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## A BILL FOR AN ACT

RELATING TO STATEWIDE COMPOSTING.

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

1           SECTION 1. The legislature finds that according to the  
2 United States Environmental Protection Agency and United States  
3 Department of Agriculture, food waste is the second largest  
4 component that enters a waste stream and accounts for twenty-  
5 five per cent of all materials sent to landfills. Nearly fifty  
6 per cent of organic materials disposed of in incinerators and  
7 landfills can be diverted for bioconversion, including  
8 composting. Landfills across Hawaii are rapidly reaching  
9 capacity and facing the burden of closure and re-siting, a  
10 process that will cost each county hundreds of millions of  
11 dollars and create community resentment. Recycling organics,  
12 including food waste, into compost has environmental benefits,  
13 such as improving soil health, increasing drought resistance,  
14 and reducing the need for supplemental water, fertilizers, and  
15 pesticides, while also increasing crop yields. Furthermore,  
16 applying compost and organic matter to soil sequesters carbon  
17 from the atmosphere, forming the largest land-based carbon sink,



1 and mitigates climate change by effectively reducing greenhouse  
2 gas emissions. The legislature believes that food waste  
3 diversion and the creation of multi-scale composting operations  
4 across the State will greatly reduce the burdens on landfills,  
5 lower county waste management costs, and move the State closer  
6 to achieving its sustainability and resiliency goals, which  
7 include:

8 (1) The Aloha+ Challenge, which is a statewide commitment  
9 to realize the United Nations' Sustainable Development  
10 Goals that sets a goal of seventy per cent waste  
11 reduction before disposal and doubling of local food  
12 production by 2030;

13 (2) The Hawaii 2050 sustainability plan, which also sets a  
14 mandate for the State to achieve full sustainability  
15 and resilience through increased food production and  
16 dramatic waste reduction via recycling and  
17 bioconversion strategies; and

18 (3) Increasing the generation of local compost to  
19 sequester more carbon and mitigate climate change  
20 pursuant to the strategy identified by the greenhouse



1 gas sequestration task force permanently established  
2 by Act 15, Session Laws of Hawaii 2018.

3 The legislature also finds that the regulation of co-  
4 composting in the State is under the purview of the department  
5 of health solid and hazardous waste branch. Existing  
6 regulations have not been updated in over twenty years, and  
7 currently a single application applies to all co-composting  
8 operations regardless of size or scope. The legislature further  
9 finds that the current permitting process is an onerous and  
10 unreasonable barrier to lawful participation for small to  
11 midsize composting operations whose operations present a much  
12 lower risk potential. Reform and updating of the composting and  
13 co-composting regulations and permitting process will greatly  
14 increase the number of operators diverting organics from  
15 landfills and incinerators, thereby aiding the State and  
16 counties in reaching their sustainability, resilience, and  
17 fiscal goals.

18 Accordingly, the purpose of this Act is to encourage the  
19 diversion of organics from Hawaii's waste streams and encourage  
20 the production of compost by:



- 1           (1) Requiring the department of health to establish a  
2           multi-tiered registration and permitting system for  
3           all classes of solid waste composting facilities;  
4           (2) Requiring the department of health to update its  
5           co-composting rules by January 1, 2023, and every ten  
6           years thereafter; and  
7           (3) Allowing composting and co-composting operations in  
8           agricultural districts.

9           SECTION 2. Chapter 342H, Hawaii Revised Statutes, is  
10          amended by adding a new part to be appropriately designated and  
11          to read as follows:

12                   **"PART . SOLID WASTE COMPOSTING FACILITIES**

13           **§342H- Definitions.** For the purposes of this part:

14           "Class I solid waste composting facility" means a facility  
15          where the owner or operator may accept green waste, agricultural  
16          plant materials, dead animals, raw rendering material,  
17          biosolids, animal waste, food scraps, mixed solid waste, bulking  
18          agents, additives, and authorized alternative materials.

19           "Class II solid waste composting facility" means a  
20          facility:



- 1           (1) Where the owner or operator may accept green waste,  
2           agricultural plant materials, food waste, additives  
3           limited to source-separated spent coffee and tea  
4           grounds, urea, animal manures, spent mushroom  
5           substrate, spent grains, bulking agents, additives,  
6           and authorized alternative materials; and  
7           (2) That processes more than fifteen cubic yards, or  
8           twelve thousand pounds, whichever is lowest, of total  
9           feedstocks per day, as a weekly average, and stores  
10          more than fifty cubic yards of non-putrescible bulking  
11          agent onsite.

