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# A BILL FOR AN ACT

RELATING TO SOLAR ENERGY FACILITIES.

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

- 1           SECTION 1. 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:



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

5 (B) Solar energy facilities placed within land with  
6 soil classified as overall productivity rating  
7 class B or C shall not occupy more than ten per  
8 cent of the acreage of the parcel, or twenty  
9 acres of land, whichever is lesser, unless a  
10 special use permit is granted pursuant to section  
11 205-6; and

12 (C) For solar energy facilities placed on single or  
13 multiple lots that:

14 (i) Was or were part of a larger parcel that was  
15 subdivided prior to January 1, 1980, for the  
16 purpose of disposition into two or more  
17 lots, parcels, units, or interests; and

18 (ii) Also includes or include any land, whether  
19 contiguous or non-contiguous, if two or more  
20 lots, parcels, units, or interests were  
21 offered as part of a common promotional plan



1                   of advertising and sale, for permissible  
2                   agricultural uses, including the  
3                   construction of farm dwellings pursuant to  
4                   this section, whether now considered to be a  
5                   conforming or non-conforming residential  
6                   subdivision,  
7                   a special permit approval pursuant to section  
8                   205-6 shall be required when the capacity of a  
9                   solar energy facility totals more than fifteen  
10                  kilowatts;

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



1 leasehold owner of the property, agricultural-energy  
2 facilities as defined in section 205-4.5(a)(17),  
3 vehicle and equipment storage areas, and plantation  
4 community subdivisions as defined in section  
5 205-4.5(a)(12);  
6 (8) Wind machines and wind farms;  
7 (9) 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 (10) Agricultural parks;  
14 (11) 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       (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       (15) Agricultural-based commercial operations, including:  
18           (A) A roadside stand that is not an enclosed  
19               structure, owned and operated by a producer for  
20               the display and sale of agricultural products  
21               grown in Hawaii and value-added products that



1                   were produced using agricultural products grown  
2                   in Hawaii;

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

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

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



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

3 (16) Hydroelectric facilities as described in section  
4 205-4.5(a)(23).

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

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

10 SECTION 2. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect on January 1, 2018.

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INTRODUCED BY:

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**Report Title:**

Solar Energy Facilities; Agricultural Districts

**Description:**

Requires that solar energy facilities in residential housing areas in agricultural districts must meet certain conditions.

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