
A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1 SECTION 1. In 2008, the legislature passed a package of
2 incentives for lands designated as important agricultural lands
3 pursuant to section 3 of article XI of the Hawaii state
4 constitution. Enacted as Act 233, Session Laws of Hawaii 2008,
5 the incentives were intended to promote agricultural viability,
6 sustained growth of the agricultural industry, and the long-term
7 use and protection of lands designated as important agricultural
8 lands.

9 Act 233, Session Laws of Hawaii 2008, included a provision
10 for landowners to develop, construct, and maintain farm
11 dwellings and employee housing for farmers, employees, and their
12 immediate family members on lands designated as important
13 agricultural lands, provided that the occupants of these
14 dwellings are actively engaged in farming. Although intended as
15 an incentive for the designation and agricultural use of
16 important agricultural lands, it is unclear whether this
17 provision, codified as section 205-45.5, Hawaii Revised



1 Statutes, imposes more restrictive standards for farm dwellings
2 and employee housing on important agricultural lands than the
3 existing standards for farm dwellings and employee housing on
4 lands in the agricultural land use district in chapter 205,
5 Hawaii Revised Statutes.

6 The lack of affordable housing for farmers and farm labor
7 is an impediment to increasing food and non-food agricultural
8 production in Hawaii. The legislature finds there is still a
9 need for a means to develop housing for farmers and farm
10 employees on lands designated as important agricultural lands
11 that both reduces the cost and time required to supply such
12 housing and ensures that the housing is used in conjunction with
13 and located on an active farm and occupied by bona fide farmers
14 and farm employees. This Act is intended to ensure reduced
15 infrastructure requirements for important agricultural lands
16 pursuant to section 205-51, Hawaii Revised Statutes, to
17 facilitate the provision of certain farmer and farm employee
18 housing to meet agricultural industry needs.

19 The purpose of this Act is to facilitate development of
20 housing for farmers and farm employees who actively and
21 currently farm on important agricultural lands by:



- 1 (1) Allowing landowners and lessees of important
2 agricultural lands to apply to a county to develop,
3 construct, and maintain farm cluster housing on the
4 lands for rent to farmers and farm employees who
5 actively and currently farm on the land, with an
6 exemption for certain counties;
- 7 (2) Including farm cluster housing under a county priority
8 permit processing procedure for facilities on lands
9 designated as important agricultural lands; and
- 10 (3) Removing a restriction on farm dwellings on important
11 agricultural lands that is stricter than what is
12 allowed under the definition of "farm dwelling" in
13 section 205-4.5(a)(4), Hawaii Revised Statutes.

14 SECTION 2. Chapter 205, Hawaii Revised Statutes, is
15 amended by adding a new section to part III to be appropriately
16 designated and to read as follows:

17 "\$205- Important agricultural lands incentive; farm
18 cluster housing. (a) Notwithstanding section 205-51(b) and any
19 other law to the contrary, a landowner or lessee of agricultural
20 lands that are designated as important agricultural lands may
21 apply to a county to develop, construct, and maintain farm



1 cluster housing on the lands for rent to farmers and farm
2 employees who actively and currently farm on important
3 agricultural lands and their immediate family members.

4 (b) Each county shall enact an ordinance to allow farm
5 cluster housing on important agricultural lands. The ordinance
6 shall:

7 (1) Allow farm cluster housing that conforms with the
8 conditions in subsection (c);

9 (2) Exempt farm cluster housing on important agricultural
10 lands from land subdivision and other county
11 subdivision ordinances;

12 (3) Establish priority review and processing for farm
13 cluster housing;

14 (4) Provide for more units per lot than are allowed by
15 right by the underlying county zoning; and

16 (5) Require submittal to the county of an agricultural
17 plan or agricultural business plan that supports the
18 plan for the farm cluster housing and provides
19 evidence of a real property tax agricultural
20 dedication granted by the county;



1 provided that at least one public hearing on the proposed
2 ordinance shall be held prior to its adoption; provided
3 further that the ordinance shall require the agricultural
4 plan and verification of the real property tax agricultural
5 dedication to first be reviewed and commented upon by the
6 appropriate county agency and may require the agricultural
7 plan and verification of the real property tax agricultural
8 dedication to be submitted to the department of agriculture
9 for review and comment prior to county action on the
10 application.

11 (c) Farm cluster housing shall be subject to the following
12 conditions:

- 13 (1) Farm cluster housing shall be allowed only on lots of
14 record that are greater than or equal to ten acres;
15 (2) The primary occupant of each farm cluster housing unit
16 shall be a farmer or farm employee who actively and
17 currently farms the important agricultural lands upon
18 which the farm cluster housing unit is situated;
19 (3) The total land area upon which farm cluster housing
20 and all appurtenances are situated shall occupy a
21 contiguous block or area that is not more than five



1 per cent of the lot of record or ten acres, whichever
2 is less;

3 (4) Each farm cluster housing unit shall not exceed eight
4 hundred square feet of total floor area;

5 (5) Farm cluster housing units shall meet building code
6 requirements and infrastructure requirements and
7 standards reduced to the minimum requirements
8 necessary to ensure safe and healthful occupancy;

9 (6) Short-term vacation rental use of farm cluster housing
10 units shall be prohibited;

11 (7) The landowner or master lessee shall be responsible
12 for ensuring compliance with the restriction of
13 occupancy of the farm cluster housing units to farmers
14 or farm employees who are actively and currently
15 farming the land and their immediate family members,
16 and the restriction on use of farm cluster housing
17 units shall be clearly stated in the rental documents;
18 and

19 (8) If a farm cluster housing unit is vacated as a result
20 of the cessation of any agricultural operations on the
21 land, the landowner or master lessee may rent the farm



1 cluster housing unit under the same restrictions under
2 this section to farmers or farm employees who are
3 actively and currently farming other agricultural
4 lands.

