
A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. Section 201N-14, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Notwithstanding any other law or ordinance to the
5 contrary:

6 (1) Lands within the agricultural or conservation state
7 land use district may be leased; and

8 (2) Easements may be created and granted over lands within
9 the agricultural or conservation state land use
10 district,

11 for the purpose of developing and financing a renewable energy
12 project or accessing a renewable energy project that is a
13 permitted use in the district, even if the leased land or
14 easement area has not been subdivided as a separate subdivided
15 lot or easement[-], and that no more than two easements per
16 legal lot for the purposes provided for in this section shall be
17 permitted on land with soil classified by the land study
18 bureau's detailed land classification as overall (master)



1 productivity rating B or C within the agricultural state land
2 use district. Leases and easements authorized by this section
3 shall be valid leases and easements for all purposes, but the
4 exemption from subdivision requirements authorized by this
5 section shall be subject to the requirements and limitations set
6 forth in subsection (d)."

7 2. By amending subsection (d) to read:

8 "(d) The exemption from subdivision requirements
9 authorized by this section shall only apply to leases and
10 easements that meet the following requirements and shall be
11 subject to the following limitations:

- 12 (1) The lease or easement shall restrict the use of the
13 leased land or easement area to the development and
14 operation of a renewable energy project; provided
15 that, to comply with section 205-4.6, agricultural
16 uses and activities shall not be restricted on
17 agricultural land;
- 18 (2) The lease shall have an initial term of at least
19 twenty years;
- 20 (3) With respect to leases and easements on lands within
21 an agricultural state land use district, the exemption



1 from subdivision requirements provided by this section
2 shall be for:

3 (A) Solar energy facilities permitted under section
4 205-2(d)(6) [~~on land with soil classified by the~~
5 ~~land study bureau's detailed land classification~~
6 ~~as overall (master) productivity rating class D~~
7 ~~or E~~];

8 (B) Wind energy facilities permitted under section
9 205-2(d)(4) and (8), including the appurtenances
10 associated with the production and transmission
11 of wind-generated energy; and

12 (C) Any renewable energy facilities approved by the
13 land use commission or county planning commission
14 under chapter 205;

15 (4) With respect to leases and easements on lands within a
16 conservation state land use district, the exemption
17 from subdivision requirements provided by this section
18 shall be for:

19 (A) Wind energy facilities, including the
20 appurtenances associated with the production and
21 transmission of wind-generated energy; and



1 (B) Any renewable energy facilities permitted or
2 approved by the board of land and natural
3 resources under chapter 183C; and

4 (5) The county agency charged with administering
5 subdivisions in the county in which the renewable
6 energy project is to be situated or, if the land is in
7 a conservation state land use district, the department
8 of land and natural resources, shall approve the
9 exemption from subdivision requirements within ninety
10 days after the project's developer and the owner of
11 the land on which the renewable energy project is to
12 be situated have submitted the conceptual schematics
13 or preliminary plans and specifications for the
14 renewable energy project to the county agency or the
15 department of land and natural resources, and have
16 provided to such county agency or the department of
17 land and natural resources, as applicable, a
18 certification and agreement that all applicable and
19 appropriate environmental reviews and permitting shall
20 be completed prior to commencement of development of
21 the renewable energy project. If, on the ninety-first
22 day, an exemption has not been approved, it shall be



1 deemed disapproved by the county agency or the
2 department of land and natural resources, whichever is
3 applicable."

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

6 "(d) Agricultural districts shall include:

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

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

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

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

17 (5) Biofuel production, as described in section
18 205-4.5(a)(15), for public, private, and commercial
19 use;

20 (6) Solar energy facilities; provided that:

21 (A) This paragraph shall apply only to land with soil
22 classified by the land study bureau's detailed



- 1 land classification as overall (master)
2 productivity rating class B, C, D or E; and
3 (B) Solar energy facilities placed within land with
4 soil classified as overall productivity rating
5 class B or C shall not occupy more than ten per
6 cent of the acreage of the parcel, or twenty
7 acres of land, whichever is lesser; provided that
8 there is ongoing agricultural activity, as
9 defined by paragraphs (1), (2), and (3), on the
10 parcel unless a non-utility generator application
11 for the project was submitted to the relevant
12 electric utility or the proposed project was
13 submitted to the public utilities commission
14 prior to the effective date of this measure;
15 (7) Bona fide agricultural services and uses that support
16 the agricultural activities of the fee or leasehold
17 owner of the property and accessory to any of the
18 above activities, regardless of whether conducted on
19 the same premises as the agricultural activities to
20 which they are accessory, including farm dwellings as
21 defined in section 205-4.5(a)(4), employee housing,
22 farm buildings, mills, storage facilities, processing



