

JAN 24 2018

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 beginning 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;



(9) Agricultural-based commercial operations as described
in section 205-2(d)(15);

(10) Buildings and uses, including mills, storage, and
processing facilities, maintenance facilities,
photovoltaic, biogas, and other small-scale renewable
energy systems producing energy solely for use in the
agricultural activities of the fee or leasehold owner
of the property, and vehicle and equipment storage
areas that are normally considered directly accessory
to the above-mentioned uses and are permitted under
section 205-2(d);

(11) Agricultural parks;

(12) Plantation community subdivisions, which as used in
this chapter means an established subdivision or
cluster of employee housing, community buildings, and
agricultural support buildings on land currently or
formerly owned, leased, or operated by a sugar or
pineapple plantation; provided that the existing
structures may be used or rehabilitated for use, and
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 providing a minimum of
17 sixteen hours per week of needed labor for
18 agricultural production, or a family member
19 of the farm employee; or



1 (ii) The owner of a farm that has been engaged in
2 agricultural production for a continuous
3 period of less than five years;

4 provided further that the need for labor, and a
5 certification that use of the tiny home will
6 conform to the requirements of this paragraph,
7 shall be documented in a notarized affidavit by
8 the farm owner to the appropriate county planning
9 commission or agency;

10 (B) Is not occupied at any given time by more than
11 two persons eighteen years of age or older;

12 (C) Shall be constructed or placed upon a legal
13 parcel, and shall not require or preclude the
14 construction of a primary residence;

15 (D) Shall have a water source and a sewage disposal
16 system that comply with all applicable laws,
17 ordinances, and rules;

18 (E) That is designed to be mobile and is constructed
19 on a trailer with wheels shall be duly registered
20 with the county in which it is located, and
21 remain in a mobile condition;



1 (F) Shall be subject to county ordinances or
2 permitting requirements that are directly
3 applicable to residential uses of tiny homes in
4 agricultural districts; and

5 (G) Within sixty days of cessation of occupancy,
6 shall be disconnected from all utilities,
7 including water sources and sewage disposal
8 systems, and shall be removed from the parcel.

9 For the purposes of this paragraph:

10 "Agricultural production" means any of the acts
11 described in paragraphs (1) to (3), except acts
12 conducted for personal consumption.

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

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval;
19 provided that the amendments made to section 205-4.5(a), Hawaii
20 Revised Statutes, by section 2 of this Act shall not be repealed



1 when that section is reenacted on June 30, 2019, pursuant to
2 section 3(1) of Act 52, Session Laws of Hawaii 2014.

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S.B. NO. 3098

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. Provides that a tiny home shall be subject to county ordinances or permitting requirements that are directly applicable to residential uses of tiny homes in agricultural districts.

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