12           "Class III solid waste composting facility" means a  
13 facility:

- 14          (1) Where the owner or operator may accept green waste,  
15          agricultural plant materials, food waste, additives  
16          limited to source-separated spent coffee and tea  
17          grounds, urea, animal manures, spent mushroom  
18          substrate, spent grains, bulking agents, additives,  
19          and authorized alternative materials; and  
20          (2) That processes fewer than fifteen cubic yards, or  
21          twelve thousand pounds, whichever is lowest, of total



1 feedstocks per day, as a weekly average, and stores  
2 fewer than fifty cubic yards of non-putrescible  
3 bulking agent onsite.

4 "Class IV solid waste composting facility" means a  
5 facility:

- 6 (1) Where the owner or operator may accept only green  
7 waste, agricultural plant materials, bulking agents,  
8 additives limited to source-separated spent coffee and  
9 tea grounds, urea, spent grain, bacterial or fungal  
10 inoculum, and authorized alternative materials; and  
11 (2) That processes fewer than half a cubic yard, or two  
12 hundred pounds, of source-separate food waste per day,  
13 as a weekly average.

14 **§342H- Solid waste composting facilities;**

15 **establishment.** (a) The department shall establish a multi-  
16 tiered registration and permitting system for all classes of  
17 solid waste composting facilities under this part.

18 (b) The permit standards for class II, class III, and  
19 class IV solid waste composting facilities shall be less  
20 stringent than the permit standards for class I solid waste  
21 composting facilities, and limit requirements for capital-



1 intensive infrastructure, such as impermeable surfaces and  
2 leachate management systems; provided that public health and  
3 safety are still maintained.

4       **§342H-       Class I solid waste composting facilities.**

5 Every owner or operator of a class I solid waste composting  
6 facility in the State shall:

- 7       (1) Register with the department pursuant to rules adopted  
8             by the department;
- 9       (2) Obtain a permit pursuant to section 342H-4 and rules  
10            adopted by the department; and
- 11       (3) Complete training and certification on proper  
12            operation and maintenance of class I solid waste  
13            composting facilities approved by the department.

14       **§342H-       Class II and class III solid waste composting**

15 **facilities.** (a) Every owner or operator of a class II or class  
16 III solid waste composting facility in the State shall:

- 17       (1) Register with the department pursuant to rules adopted  
18             by the department;
- 19       (2) Obtain a permit pursuant to section 342H-4 and rules  
20            adopted by the department; and



1           (3) Complete training and certification on proper  
2           operation and maintenance of class II or class III  
3           solid waste composting facilities approved by the  
4           department.

5           (b) Class III solid waste composting facilities processing  
6 fewer than two cubic yards of pathogenic materials per day, as a  
7 weekly average, shall be exempt from department rules and  
8 regulations requiring the use of an impermeable surface for  
9 composting operations and leachate management infrastructure, as  
10 well as requirements to obtain additional permitting through the  
11 National Pollutant Discharge Elimination System, and the clean  
12 air branch and clean water branch of the department.

13           (c) The materials placement area of a class III solid  
14 waste composting facility shall not exceed one hundred thirty-  
15 five thousand square feet of total area on any one premise.

16           **§342H- Class IV solid waste composting facilities.** (a)  
17 Every owner or operator of a class IV solid waste composting  
18 facility in the State shall:

19           (1) Register with the department pursuant to rules adopted  
20           by the department;



1 (2) Obtain a permit pursuant to section 342H-4 and rules  
2 adopted by the department; and

3 (3) Complete training and certification on proper  
4 operation and maintenance of class IV solid waste  
5 composting facilities approved by the department.

6 (b) Class IV solid waste composting facilities processing  
7 fewer than one half cubic yards of pathogenic materials per day,  
8 as a weekly average, shall be exempt from department rules and  
9 regulations requiring the use of an impermeable surface for  
10 composting operations, and leachate management infrastructure,  
11 as well as requirements to obtain additional permitting through  
12 the National Pollutant Discharge Elimination System, and the  
13 clean air branch and clean water branch of the department.

14 **§342H- Rules.** The department shall adopt rules under  
15 chapter 91 as necessary to carry out the purposes of section  
16 342H-B and this part."

17 SECTION 3. Chapter 342G, Hawaii Revised Statutes, is  
18 amended by adding a new section to be appropriately designated  
19 and to read as follows:



1        "§342G- Co-composting; rules. No later than January 1,  
2 2023, and every ten years thereafter, the department shall  
3 update its rules regarding composting and co-composting."

