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## A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. The legislature finds that a lack of affordable  
2 housing for farm workers has made it difficult for working farms  
3 to attract and retain employees and to operate farms in an  
4 economical manner. The production of locally grown crops is  
5 important to the economy, food security, and health of the State  
6 and its population. Authorizing the construction and use of  
7 "tiny homes" as affordable housing for farm workers will  
8 encourage healthy and productive farming. "Tiny homes" are  
9 small dwelling units of less than five hundred square feet,  
10 built on the ground or on a mobile trailer base, that can be  
11 constructed faster and at a more affordable cost than  
12 traditional homes.

13           Accordingly, the purpose of this Act is to authorize the  
14 construction of tiny homes within agricultural districts, on  
15 farms that are currently engaged in agricultural production, in  
16 a county with a population of more than 180,000 but less than



1 250,000, notwithstanding any county ordinance or regulation to  
2 the contrary.

3 SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "§205-4.5 **Permissible uses within the agricultural**  
6 **districts.** (a) Within the agricultural district, all lands  
7 with soil classified by the land study bureau's detailed land  
8 classification as overall (master) productivity rating class A  
9 or B and for solar energy facilities, class B or C, shall be  
10 restricted to the following permitted uses:

- 11 (1) Cultivation of crops, including crops for bioenergy,  
12 flowers, vegetables, foliage, fruits, forage, and  
13 timber;
- 14 (2) Game and fish propagation;
- 15 (3) Raising of livestock, including poultry, bees, fish,  
16 or other animal or aquatic life that are propagated  
17 for economic or personal use;
- 18 (4) Farm dwellings, employee housing, farm buildings, or  
19 activities or uses related to farming and animal  
20 husbandry. "Farm dwelling", as used in this



# H.B. NO. 1

1 paragraph, means a single-family dwelling located on  
2 and used in connection with a farm, including:

3 (A) [~~clusters~~] Clusters of single-family farm  
4 dwellings permitted within agricultural parks  
5 developed by the State, or where agricultural  
6 activity provides income to the family occupying  
7 the dwelling; and

8 (B) Tiny homes, in a county with a population of more  
9 than 180,000 but less than 250,000,  
10 notwithstanding any county ordinance or  
11 regulation to the contrary; provided that tiny  
12 homes shall be occupied only by farm workers or  
13 their immediate family members on farms that have  
14 obtained a business license and are currently  
15 engaged in agricultural production. "Tiny home",  
16 as used in this paragraph, means a dwelling that  
17 is either stationary or mobile and includes less  
18 than five hundred square feet of living space;

19 (5) Public institutions and buildings that are necessary  
20 for agricultural practices;



# H.B. NO. 2

- 1           (6) Public and private open area types of recreational  
2           uses, including day camps, picnic grounds, parks, and  
3           riding stables, but not including dragstrips,  
4           airports, drive-in theaters, golf courses, golf  
5           driving ranges, country clubs, and overnight camps;
- 6           (7) Public, private, and quasi-public utility lines and  
7           roadways, transformer stations, communications  
8           equipment buildings, solid waste transfer stations,  
9           major water storage tanks, and appurtenant small  
10          buildings such as booster pumping stations, but not  
11          including offices or yards for equipment, material,  
12          vehicle storage, repair or maintenance, treatment  
13          plants, corporation yards, or other similar  
14          structures;
- 15          (8) Retention, restoration, rehabilitation, or improvement  
16          of buildings or sites of historic or scenic interest;
- 17          (9) Agricultural-based commercial operations as described  
18          in section 205-2(d)(15);
- 19          (10) Buildings and uses, including mills, storage, and  
20          processing facilities, maintenance facilities,  
21          photovoltaic, biogas, and other small-scale renewable



# H.B. NO. 2

1 energy systems producing energy solely for use in the  
2 agricultural activities of the fee or leasehold owner  
3 of the property, and vehicle and equipment storage  
4 areas that are normally considered directly accessory  
5 to the above-mentioned uses and are permitted under  
6 section 205-2(d);

7 (11) Agricultural parks;