5 (d) The appropriate officer or agency charged with the
6 administration of county zoning laws within each county shall be
7 authorized to enforce the building and use restrictions in this
8 section and impose penalties for violations of this section or
9 the county permit.

10 (e) Farm dwellings and farm employee housing units on
11 lands designated as important agricultural lands that are not
12 processed as farm cluster housing pursuant to this section shall
13 be subject to all applicable state laws, county ordinances, and
14 rules.

15 (f) Any county that, as of the effective date of this Act,
16 has a law in effect that authorizes the development,
17 construction, and maintenance of farm cluster housing or similar
18 housing and imposes less restrictive requirements than the
19 requirements of this section on that housing shall be exempt
20 from this section.



1 (g) As used in this section, "farm cluster housing" means
2 a housing development that concentrates housing units and shared
3 infrastructure in a compact area within the larger lot and
4 minimizes the land area occupied by the housing development."

5 SECTION 3. Section 205-46.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§205-46.5[+] **Agricultural processing facilities; farm**
8 **cluster housing; permits; priority.** (a) Any agency subject to
9 this chapter [~~or title 13~~] that issues permits shall establish
10 and implement a procedure for the priority processing of permit
11 applications and renewals, at no additional cost to the
12 applicant, for [~~agricultural~~] the following:

13 (1) Agricultural processing facilities that process crops
14 or livestock from an agribusiness; or

15 (2) Farm cluster housing developed pursuant to section
16 205-____,

17 provided that the majority of the lands held, owned, or used by
18 the agribusiness or farm cluster housing applicant shall be land
19 designated as important agricultural lands pursuant to this
20 part, excluding lands held, owned, or used by the agribusiness
21 or applicant in a conservation district.



1 Any priority permit processing procedure established
2 pursuant to this section shall not provide or imply that any
3 permit application filed under the priority processing procedure
4 shall be automatically approved.

5 (b) As used in this section, "agribusiness" means a
6 business primarily engaged in the care and production of
7 livestock, livestock products, poultry, poultry products,
8 apiary, horticultural or floricultural products, the planting,
9 cultivating, and harvesting of crops or trees, or the farming or
10 ranching of any plant or animal species in a controlled salt,
11 brackish, or fresh water environment."

12 SECTION 4. Section 205-45.5, Hawaii Revised Statutes, is
13 repealed.

14 ~~["**\$205-45.5**] **Important agricultural land; farm dwellings**~~
15 ~~**and employee housing.** A landowner whose agricultural lands are~~
16 ~~designated as important agricultural lands may develop,~~
17 ~~construct, and maintain farm dwellings and employee housing for~~
18 ~~farmers, employees, and their immediate family members on these~~
19 ~~lands; provided that:~~

20 ~~(1) The farm dwellings and employee housing units shall be~~
21 ~~used exclusively by farmers and their immediate family~~



1 ~~members who actively and currently farm on important~~
2 ~~agricultural land upon which the dwelling is situated;~~
3 ~~provided further that the immediate family members of~~
4 ~~a farmer may live in separate dwelling units situated~~
5 ~~on the same designated land;~~

6 ~~(2) Employee housing units shall be used exclusively by~~
7 ~~employees and their immediate family members who~~
8 ~~actively and currently work on important agricultural~~
9 ~~land upon which the housing unit is situated; provided~~
10 ~~further that the immediate family members of the~~
11 ~~employee shall not live in separate housing units and~~
12 ~~shall live with the employee;~~

13 ~~(3) The total land area upon which the farm dwellings and~~
14 ~~employee housing units and all appurtenances are~~
15 ~~situated shall not occupy more than five per cent of~~
16 ~~the total important agricultural land area controlled~~
17 ~~by the farmer or the employee's employer or fifty~~
18 ~~acres, whichever is less;~~

19 ~~(4) The farm dwellings and employee housing units shall~~
20 ~~meet all applicable building code requirements;~~



1 ~~(5) Notwithstanding section 205-4.5(a)(12), the landowner~~
2 ~~shall not plan or develop a residential subdivision on~~
3 ~~the important agricultural land;~~

4 ~~(6) Consideration may be given to the cluster development~~
5 ~~of farm dwellings and employee housing units to~~
6 ~~maximize the land area available for agricultural~~
7 ~~production; and~~

8 ~~(7) The plans for farm dwellings and employee housing~~
9 ~~units shall be supported by agricultural plans that~~
10 ~~are approved by the department of agriculture."]~~

11 SECTION 5. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and permit proceedings
13 begun before its effective date under the use and district
14 standards for the state agricultural land use district and
15 underlying county zoning.

16 SECTION 6. The revisor of statutes shall insert the
17 effective date of this Act in the appropriate location in
18 section 2 of this Act.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Important Agricultural Lands; Farm Cluster Housing; County
Approval

Description:

Allows landowners and lessees of important agricultural lands to apply to the counties to develop, construct, and maintain farm cluster housing on the lands for rent to farmers and farm employees who actively and currently farm on the land but also exempts certain counties from this process. Removes restrictions on farm dwellings on important agricultural lands that are stricter than that for farm dwellings under the agricultural land use district. Effective 7/1/2050. (HD2)

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

