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# A BILL FOR AN ACT

RELATING TO HOUSING THAT SUPPORTS AGRICULTURAL PRODUCTION.

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

1       SECTION 1. The legislature finds that a lack of housing  
2       for farmers and farm workers has made it difficult for working  
3       farms to attract and retain employees and keep the costs of  
4       starting a farm at an economical level. Given the importance of  
5       locally grown crops to the State's economy, food security, and  
6       health of its population, the legislature believes that  
7       authorizing the construction of "tiny homes" for residential use  
8       by farm workers or farmers will support and encourage  
9       agricultural production in the State. "Tiny homes" are small  
10      dwelling units with less than five hundred square feet of  
11      interior living space that are built on the ground or on a  
12      mobile trailer base, and can be constructed more quickly and  
13      more affordably than traditional homes.

14      Accordingly, the purpose of this Act is to authorize the  
15      construction of tiny homes for residential use within  
16      agricultural districts, on farms that are engaged in  
17      agricultural production.



SECTION 2. 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 and for solar energy facilities, class B or C, 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;

(4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. "Farm dwelling", as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where



1 agricultural activity provides income to the family  
2 occupying the dwelling;

3 (5) Public institutions and buildings that are necessary  
4 for agricultural practices;

5 (6) Public and private open area types of recreational  
6 uses, including day camps, picnic grounds, parks, and  
7 riding stables, but not including dragstrips,  
8 airports, drive-in theaters, golf courses, golf  
9 driving ranges, country clubs, and overnight camps;

10 (7) Public, private, and quasi-public utility lines and  
11 roadways, transformer stations, communications  
12 equipment buildings, solid waste transfer stations,  
13 major water storage tanks, and appurtenant small  
14 buildings such as booster pumping stations, but not  
15 including offices or yards for equipment, material,  
16 vehicle storage, repair or maintenance, treatment  
17 plants, corporation yards, or other similar  
18 structures;  
19 (8) Retention, restoration, rehabilitation, or improvement  
20 of buildings or sites of historic or scenic interest;



- 1           (9)   Agricultural-based commercial operations as described  
2           in section 205-2(d)(15);
- 3           (10)   Buildings and uses, including mills, storage, and  
4           processing facilities, maintenance facilities,  
5           photovoltaic, biogas, and other small-scale renewable  
6           energy systems producing energy solely for use in the  
7           agricultural activities of the fee or leasehold owner  
8           of the property, and vehicle and equipment storage  
9           areas that are normally considered directly accessory  
10          to the above-mentioned uses and are permitted under  
11          section 205-2(d);
- 12          (11)   Agricultural parks;
- 13          (12)   Plantation community subdivisions, which as used in  
14          this chapter means an established subdivision or  
15          cluster of employee housing, community buildings, and  
16          agricultural support buildings on land currently or  
17          formerly owned, leased, or operated by a sugar or  
18          pineapple plantation; provided that the existing  
19          structures may be used or rehabilitated for use, and  
20          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)   Agricultural tourism activities, including overnight  
2           accommodations of twenty-one days or less, for any one  
3           stay within a county; provided that this paragraph  
4           shall apply only to a county that includes at least  
5           three islands and has adopted ordinances regulating  
6           agricultural tourism activities pursuant to section  
7           205-5; provided further that the agricultural tourism  
8           activities coexist with a bona fide agricultural  
9           activity. For the purposes of this paragraph, "bona  
10          fide agricultural activity" means a farming operation  
11          as defined in section 165-2;

12       (15)   Wind energy facilities, including the appurtenances  
13           associated with the production and transmission of  
14           wind generated energy; provided that the wind energy  
15           facilities and appurtenances are compatible with  
16           agriculture uses and cause minimal adverse impact on  
17           agricultural land;

18       (16)   Biofuel processing facilities, including the  
19           appurtenances associated with the production and  
20           refining of biofuels that is normally considered  
21           directly accessory and secondary to the growing of the



1 energy feedstock; provided that biofuel processing  
2 facilities and appurtenances do not adversely impact  
3 agricultural land and other agricultural uses in the  
4 vicinity.

5 For the purposes of this paragraph:

6 "Appurtenances" means operational infrastructure  
7 of the appropriate type and scale for economic  
8 commercial storage and distribution, and other similar  
9 handling of feedstock, fuels, and other products of  
10 biofuel processing facilities.

11 "Biofuel processing facility" means a facility  
12 that produces liquid or gaseous fuels from organic  
13 sources such as biomass crops, agricultural residues,  
14 and oil crops, including palm, canola, soybean, and  
15 waste cooking oils; grease; food wastes; and animal  
16 residues and wastes that can be used to generate  
17 energy;

18 (17) Agricultural-energy facilities, including  
19 appurtenances necessary for an agricultural-energy  
20 enterprise; provided that the primary activity of the  
21 agricultural-energy enterprise is agricultural



1 activity. To be considered the primary activity of an  
2 agricultural-energy enterprise, the total acreage  
3 devoted to agricultural activity shall be not less  
4 than ninety per cent of the total acreage of the  
5 agricultural-energy enterprise. The agricultural-  
6 energy facility shall be limited to lands owned,  
7 leased, licensed, or operated by the entity conducting  
8 the agricultural activity.

9 As used in this paragraph:

10 "Agricultural activity" means any activity  
11 described in paragraphs (1) to (3) [~~of this~~  
12 ~~subsection~~].