8 (12) Plantation community subdivisions, which as used in  
9 this chapter means an established subdivision or  
10 cluster of employee housing, community buildings, and  
11 agricultural support buildings on land currently or  
12 formerly owned, leased, or operated by a sugar or  
13 pineapple plantation; provided that the existing  
14 structures may be used or rehabilitated for use, and  
15 new employee housing and agricultural support  
16 buildings may be allowed on land within the  
17 subdivision as follows:

18 (A) The employee housing is occupied by employees or  
19 former employees of the plantation who have a  
20 property interest in the land;



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- 1 (B) The employee housing units not owned by their  
2 occupants shall be rented or leased at affordable  
3 rates for agricultural workers; or
- 4 (C) The agricultural support buildings shall be  
5 rented or leased to agricultural business  
6 operators or agricultural support services;
- 7 (13) Agricultural tourism conducted on a working farm, or a  
8 farming operation as defined in section 165-2, for the  
9 enjoyment, education, or involvement of visitors;  
10 provided that the agricultural tourism activity is  
11 accessory and secondary to the principal agricultural  
12 use and does not interfere with surrounding farm  
13 operations; and provided further that this paragraph  
14 shall apply only to a county that has adopted  
15 ordinances regulating agricultural tourism under  
16 section 205-5;
- 17 (14) Agricultural tourism activities, including overnight  
18 accommodations of twenty-one days or less, for any one  
19 stay within a county; provided that this paragraph  
20 shall apply only to a county that includes at least  
21 three islands and has adopted ordinances regulating



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1 agricultural tourism activities pursuant to section  
2 205-5; provided further that the agricultural tourism  
3 activities coexist with a bona fide agricultural  
4 activity. For the purposes of this paragraph, "bona  
5 fide agricultural activity" means a farming operation  
6 as defined in section 165-2;

7 (15) Wind energy facilities, including the appurtenances  
8 associated with the production and transmission of  
9 wind generated energy; provided that the wind energy  
10 facilities and appurtenances are compatible with  
11 agriculture uses and cause minimal adverse impact on  
12 agricultural land;

13 (16) Biofuel processing facilities, including the  
14 appurtenances associated with the production and  
15 refining of biofuels that is normally considered  
16 directly accessory and secondary to the growing of the  
17 energy feedstock; provided that biofuel processing  
18 facilities and appurtenances do not adversely impact  
19 agricultural land and other agricultural uses in the  
20 vicinity.

21 For the purposes of this paragraph:



## H.B. NO. 1

1           "Appurtenances" means operational infrastructure  
2 of the appropriate type and scale for economic  
3 commercial storage and distribution, and other similar  
4 handling of feedstock, fuels, and other products of  
5 biofuel processing facilities.

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

13       (17) Agricultural-energy facilities, including  
14 appurtenances necessary for an agricultural-energy  
15 enterprise; provided that the primary activity of the  
16 agricultural-energy enterprise is agricultural  
17 activity. To be considered the primary activity of an  
18 agricultural-energy enterprise, the total acreage  
19 devoted to agricultural activity shall be not less  
20 than ninety per cent of the total acreage of the  
21 agricultural-energy enterprise. The agricultural-



1 energy facility shall be limited to lands owned,  
2 leased, licensed, or operated by the entity conducting  
3 the agricultural activity.

4 As used in this paragraph:

5 "Agricultural activity" means any activity  
6 described in paragraphs (1) to (3) [~~of this~~  
7 ~~subsection~~].

8 "Agricultural-energy enterprise" means an  
9 enterprise that integrally incorporates an  
10 agricultural activity with an agricultural-energy  
11 facility.

12 "Agricultural-energy facility" means a facility  
13 that generates, stores, or distributes renewable  
14 energy as defined in section 269-91 or renewable fuel  
15 including electrical or thermal energy or liquid or  
16 gaseous fuels from products of agricultural activities  
17 from agricultural lands located in the State.

