

JAN 16 2025

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 SECTION 1. Section 205-4.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

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

11 (2) Game and fish propagation;

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

15 (4) Farm dwellings, employee housing, farm buildings, or
16 activities or uses related to farming and animal
17 husbandry. For the purposes of this paragraph, "farm



1 dwelling" means a single-family dwelling located on
2 and accessory to a farm, including clusters of
3 single-family farm dwellings permitted within
4 agricultural parks developed by the State, or where
5 agricultural activity provides income to the family
6 occupying the dwelling;

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

9 (6) Public and private open area types of recreational
10 uses, including day camps, picnic grounds, parks, and
11 riding stables, but not including dragstrips,
12 airports, drive-in theaters, golf courses, golf
13 driving ranges, country clubs, and overnight camps;
14 provided that overnight camps in operation before
15 January 1, 1961, may be approved by special permit;

16 (7) Public, private, and quasi-public utility lines and
17 roadways, transformer stations, communications
18 equipment buildings, solid waste transfer stations,
19 major water storage tanks, and appurtenant small
20 buildings such as booster pumping stations, but not
21 including offices or yards for equipment, material,



- 1 vehicle storage, repair or maintenance, treatment
2 plants, corporation yards, or other similar
3 structures;
- 4 (8) Retention, restoration, rehabilitation, or improvement
5 of buildings or sites of historic or scenic interest;
- 6 (9) Agricultural-based commercial operations as described
7 in section 205-2(d)(15);
- 8 (10) Buildings and uses, including mills, storage, and
9 processing facilities, maintenance facilities,
10 photovoltaic, biogas, and other small-scale renewable
11 energy systems producing energy solely for use in the
12 agricultural activities of the fee or leasehold owner
13 of the property, and vehicle and equipment storage
14 areas that are normally considered directly accessory
15 to the above-mentioned uses and are permitted under
16 section 205-2(d);
- 17 (11) Agricultural parks;
- 18 (12) Plantation community subdivisions, which as used in
19 this chapter means an established subdivision or
20 cluster of employee housing, community buildings, and
21 agricultural support buildings on land currently or



1 formerly owned, leased, or operated by a sugar or
2 pineapple plantation; provided that the existing
3 structures may be used or rehabilitated for use, and
4 new employee housing and agricultural support
5 buildings may be allowed on land within the
6 subdivision as follows:

7 (A) The employee housing is occupied by employees or
8 former employees of the plantation who have a
9 property interest in the land;

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

13 (C) The agricultural support buildings shall be
14 rented or leased to agricultural business
15 operators or agricultural support services;

16 (13) Agricultural tourism conducted on a working farm, or a
17 farming operation as defined in section 165-2, for the
18 enjoyment, education, or involvement of visitors;
19 provided that the agricultural tourism activity is
20 accessory and secondary to the principal agricultural
21 use and does not interfere with surrounding farm



1 operations; provided further that this paragraph shall
2 apply only to a county that has adopted ordinances
3 regulating agricultural tourism under section 205-5;
4 (14) Agricultural tourism activities, including overnight
5 accommodations of twenty-one days or less, for any one
6 stay within a county; provided that this paragraph
7 shall apply only to a county that includes at least
8 three islands and has adopted ordinances regulating
9 agricultural tourism activities pursuant to
10 section 205-5; provided further that the agricultural
11 tourism activities coexist with a bona fide
12 agricultural activity. For the purposes of this
13 paragraph, "bona fide agricultural activity" means a
14 farming operation as defined in section 165-2;
15 (15) Wind energy facilities, including the appurtenances
16 associated with the production and transmission of
17 wind generated energy; provided that the wind energy
18 facilities and appurtenances are compatible with
19 agriculture uses and cause minimal adverse impact on
20 agricultural land;



1 (16) Biofuel processing facilities, including the
2 appurtenances associated with the production and
3 refining of biofuels that is normally considered
4 directly accessory and secondary to the growing of the
5 energy feedstock; provided that biofuel processing
6 facilities and appurtenances do not adversely impact
7 agricultural land and other agricultural uses in the
8 vicinity.

9 For the purposes of this paragraph:

10 "Appurtenances" means operational infrastructure
11 of the appropriate type and scale for economic
12 commercial storage and distribution, and other similar
13 handling of feedstock, fuels, and other products of
14 biofuel processing facilities.

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



1 (17) Agricultural-energy facilities, including
2 appurtenances necessary for an agricultural-energy
3 enterprise; provided that the primary activity of the
4 agricultural-energy enterprise is agricultural
5 activity. To be considered the primary activity of an
6 agricultural-energy enterprise, the total acreage
7 devoted to agricultural activity shall be no less than
8 ninety per cent of the total acreage of the
9 agricultural-energy enterprise. The
10 agricultural-energy facility shall be limited to lands
11 owned, leased, licensed, or operated by the entity
12 conducting the agricultural activity.

13 As used in this paragraph:

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

16 "Agricultural-energy enterprise" means an
17 enterprise that integrally incorporates an
18 agricultural activity with an agricultural-energy
19 facility.

