



GOV. MSG. NO. 787

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 5, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 5, 2008, the following bill was signed into law:

SB2849 SD1 HD1 CD1

A BILL FOR AN ACT RELATING TO
AGRICULTURAL LANDS.
(ACT 145)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 SECTION 1. The legislature finds that Hawaii's dependence
2 on petroleum for over ninety per cent of its energy needs is
3 more than any other state in the nation. This makes the State
4 extremely vulnerable to any oil embargo, supply disruption,
5 international market dysfunction, and many other factors beyond
6 the control of the State. Furthermore, the continued
7 consumption of conventional petroleum fuel and price volatility
8 can negatively impact the viability of agricultural operations.
9 At the same time, Hawaii has among the most abundant renewable
10 energy resources in the world, in the form of solar, geothermal,
11 wind, biomass, and ocean energy assets.

12 The legislature further finds that increased energy
13 efficiency and use of renewable energy resources would increase
14 Hawaii's energy self-sufficiency, achieving broad societal
15 benefits, including increased energy security, resistance to
16 increases in oil prices, environmental sustainability, economic
17 development, and job creation.



1 To shape Hawaii's energy and agricultural future and
2 achieve the goal of energy and food self-sufficiency for the
3 state, our efforts must continue on all fronts, integrating new
4 and evolving technologies, seizing upon opportunities to become
5 more economically diversified, and providing incentives and
6 assistance to address barriers. It is crucial to address the
7 negative impacts that rising and volatile petroleum prices have
8 on fuel and fertilizer.

9 The purpose of this Act is to:

10 (1) Permit the use of lands in agricultural land use
11 districts for agricultural-energy facilities when the
12 production, storage, and distribution of renewable
13 energy are integrated with an agricultural activity;
14 and

15 (2) Allow existing structures on plantation community
16 subdivisions to be used or rehabilitated for employee
17 rental housing at affordable rates for agricultural
18 workers and agricultural support buildings for
19 agricultural business operators and support services.

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

22 "(d) Agricultural districts shall include:



- 1 (1) Activities or uses as characterized by the cultivation
2 of crops, crops for bioenergy, orchards, forage, and
3 forestry;
- 4 (2) Farming activities or uses related to animal
5 husbandry, and game and fish propagation;
- 6 (3) Aquaculture, which means the production of aquatic
7 plant and animal life within ponds and other bodies of
8 water;
- 9 (4) Wind generated energy production for public, private,
10 and commercial use;
- 11 (5) Biofuel production as described in section
12 205-4.5(a)(15) for public, private, and commercial
13 use;
- 14 (6) Bona fide agricultural services and uses that support
15 the agricultural activities of the fee or leasehold
16 owner of the property and accessory to any of the
17 above activities, whether or not conducted on the same
18 premises as the agricultural activities to which they
19 are accessory, including [~~but not limited to~~] farm
20 dwellings as defined in section 205-4.5(a)(4),
21 employee housing, farm buildings, mills, storage
22 facilities, processing facilities, agricultural-energy



1 facilities as defined in section 205-4.5(a)(16),
2 vehicle and equipment storage areas, roadside stands
3 for the sale of products grown on the premises, and
4 plantation community subdivisions as defined in
5 section 205-4.5(a)(12);

6 (7) Wind machines and wind farms;

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

13 (9) Agricultural parks;

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



1 ordinances regulating agricultural tourism under
2 section 205-5; and

3 (11) Open area recreational facilities.

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

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

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

11 "(a) Within the agricultural district, all lands with soil
12 classified by the land study bureau's detailed land
13 classification as overall (master) productivity rating class A
14 or B shall be restricted to the following permitted uses:

15 (1) Cultivation of crops, including [~~but not limited to~~]
16 crops for bioenergy, flowers, vegetables, foliage,
17 fruits, forage, and timber;

18 (2) Game and fish propagation;

19 (3) Raising of livestock, including [~~but not limited to~~]
20 poultry, bees, fish, or other animal or aquatic life
21 that are propagated for economic or personal use;



- 1 (4) Farm dwellings, employee housing, farm buildings, or
2 activities or uses related to farming and animal
3 husbandry. "Farm dwelling", as used in this
4 paragraph, means a single-family dwelling located on
5 and used in connection with a farm, including clusters
6 of single-family farm dwellings permitted within
7 agricultural parks developed by the State, or where
8 agricultural activity provides income to the family
9 occupying the dwelling;
- 10 (5) Public institutions and buildings that are necessary
11 for agricultural practices;
- 12 (6) Public and private open area types of recreational
13 uses, including day camps, picnic grounds, parks, and
14 riding stables, but not including dragstrips,
15 airports, drive-in theaters, golf courses, golf
16 driving ranges, country clubs, and overnight camps;
- 17 (7) Public, private, and quasi-public utility lines and
18 roadways, transformer stations, communications
19 equipment buildings, solid waste transfer stations,
20 major water storage tanks, and appurtenant small
21 buildings such as booster pumping stations, but not
22 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) Roadside stands for the sale of agricultural products
7 grown on the premises;

