

JAN 27 2016

A BILL FOR AN ACT

RELATING TO INDIGENOUS HAWAIIAN ARCHITECTURE.

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

1 SECTION 1. The legislature finds that indigenous Hawaiian
2 architecture is significant to Hawaiian history and culture.
3 Quoting the 19th-century Hawaiian historian David Malo, "[t]hree
4 things were important for the well-being of the kanaka maoli:
5 The canoe for travel, fishing and warfare, the 'aina for planting
6 taro, and the hale that provided the place to rest." As a
7 society, there is much to learn from the Hawaiian people and the
8 wisdom of how they lived.

9 The legislature further finds that indigenous architecture
10 continued to be built and used well into the nineteenth century,
11 decades after Western contact. In 1998, the Maui county council
12 established codes permitting indigenous architecture to be built
13 using ancient techniques with the help of modern tools and
14 materials, including mortar, synthetic cord for the lashing, and
15 chainsaws to cut the logs. Indigenous architecture in Maui is
16 not permitted to have electricity or generators and the codes
17 require the installation of automatic fire sprinklers and smoke



1 detectors, unless the building is located at least one hundred
2 feet from any other existing structure. The charm and
3 construction of indigenous Hawaiian architecture reinforces the
4 openness and friendly spirit of Hawaii's people.

5 The purpose of this Act is to authorize indigenous Hawaiian
6 architecture on agricultural lands to be used for farm worker
7 housing.

8 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
9 by adding a new section to be appropriately designated and to
10 read as follows:

11 "§46- Indigenous Hawaiian architecture. Any law to the
12 contrary notwithstanding, each county shall adopt ordinances
13 allowing the exercise of indigenous native Hawaiian
14 architectural practices, styles, customs, techniques, and
15 materials historically employed by native Hawaiians, in the
16 county's building code, including but not limited to residential
17 and other structures comprised of either rock wall or wood frame
18 walls covered by thatches of different native grasses or other
19 natural material for roofs, on land that is used for farming
20 operations as defined in section 165-2, including for use as
21 residential structures for farm workers."



1 SECTION 3. Section 205-2, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Agricultural districts shall include:

4 (1) Activities or uses as characterized by the cultivation
5 of crops, crops for bioenergy, orchards, forage, and
6 forestry;

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

9 (3) Aquaculture, which means the production of aquatic
10 plant and animal life within ponds and other bodies of
11 water;

12 (4) Wind generated energy production for public, private,
13 and commercial use;

14 (5) Biofuel production, as described in section
15 205-4.5(a)(16), for public, private, and commercial
16 use;

17 (6) Solar energy facilities; provided that:

18 (A) This paragraph shall apply only to land with soil
19 classified by the land study bureau's detailed
20 land classification as overall (master)
21 productivity rating class B, C, D, or E; and



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1 (B) Solar energy facilities placed within land with
2 soil classified as overall productivity rating
3 class B or C shall not occupy more than ten per
4 cent of the acreage of the parcel, or twenty
5 acres of land, whichever is lesser, unless a
6 special use permit is granted pursuant to section
7 205-6;

8 (7) Bona fide agricultural services and uses that support
9 the agricultural activities of the fee or leasehold
10 owner of the property and accessory to any of the
11 above activities, regardless of whether conducted on
12 the same premises as the agricultural activities to
13 which they are accessory, including farm dwellings as
14 defined in section 205-4.5(a)(4), employee housing,
15 indigenous Hawaiian architecture pursuant to section
16 46-___, farm buildings, mills, storage facilities,
17 processing facilities, photovoltaic, biogas, and other
18 small-scale renewable energy systems producing energy
19 solely for use in the agricultural activities of the
20 fee or leasehold owner of the property, agricultural-
21 energy facilities as defined in section



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1 205-4.5(a)(17), hydroelectric facilities in accordance
2 with section 205-4.5(a)(23), vehicle and equipment
3 storage areas, and plantation community subdivisions
4 as defined in section 205-4.5(a)(12);
5 (8) Wind machines and wind farms;
6 (9) Small-scale meteorological, air quality, noise, and
7 other scientific and environmental data collection and
8 monitoring facilities occupying less than one-half
9 acre of land; provided that these facilities shall not
10 be used as or equipped for use as living quarters or
11 dwellings;
12 (10) Agricultural parks;
13 (11) Agricultural tourism conducted on a working farm, or a
14 farming operation as defined in section 165-2, for the
15 enjoyment, education, or involvement of visitors;
16 provided that the agricultural tourism activity is
17 accessory and secondary to the principal agricultural
18 use and does not interfere with surrounding farm
19 operations; and provided further that this paragraph
20 shall apply only to a county that has adopted



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- 1 ordinances regulating agricultural tourism under
2 section 205-5;
- 3 (12) Agricultural tourism activities, including overnight
4 accommodations of twenty-one days or less, for any one
5 stay within a county; provided that this paragraph
6 shall apply only to a county that includes at least
7 three islands and has adopted ordinances regulating
8 agricultural tourism activities pursuant to section
9 205-5; provided further that the agricultural tourism
10 activities coexist with a bona fide agricultural
11 activity. For the purposes of this paragraph, "bona
12 fide agricultural activity" means a farming operation
13 as defined in section 165-2;
- 14 (13) Open area recreational facilities;
- 15 (14) Geothermal resources exploration and geothermal
16 resources development, as defined under section 182-1;
17 and
- 18 (15) Agricultural-based commercial operations, including:
19 (A) A roadside stand that is not an enclosed
20 structure, owned and operated by a producer for
21 the display and sale of agricultural products



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1 grown in Hawaii and value-added products that
2 were produced using agricultural products grown
3 in Hawaii;

4 (B) Retail activities in an enclosed structure owned
5 and operated by a producer for the display and
6 sale of agricultural products grown in Hawaii,
7 value-added products that were produced using
8 agricultural products grown in Hawaii, logo items
9 related to the producer's agricultural
10 operations, and other food items; and

11 (C) A retail food establishment owned and operated by
12 a producer and permitted under title 11, chapter
13 12 of the rules of the department of health that
14 prepares and serves food at retail using products
15 grown in Hawaii and value-added products that
16 were produced using agricultural products grown
17 in Hawaii.