20 "Agricultural-energy facility" means a facility
21 that generates, stores, or distributes renewable



1 energy as defined in section 269-91 or renewable fuel
2 including electrical or thermal energy or liquid or
3 gaseous fuels from products of agricultural activities
4 from agricultural lands located in the State.

5 "Appurtenances" means operational infrastructure
6 of the appropriate type and scale for the economic
7 commercial generation, storage, distribution, and
8 other similar handling of energy, including equipment,
9 feedstock, fuels, and other products of
10 agricultural-energy facilities;

11 (18) Construction and operation of wireless communication
12 antennas, including small wireless facilities;
13 provided that, for the purposes of this paragraph,
14 "wireless communication antenna" means communications
15 equipment that is either freestanding or placed upon
16 or attached to an already existing structure and that
17 transmits and receives electromagnetic radio signals
18 used in the provision of all types of wireless
19 communications services; provided further that "small
20 wireless facilities" shall have the same meaning as in
21 section 206N-2; provided further that nothing in this



1 paragraph shall be construed to permit the
2 construction of any new structure that is not deemed a
3 permitted use under this subsection;

4 (19) Agricultural education programs conducted on a farming
5 operation as defined in section 165-2, for the
6 education and participation of the general public;
7 provided that the agricultural education programs are
8 accessory and secondary to the principal agricultural
9 use of the parcels or lots on which the agricultural
10 education programs are to occur and do not interfere
11 with surrounding farm operations. For the purposes of
12 this paragraph, "agricultural education programs"
13 means activities or events designed to promote
14 knowledge and understanding of agricultural activities
15 and practices conducted on a farming operation as
16 defined in section 165-2;

17 (20) Solar energy facilities that do not occupy more than
18 ten per cent of the acreage of the parcel, or twenty
19 acres of land, whichever is lesser or for which a
20 special use permit is granted pursuant to
21 section 205-6; provided that this use shall not be



1 permitted on lands with soil classified by the land
2 study bureau's detailed land classification as overall
3 (master) productivity rating class A;

4 (21) Solar energy facilities on lands with soil classified
5 by the land study bureau's detailed land
6 classification as overall (master) productivity rating
7 B or C for which a special use permit is granted
8 pursuant to section 205-6; provided that:

9 (A) The board certifies that the lands are also used
10 for a farming operation, as defined under
11 section 165-2;

12 [~~(A)~~] (B) The area occupied by the solar energy
13 facilities is also made available for compatible
14 agricultural activities at a lease rate that is
15 at least fifty per cent below the fair market
16 rent for comparable properties;

17 [~~(B)~~] (C) Proof of financial security to decommission
18 the facility is provided to the satisfaction of
19 the appropriate county planning commission before
20 the date of commencement of commercial
21 generation; and



1 [~~(C)~~] (D) Solar energy facilities shall be
2 decommissioned at the owner's expense according
3 to the following requirements:

4 (i) Removal of all equipment related to the
5 solar energy facility within twelve months
6 of the conclusion of operation or useful
7 life; and

8 (ii) Restoration of the disturbed earth to
9 substantially the same physical condition as
10 existed before the development of the solar
11 energy facility.

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

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

17 (23) Hydroelectric facilities, including the appurtenances
18 associated with the production and transmission of
19 hydroelectric energy, subject to section 205-2;
20 provided that the hydroelectric facilities and their
21 appurtenances:



- 1 (A) Shall consist of a small hydropower facility as
- 2 defined by the United States Department of
- 3 Energy, including:
 - 4 (i) Impoundment facilities using a dam to store
 - 5 water in a reservoir;
 - 6 (ii) A diversion or run-of-river facility that
 - 7 channels a portion of a river through a
 - 8 canal or channel; and
 - 9 (iii) Pumped storage facilities that store energy
 - 10 by pumping water uphill to a reservoir at
 - 11 higher elevation from a reservoir at a lower
 - 12 elevation to be released to turn a turbine
 - 13 to generate electricity;
- 14 (B) Comply with the state water code, chapter 174C;
- 15 (C) Shall, if over five hundred kilowatts in
- 16 hydroelectric generating capacity, have the
- 17 approval of the commission on water resource
- 18 management, including a new instream flow
- 19 standard established for any new hydroelectric
- 20 facility; and



1 (D) Do not impact or impede the use of agricultural
2 land or the availability of surface or ground
3 water for all uses on all parcels that are served
4 by the ground water sources or streams for which
5 hydroelectric facilities are considered; or

6 (24) Notwithstanding any other law to the contrary,
7 composting and co-composting operations; provided that
8 operations that process their own green waste and do
9 not require permits from the department of health
10 shall use the finished composting product only on the
11 operation's own premises to minimize the potential
12 spread of invasive species."

13 SECTION 2. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Tracy



S.B. NO. 443

Report Title:

BLNR; Solar; Agricultural Lands

Description:

Requires that lands within the agricultural district that have solar energy facilities must also obtain certification from the Board of Land and Natural Resources that the lands are also used for a farming operation.

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