18 "Appurtenances" means operational infrastructure  
19 of the appropriate type and scale for the economic  
20 commercial generation, storage, distribution, and  
21 other similar handling of energy, including equipment,



## H.B. NO. 7

1 feedstock, fuels, and other products of agricultural-  
2 energy facilities;

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

15 (19) Agricultural education programs conducted on a farming  
16 operation as defined in section 165-2, for the  
17 education and participation of the general public;  
18 provided that the agricultural education programs are  
19 accessory and secondary to the principal agricultural  
20 use of the parcels or lots on which the agricultural  
21 education programs are to occur and do not interfere



1 with surrounding farm operations. For the purposes of  
2 this paragraph, "agricultural education programs"  
3 means activities or events designed to promote  
4 knowledge and understanding of agricultural activities  
5 and practices conducted on a farming operation as  
6 defined in section 165-2;

7 (20) Solar energy facilities that do not occupy more than  
8 ten per cent of the acreage of the parcel, or twenty  
9 acres of land, whichever is lesser or for which a  
10 special use permit is granted pursuant to section 205-  
11 6; provided that this use shall not be permitted on  
12 lands with soil classified by the land study bureau's  
13 detailed land classification as overall (master)  
14 productivity rating class A unless the solar energy  
15 facilities are:

16 (A) Located on a paved or unpaved road in existence  
17 as of December 31, 2013, and the parcel of land  
18 upon which the paved or unpaved road is located  
19 has a valid county agriculture tax dedication  
20 status or a valid agricultural conservation  
21 easement;



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- 1 (B) Placed in a manner that still allows vehicular  
2 traffic to use the road; and
- 3 (C) Granted a special use permit by the commission  
4 pursuant to section 205-6;
- 5 (21) Solar energy facilities on lands with soil classified  
6 by the land study bureau's detailed land  
7 classification as overall (master) productivity rating  
8 B or C for which a special use permit is granted  
9 pursuant to section 205-6; provided that:
- 10 (A) The area occupied by the solar energy facilities  
11 is also made available for compatible  
12 agricultural activities at a lease rate that is  
13 at least fifty per cent below the fair market  
14 rent for comparable properties;
- 15 (B) Proof of financial security to decommission the  
16 facility is provided to the satisfaction of the  
17 appropriate county planning commission prior to  
18 date of commencement of commercial generation;  
19 and



1 (C) Solar energy facilities shall be decommissioned  
2 at the owner's expense according to the following  
3 requirements:

4 (i) Removal of all equipment related to the  
5 solar energy facility within twelve months  
6 of the conclusion of operation or useful  
7 life; and

8 (ii) Restoration of the disturbed earth to  
9 substantially the same physical condition as  
10 existed prior to the development of the  
11 solar energy facility.

12 For the purposes of this paragraph, "agricultural  
13 activities" means the activities described in  
14 paragraphs (1) to (3);

15 (22) Geothermal resources exploration and geothermal  
16 resources development, as defined under section 182-1;  
17 or

18 (23) Hydroelectric facilities, including the appurtenances  
19 associated with the production and transmission of  
20 hydroelectric energy, subject to section 205-2;



1 provided that the hydroelectric facilities and their  
2 appurtenances:

3 (A) Shall consist of a small hydropower facility as  
4 defined by the United States Department of  
5 Energy, including:

6 (i) Impoundment facilities using a dam to store  
7 water in a reservoir;

8 (ii) A diversion or run-of-river facility that  
9 channels a portion of a river through a  
10 canal or channel; and

11 (iii) Pumped storage facilities that store energy  
12 by pumping water uphill to a reservoir at  
13 higher elevation from a reservoir at a lower  
14 elevation to be released to turn a turbine  
15 to generate electricity;

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

17 (C) Shall, if over five hundred kilowatts in  
18 hydroelectric generating capacity, have the  
19 approval of the commission on water resource  
20 management, including a new instream flow



# H.B. NO. 2

1 standard established for any new hydroelectric  
2 facility; and  
3 (D) Do not impact or impede the use of agricultural  
4 land or the availability of surface or ground  
5 water for all uses on all parcels that are served  
6 by the ground water sources or streams for which  
7 hydroelectric facilities are considered."

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

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INTRODUCED BY: *Cindy Evans*  
JAN 18 2017



# H.B. NO. 2

**Report Title:**

Agriculture; Housing; Farm Workers; Tiny Homes

**Description:**

Authorizes tiny homes of less than 500 square feet for farm workers in agricultural districts in a county with a population of more than 180,000 but less than 250,000, notwithstanding any county ordinance or regulation to the contrary.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