18 The owner of an agricultural-based commercial
19 operation shall certify, upon request of an officer or
20 agent charged with enforcement of this chapter under
21 section 205-12, that the agricultural products



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1 displayed or sold by the operation meet the
2 requirements of this paragraph.

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

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

8 SECTION 4. Section 205-4.5, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

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

- 15 (1) Cultivation of crops, including crops for bioenergy,
16 flowers, vegetables, foliage, fruits, forage, and
17 timber;
- 18 (2) Game and fish propagation;
- 19 (3) Raising of livestock, including poultry, bees, fish,
20 or other animal or aquatic life that are propagated
21 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



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



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

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

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

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

17 (13) Agricultural tourism conducted on a working farm, or a
18 farming operation as defined in section 165-2, for the
19 enjoyment, education, or involvement of visitors;
20 provided that the agricultural tourism activity is
21 accessory and secondary to the principal agricultural



1 use and does not interfere with surrounding farm
2 operations; and provided further that this paragraph
3 shall apply only to a county that has adopted
4 ordinances regulating agricultural tourism under
5 section 205-5;

6 (14) Agricultural tourism activities, including overnight
7 accommodations of twenty-one days or less, for any one
8 stay within a county; provided that this paragraph
9 shall apply only to a county that includes at least
10 three islands and has adopted ordinances regulating
11 agricultural tourism activities pursuant to section
12 205-5; provided further that the agricultural tourism
13 activities coexist with a bona fide agricultural
14 activity. For the purposes of this paragraph, "bona
15 fide agricultural activity" means a farming operation
16 as defined in section 165-2;

17 (15) Wind energy facilities, including the appurtenances
18 associated with the production and transmission of
19 wind generated energy; provided that the wind energy
20 facilities and appurtenances are compatible with



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

11 For the purposes of this paragraph:

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

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



1 residues and wastes that can be used to generate
2 energy;

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

15 As used in this paragraph:

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

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



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

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

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



1 be construed to permit the construction of any new
2 structure that is not deemed a permitted use under
3 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 section, "agricultural education programs" means
13 activities or events designed to promote knowledge and
14 understanding of agricultural activities and practices
15 conducted on a farming operation as defined in section
16 165-2;

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 section
21 205-6; provided that this use shall not be permitted



1 on lands with soil classified by the land study
2 bureau's detailed land classification as overall
3 (master) productivity rating class A unless the solar
4 energy facilities are:

5 (A) Located on a paved or unpaved road in existence
6 as of December 31, 2013, and the parcel of land
7 upon which the paved or unpaved road is located
8 has a valid county agriculture tax dedication
9 status or a valid agricultural conservation
10 easement;

11 (B) Placed in a manner that still allows vehicular
12 traffic to use the road; and

13 (C) Granted a special use permit by the commission
14 pursuant to section 205-6;

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

20 (A) The area occupied by the solar energy facilities
21 is also made available for compatible



1 agricultural activities at a lease rate that is
2 at least fifty per cent below the fair market
3 rent for comparable properties;

4 (B) Proof of financial security to decommission the
5 facility is provided to the satisfaction of the
6 appropriate county planning commission prior to
7 date of commencement of commercial generation;
8 and

9 (C) Solar energy facilities shall be decommissioned
10 at the owner's expense according to the following
11 requirements:

12 (i) Removal of all equipment related to the
13 solar energy facility within twelve months
14 of the conclusion of operation or useful
15 life; and

16 (ii) Restoration of the disturbed earth to
17 substantially the same physical condition as
18 existed prior to the development of the
19 solar energy facility.



1 For the purposes of this paragraph, "agricultural
2 activities" means the activities described in
3 paragraphs (1) to (3);
4 (22) Geothermal resources exploration and geothermal
5 resources development, as defined under section 182-1;
6 [~~or~~]
7 (23) Hydroelectric facilities, including the appurtenances
8 associated with the production and transmission of
9 hydroelectric energy, subject to section 205-2;
10 provided that the hydroelectric facilities and their
11 appurtenances:
12 (A) Have a hydroelectric generating capacity of not
13 more than five hundred kilowatts;
14 (B) Comply with the state water code, chapter 174C;
15 (C) Are accessory to agricultural activities on
16 agricultural land for agricultural use only; and
17 (D) Do not adversely impact or impede the use of
18 agricultural land or the availability of surface
19 or ground water for all uses on all parcels that
20 are served by the ground water sources or streams



1 for which hydroelectric facilities are
2 considered[-]; or

3 (24) Indigenous Hawaiian architecture pursuant to section
4 46- ."

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect upon its approval.
8

INTRODUCED BY: Erzanne Chun Caldwell

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S.B. NO. 2946

Report Title:

Indigenous Hawaiian Architecture; Agricultural Land

Description:

Authorizes indigenous Hawaiian architecture on agricultural lands to be used for farm worker housing.

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