1 facilities, agricultural-energy facilities as defined
2 in section 205-4.5(a)(16), vehicle and equipment
3 storage areas, roadside stands for the sale of
4 products grown on the premises, and plantation
5 community subdivisions as defined in section
6 205-4.5(a)(12);

7 (8) Wind machines and wind farms;

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

14 (10) Agricultural parks;

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



ordinances regulating agricultural tourism under
section 205-5; and

(12) Open area recreational facilities.

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 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;



- 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 mills, storage, and
9 processing facilities, maintenance facilities, and
10 vehicle and equipment storage areas that are normally
11 considered directly accessory to the above-mentioned
12 uses and are permitted under section 205-2(d);

13 (11) Agricultural parks;

14 (12) Plantation community subdivisions, which as used in
15 this chapter means an established subdivision or
16 cluster of employee housing, community buildings, and
17 agricultural support buildings on land currently or
18 formerly owned, leased, or operated by a sugar or
19 pineapple plantation; provided that the existing
20 structures may be used or rehabilitated for use, and
21 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) Wind energy facilities, including the appurtenances
2 associated with the production and transmission of
3 wind generated energy; provided that the wind energy
4 facilities and appurtenances are compatible with
5 agriculture uses and cause minimal adverse impact on
6 agricultural land;

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

15 For the purposes of this paragraph:

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

21 "Biofuel processing facility" means a facility
22 that produces liquid or gaseous fuels from organic



1 sources such as biomass crops, agricultural residues,
2 and oil crops, including palm, canola, soybean, and
3 waste cooking oils; grease; food wastes; and animal
4 residues and wastes that can be used to generate
5 energy;

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

18 As used in this paragraph:

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

21 "Agricultural-energy enterprise" means an
22 enterprise that integrally incorporates an



1 agricultural activity with an agricultural-energy
2 facility.

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

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

15 (17) Construction and operation of wireless communication
16 antennas; provided that, for the purposes of this
17 paragraph, "wireless communication antenna" means
18 communications equipment that is either freestanding
19 or placed upon or attached to an already existing
20 structure and that transmits and receives
21 electromagnetic radio signals used in the provision of
22 all types of wireless communications services;



1 provided further that nothing in this paragraph shall
2 be construed to permit the construction of any new
3 structure that is not deemed a permitted use under
4 this subsection;

5 (18) Agricultural education programs conducted on a farming
6 operation as defined in section 165-2, for the
7 education and participation of the general public;
8 provided that the agricultural education programs are
9 accessory and secondary to the principal agricultural
10 use of the parcels or lots on which the agricultural
11 education programs are to occur and do not interfere
12 with surrounding farm operations. For the purposes of
13 this section, "agricultural education programs" means
14 activities or events designed to promote knowledge and
15 understanding of agricultural activities and practices
16 conducted on a farming operation as defined in section
17 165-2; or

18 (19) Solar energy facilities that do not occupy more than
19 ten per cent of the acreage of the parcel, or twenty
20 acres of land, whichever is lesser; provided that this
21 use shall not be permitted on lands with soil
22 classified by the land study bureau's detailed land



1 classification as overall (master) productivity rating
2 class A[-]; provided that there is ongoing
3 agricultural activity, as defined by paragraphs (1),
4 (2), and (3), on the parcel unless a non-utility
5 generator application for the project was submitted to
6 the relevant electric utility or the proposed project
7 was submitted to the public utilities commission prior
8 to the effective date of this measure."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

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



Report Title:

Solar Energy Facilities; Agricultural Land Use Districts

Description:

Adds lands with soil classified as productivity rating class B or class C to the agricultural lands exempt from subdivision requirements for purposes of leases or easements for renewable energy facilities. Adds provision that requires ongoing activity on agricultural land, unless a non-utility generator application for a project was submitted to an electric utility, or a proposed project was submitted to the Public Utilities Commission. (SD1)

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