limited to work benches, horticultural and



1 floricultural growing benches, aquacultural, aquaponic, and
2 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,
3 when situated within a structure.

4 "Aquacultural operation" means the propagation,
5 cultivation, farming, harvesting, processing, and storage of
6 aquatic plants and animals in controlled or selected
7 environments for research, commercial, or stocking purposes and
8 includes aquaponics or any growing of plants or animals in or
9 with aquaculture effluents.

10 "Development" means any manmade change to improved or
11 unimproved real estate, including but not limited to buildings
12 or other structures, mining, dredging, filling, grading, paving,
13 excavation or drilling operations, or storage of equipment or
14 materials.

15 "Dwelling" means a structure, or part of a structure, which
16 is used as a home, residence, or sleeping place by one person or
17 by two or more persons maintaining a common household, to the
18 exclusion of all others.

19 "Large county" means a county with a land area of at least
20 three thousand square miles.



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1 "Manufactured pre-engineered commercial building or
 2 structure" means a building or structure whose specifications
 3 comply with appropriate county codes, and have been pre-approved
 4 by a county or building official.

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

9 SECTION 3. This Act does not affect rights and duties that
 10 matured, penalties that were incurred, and proceedings that were
 11 begun before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Richard Lopez

Yakubovna

[Signature]

Dan Campos

JAN 17 2020



H.B. NO. 1889

Report Title:

Agricultural Buildings and Structures; Building Code and Permit Exemption; Large Counties

Description:

Reduces the applicable acreage requirements for building code and permit exemptions for agricultural buildings in large counties.

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