
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that although addressed
2 to a limited extent in declaratory rulings and case law, under
3 current statute, it may be interpreted that a property owner or
4 lessor who installs a renewable energy system on property and
5 sells the electricity generated to the tenants or lessees on the
6 property may be defined as a public utility.

7 The purpose of this Act is to remove any ambiguity by
8 exempting landlords and lessors who install renewable energy
9 systems on their property and provide, sell, or transmit
10 electricity generated from those renewable energy systems to
11 tenants or lessees on the premises, from the definition of
12 public utility.

13 SECTION 2. Section 269-1, Hawaii Revised Statutes, is
14 amended by amending the definition of "public utility" to read
15 as follows:

16 ""Public utility":

17 (1) Includes every person who may own, control, operate,
18 or manage as owner, lessee, trustee, receiver, or



1 otherwise, whether under a franchise, charter,
2 license, articles of association, or otherwise, any
3 plant or equipment, or any part thereof, directly or
4 indirectly for public use for the transportation of
5 passengers or freight; for the conveyance or
6 transmission of telecommunications messages; for the
7 furnishing of facilities for the transmission of
8 intelligence by electricity within the State or
9 between points within the State by land, water, or
10 air; for the production, conveyance, transmission,
11 delivery, or furnishing of light, power, heat, cold,
12 water, gas, or oil; for the storage or warehousing of
13 goods; or for the disposal of sewage; provided that
14 the term shall include:

15 (A) An owner or operator of a private sewer company
16 or sewer facility; and

17 (B) A telecommunications carrier or
18 telecommunications common carrier; and

19 (2) Shall not include:

20 (A) An owner or operator of an aerial transportation
21 enterprise;



- 1 (B) An owner or operator of a taxicab as defined in
2 this section;
- 3 (C) Common carriers that transport only freight on
4 the public highways, unless operating within
5 localities, along routes, or between points that
6 the public utilities commission finds to be
7 inadequately serviced without regulation under
8 this chapter;
- 9 (D) Persons engaged in the business of warehousing or
10 storage unless the commission finds that
11 regulation is necessary in the public interest;
- 12 (E) A carrier by water to the extent that the carrier
13 enters into private contracts for towage,
14 salvage, hauling, or carriage between points
15 within the State; provided that the towing,
16 salvage, hauling, or carriage is not pursuant to
17 either an established schedule or an undertaking
18 to perform carriage services on behalf of the
19 public generally;
- 20 (F) A carrier by water, substantially engaged in
21 interstate or foreign commerce, that transports
22 passengers on luxury cruises between points



1 within the State or on luxury round-trip cruises
2 returning to the point of departure;

3 (G) Any user, owner, or operator of the Hawaii
4 electric system as defined under section 269-141;

5 (H) A telecommunications provider only to the extent
6 determined by the public utilities commission
7 pursuant to section 269-16.9;

8 (I) Any person who controls, operates, or manages
9 plants or facilities developed pursuant to
10 chapter 167 for conveying, distributing, and
11 transmitting water for irrigation and other
12 purposes for public use and purpose;

13 (J) Any person who owns, controls, operates, or
14 manages plants or facilities for the reclamation
15 of wastewater; provided that:

16 (i) The services of the facility are provided
17 pursuant to a service contract between the
18 person and a state or county agency and at
19 least ten per cent of the wastewater
20 processed is used directly by the state or
21 county agency that entered into the service
22 contract;



- 1 (ii) The primary function of the facility is the
- 2 processing of secondary treated wastewater
- 3 that has been produced by a municipal
- 4 wastewater treatment facility owned by a
- 5 state or county agency;
- 6 (iii) The facility does not make sales of water to
- 7 residential customers;
- 8 (iv) The facility may distribute and sell
- 9 recycled or reclaimed water to entities not
- 10 covered by a state or county service
- 11 contract; provided that, in the absence of
- 12 regulatory oversight and direct competition,
- 13 the distribution and sale of recycled or
- 14 reclaimed water shall be voluntary and its
- 15 pricing fair and reasonable. For purposes
- 16 of this subparagraph, "recycled water" and
- 17 "reclaimed water" means treated wastewater
- 18 that by design is intended or used for a
- 19 beneficial purpose; and
- 20 (v) The facility is not engaged, either directly
- 21 or indirectly, in the processing of food
- 22 wastes;



1 (K) Any person who owns, controls, operates, or
2 manages any seawater air conditioning district
3 cooling project; provided that at least fifty per
4 cent of the energy required for the seawater air
5 conditioning district cooling system is provided
6 by a renewable energy resource, such as cold,
7 deep seawater;

8 (L) Any person who owns, controls, operates, or
9 manages plants or facilities primarily used to
10 charge or discharge a vehicle battery that
11 provides power for vehicle propulsion; [~~and~~]

12 (M) Any person who:
13 (i) Owns, controls, operates, or manages a
14 renewable energy system that is located on a
15 customer's property; and

16 (ii) Provides, sells, or transmits the power
17 generated from that renewable energy system
18 to an electric utility or to the customer on
19 whose property the renewable energy system
20 is located; provided that, for purposes of
21 this subparagraph, a customer's property
22 shall include all contiguous property owned



1 or leased by the customer without regard to
2 interruptions in contiguity caused by
3 easements, public thoroughfares,
4 transportation rights-of-way, and utility
5 rights-of-way[-]; and

6 (N) Any person who:

7 (i) Owns, controls, operates, or manages a
8 renewable energy system that is located on
9 such person's property; and

10 (ii) Provides, sells, or transmits the power
11 generated from that renewable energy system
12 to an electric utility and to a lessee or
13 tenant on the person's property where the
14 renewable energy system is located and in
15 which the owner or lessor and the lessee or
16 tenant are served by the same utility meter
17 and service connection; provided that, for
18 purposes of this subparagraph, a person's
19 property shall include all contiguous
20 property controlled by such person by fee
21 ownership or by lease, sublease, easement,
22 or other means of property control without



1 regard to interruptions in contiguity caused
2 by easements, transportation rights-of-way,
3 and utility rights-of-way; provided further
4 that the rate schedule charged to the lessee
5 or tenant for the power generated by the
6 renewable energy system shall under no
7 circumstances be greater than the rate
8 charged per kilowatt hour by the electric
9 utility and shall be established for the
10 duration of the lease and that the lease
11 agreement entered into by the lessee or
12 tenant reflects such rate schedule and
13 provides disclosure that the rate shall
14 under no circumstances be greater than the
15 rate charged by the electric utility. Any
16 disputes concerning the requirements of this
17 provision shall be resolved pursuant to the
18 provisions of the lease agreement or chapter
19 521, if applicable.

20 If the application of this chapter is ordered by the
21 commission in any case provided in paragraph (2) (C), (D), (H),
22 and (I), the business of any public utility that presents



1 evidence of bona fide operation on the date of the commencement
2 of the proceedings resulting in the order shall be presumed to
3 be necessary to the public convenience and necessity, but any
4 certificate issued under this proviso shall nevertheless be
5 subject to terms and conditions as the public utilities
6 commission may prescribe, as provided in sections 269-16.9 and
7 269-20."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

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



Report Title:

Renewable Energy; Landlords; Lessors; Public Utility

Description:

Exempts landlords and lessors who install renewable energy systems on their property and provide, sell, or transmit the power generated therefrom to electric utilities and tenants or lessees on the same property from the definition of "public utility". (SB19 HD1)

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