8 (10) Buildings and uses, including [~~but not limited to~~]
9 mills, storage, and processing facilities, maintenance
10 facilities, and vehicle and equipment storage areas
11 that are normally considered directly accessory to the
12 [~~above-mentioned~~] above-mentioned uses and are
13 permitted under section 205-2(d);

14 (11) Agricultural parks;

15 (12) Plantation community subdivisions, which as used in
16 this [~~paragraph~~] chapter means [~~a~~] an established
17 subdivision or cluster of employee housing, community
18 buildings, and [~~acreage established~~] agricultural
19 support buildings on land currently or formerly owned,
20 leased, or operated by a sugar or pineapple plantation
21 [~~and in residential use~~]; provided that the existing
22 structures may be used or rehabilitated for use, and



1 new employee housing and agricultural support
2 buildings may be allowed on land within the
3 subdivision as follows:

4 (A) The employee housing is occupied by employees or
5 former employees of the plantation[~~+, provided~~
6 ~~that the employees or former employees shall~~] who
7 have a property interest in the land;

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

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

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



1 ordinances regulating agricultural tourism under
2 section 205-5;

3 (14) Wind energy facilities, including the appurtenances
4 associated with the production and transmission of
5 wind generated energy; provided that the wind energy
6 facilities and appurtenances are compatible with
7 agriculture uses and cause minimal adverse impact on
8 agricultural land;

9 (15) Biofuel processing facilities, including the
10 appurtenances associated with the production and
11 refining of biofuels that is normally considered
12 directly accessory and secondary to the growing of the
13 energy feedstock; provided that biofuels processing
14 facilities and appurtenances do not adversely impact
15 agricultural land and other agricultural uses in the
16 vicinity.

17 For the purposes of this paragraph:

18 "Appurtenances" means operational infrastructure
19 of the appropriate type and scale for economic
20 commercial storage and distribution, and other similar
21 handling of feedstock, fuels, and other products of
22 biofuels processing facilities.



1 "Biofuel processing facility" means a facility
2 that produces liquid or gaseous fuels from organic
3 sources such as biomass crops, agricultural residues,
4 and oil crops, including palm, canola, soybean, and
5 waste cooking oils; grease; food wastes; and animal
6 residues and wastes that can be used to generate
7 energy[~~+~~];

8 (16) Agricultural-energy facilities, including
9 appurtenances necessary for an agricultural-energy
10 enterprise; provided that the primary activity of the
11 agricultural-energy enterprise is agricultural
12 activity. To be considered the primary activity of an
13 agricultural-energy enterprise, the total acreage
14 devoted to agricultural activity shall be not less
15 than ninety per cent of the total acreage of the
16 agricultural-energy enterprise. The agricultural-
17 energy facility shall be limited to lands owned,
18 leased, licensed, or operated by the entity conducting
19 the agricultural activity.

20 As used in this paragraph:

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



1 "Agricultural-energy enterprise" means an
2 enterprise that integrally incorporates an
3 agricultural activity with an agricultural-energy
4 facility.

5 "Agricultural-energy facility" means a facility
6 that generates, stores, or distributes renewable
7 energy as defined in section 269-91 or renewable fuel
8 including electrical or thermal energy or liquid or
9 gaseous fuels from products of agricultural activities
10 from agricultural lands located in the State.

11 "Appurtenances" means operational infrastructure
12 of the appropriate type and scale for the economic
13 commercial generation, storage, distribution, and
14 other similar handling of energy, including equipment,
15 feedstock, fuels, and other products of agricultural-
16 energy facilities;

17 or

18 ~~[(16)]~~ (17) Construction and operation of wireless
19 communication antennas; provided that, for the purposes
20 of this paragraph, "wireless communication antenna"
21 means communications equipment that is either
22 freestanding or placed upon or attached to an already



1 existing structure and that transmits and receives
2 electromagnetic radio signals used in the provision of
3 all types of wireless communications services; provided
4 further that nothing in this paragraph shall be
5 construed to permit the construction of any new
6 structure that is not deemed a permitted use under this
7 subsection."

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 upon its approval.

APPROVED this 5 day of JUN , 2008



GOVERNOR OF THE STATE OF HAWAII