13 "Agricultural-energy enterprise" means an  
14 enterprise that integrally incorporates an  
15 agricultural activity with an agricultural-energy  
16 facility.

17 "Agricultural-energy facility" means a facility  
18 that generates, stores, or distributes renewable  
19 energy as defined in section 269-91 or renewable fuel  
20 including electrical or thermal energy or liquid or





1 gaseous fuels from products of agricultural activities  
2 from agricultural lands located in the State.

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

9 (18) Construction and operation of wireless communication  
10 antennas; provided that, for the purposes of this  
11 paragraph, "wireless communication antenna" means  
12 communications equipment that is either freestanding  
13 or placed upon or attached to an already existing  
14 structure and that transmits and receives  
15 electromagnetic radio signals used in the provision of  
16 all types of wireless communications services;  
17 provided further that nothing in this paragraph shall  
18 be construed to permit the construction of any new  
19 structure that is not deemed a permitted use under  
20 this subsection;



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

14       (20)   Solar energy facilities that do not occupy more than  
15           ten per cent of the acreage of the parcel, or twenty  
16           acres of land, whichever is lesser or for which a  
17           special use permit is granted pursuant to section 205-  
18           6; provided that this use shall not be permitted on  
19           lands with soil classified by the land study bureau's  
20           detailed land classification as overall (master)



1 productivity rating class A unless the solar energy  
2 facilities are:

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

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

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

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

18 (A) The area occupied by the solar energy facilities  
19 is also made available for compatible  
20 agricultural activities at a lease rate that is



1 at least fifty per cent below the fair market  
2 rent for comparable properties;

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

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

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

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

19 For the purposes of this paragraph, "agricultural  
20 activities" means the activities described in  
21 paragraphs (1) to (3);



1 (22) Geothermal resources exploration and geothermal  
2 resources development, as defined under section 182-1;  
3 [~~or~~]

4 (23) Hydroelectric facilities, including the appurtenances  
5 associated with the production and transmission of  
6 hydroelectric energy, subject to section 205-2;  
7 provided that the hydroelectric facilities and their  
8 appurtenances:

9 (A) Shall consist of a small hydropower facility as  
10 defined by the United States Department of  
11 Energy, including:

12 (i) Impoundment facilities using a dam to store  
13 water in a reservoir;

14 (ii) A diversion or run-of-river facility that  
15 channels a portion of a river through a  
16 canal or channel; and

17 (iii) Pumped storage facilities that store energy  
18 by pumping water uphill to a reservoir at  
19 higher elevation from a reservoir at a lower  
20 elevation to be released to turn a turbine  
21 to generate electricity;



1 (B) Comply with the state water code, chapter 174C;

2 (C) Shall, if over five hundred kilowatts in  
3 hydroelectric generating capacity, have the  
4 approval of the commission on water resource  
5 management, including a new instream flow  
6 standard established for any new hydroelectric  
7 facility; and

8 (D) Do not impact or impede the use of agricultural  
9 land or the availability of surface or ground  
10 water for all uses on all parcels that are served  
11 by the ground water sources or streams for which  
12 hydroelectric facilities are considered[-]; or

13 (24) Construction of tiny homes for use by farm workers or  
14 farmers; provided that a tiny home:

15 (A) Shall be limited to residential use by:

16 (i) A farm employee; or

17 (ii) The owner of a farm that has been engaged in  
18 agricultural production for a continuous  
19 period of no less than five years;

20 provided further that the need for labor and a  
21 certification that use of the tiny home will



1 conform to the requirements of this paragraph,  
2 shall be documented in a notarized affidavit by  
3 the farm owner to the commission;

4 (B) Shall be constructed or placed upon a legal  
5 parcel, and shall not require or preclude the  
6 construction of a primary residence; provided  
7 that construction shall be limited to three tiny  
8 homes per parcel;

9 (C) Shall have a water source and a sewage disposal  
10 system that comply with all applicable laws,  
11 ordinances, and rules;

12 (D) That is designed to be mobile and is constructed  
13 on a trailer with wheels shall be duly registered  
14 with the county in which it is located, and  
15 remain in a mobile condition;

16 (E) Shall be subject to county ordinances or  
17 permitting requirements that are directly  
18 applicable to residential uses of tiny homes in  
19 agricultural districts; and

20 (F) Within sixty days of cessation of occupancy,  
21 shall be disconnected from all utilities,



1 including water sources and sewage disposal  
2 systems, and shall be removed from the parcel.

3 For the purposes of this paragraph:

4 "Agricultural production" means any of the  
5 acts described in paragraphs (1) to (3), except  
6 acts conducted for personal consumption.

7 "Tiny home" means a dwelling unit with less  
8 than five hundred square feet of interior living  
9 space that is either stationary or mobile."

10 SECTION 3. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on January 1, 2050;  
13 provided that the amendments made to section 205-4.5(a), Hawaii  
14 Revised Statutes, by section 2 of this Act shall not be repealed  
15 when that section is reenacted on June 30, 2019, pursuant to  
16 section 3(1) of Act 52, Session Laws of Hawaii 2014.





**Report Title:**

Agriculture; Housing; Farm Workers; Farm Owners; Tiny Homes;  
Agricultural Districts

**Description:**

Authorizes the construction of tiny homes for residential use within agricultural districts, on farms that are engaged in agricultural production and subject to county ordinances or permitting requirements that are directly applicable to residential uses of tiny homes in agricultural districts.  
(HB2451 HD1)

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