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

6        "(d) Agricultural districts shall include:

7        (1) Activities or uses as characterized by the cultivation  
8           of crops, crops for bioenergy, orchards, forage, and  
9           forestry;

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

12       (3) Aquaculture, which means the production of aquatic  
13          plant and animal life within ponds and other bodies of  
14          water;

15       (4) Wind-generated energy production for public, private,  
16          and commercial use;

17       (5) Biofuel production, as described in section  
18          205-4.5(a)(16), for public, private, and commercial  
19          use;

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



1 for use in the agricultural activities of the fee or  
2 leasehold owner of the property, agricultural-energy  
3 facilities as defined in section 205-4.5(a)(17),  
4 vehicle and equipment storage areas, and plantation  
5 community subdivisions as defined in section  
6 205-4.5(a)(12);

7 (8) Wind machines and wind farms;

8 (9) Small-scale meteorological, air quality, noise, and  
9 other scientific and environmental data collection and  
10 monitoring facilities occupying less than one-half  
11 acre of land; provided that these facilities shall not  
12 be used as or equipped for use as living quarters or  
13 dwellings;

14 (10) Agricultural parks;

15 (11) Agricultural tourism conducted on a working farm, or a  
16 farming operation as defined in section 165-2, for the  
17 enjoyment, education, or involvement of visitors;  
18 provided that the agricultural tourism activity is  
19 accessory and secondary to the principal agricultural  
20 use and does not interfere with surrounding farm  
21 operations; ~~and~~ provided further that this paragraph



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



1 the display and sale of agricultural products  
2 grown in Hawaii and value-added products that  
3 were produced using agricultural products grown  
4 in Hawaii;

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

12 (C) A retail food establishment owned and operated by  
13 a producer and permitted under chapter 11-50,  
14 Hawaii administrative rules, that prepares and  
15 serves food at retail using products grown in  
16 Hawaii and value-added products that were  
17 produced using agricultural products grown in  
18 Hawaii;

19 (D) A farmers' market, which is an outdoor market  
20 limited to producers selling agricultural  
21 products grown in Hawaii and value-added products



1           that were produced using agricultural products  
2           grown in Hawaii; and

3           (E) A food hub, which is a facility that may contain  
4           a commercial kitchen and provides for the  
5           storage, processing, distribution, and sale of  
6           agricultural products grown in Hawaii and value-  
7           added products that were produced using  
8           agricultural products grown in Hawaii.

9           The owner of an agricultural-based commercial  
10          operation shall certify, upon request of an officer or  
11          agent charged with enforcement of this chapter under  
12          section 205-12, that the agricultural products  
13          displayed or sold by the operation meet the  
14          requirements of this paragraph; ~~and~~

15          (16) Hydroelectric facilities as described in section  
16          205-4.5(a)(23) ~~[=]~~; and

17          (17) Composting and co-composting operations.

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

20          Agricultural districts include areas that are not used for, or



1 that are not suited to, agricultural and ancillary activities by  
2 reason of topography, soils, and other related characteristics."

3 SECTION 5. Section 205-4.5, Hawaii Revised Statutes, is  
4 amended 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  
21 paragraph, means a single-family dwelling located on



1 and used in connection with a farm, including clusters  
2 of single-family farm dwellings permitted within  
3 agricultural parks developed by the State, or where  
4 agricultural activity provides income to the family  
5 occupying the dwelling;

6 (5) Public institutions and buildings that are necessary  
7 for agricultural practices;

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

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



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



1 new employee housing and agricultural support  
2 buildings may be allowed on land within the  
3 subdivision as follows:

4 (A) The employee housing is occupied by employees or  
5 former employees of the plantation who have a  
6 property interest in the land;

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

10 (C) The agricultural support buildings shall be  
11 rented or leased to agricultural business  
12 operators or agricultural support services;

13 (13) 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



- 1           ordinances regulating agricultural tourism under  
2           section 205-5;
- 3       (14) 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       (15) Wind energy facilities, including the appurtenances  
15           associated with the production and transmission of  
16           wind generated energy; provided that the wind energy  
17           facilities and appurtenances are compatible with  
18           agriculture uses and cause minimal adverse impact on  
19           agricultural land;
- 20       (16) Biofuel processing facilities, including the  
21           appurtenances associated with the production and



1 refining of biofuels that is normally considered  
2 directly accessory and secondary to the growing of the  
3 energy feedstock; provided that biofuel processing  
4 facilities and appurtenances do not adversely impact  
5 agricultural land and other agricultural uses in the  
6 vicinity.

7 For the purposes of this paragraph:

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

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

20 (17) Agricultural-energy facilities, including

21 appurtenances necessary for an agricultural-energy



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

11 As used in this paragraph:

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

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

18 "Agricultural-energy facility" means a facility  
19 that generates, stores, or distributes renewable  
20 energy as defined in section 269-91 or renewable fuel  
21 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, including small wireless facilities;  
11 provided that, for the purposes of this paragraph,  
12 "wireless communication antenna" means communications  
13 equipment that is either freestanding or placed upon  
14 or attached to an already existing structure and that  
15 transmits and receives electromagnetic radio signals  
16 used in the provision of all types of wireless  
17 communications services; provided further that "small  
18 wireless facilities" shall have the same meaning as in  
19 section 206N-2; provided further that nothing in this  
20 paragraph shall be construed to permit the



1 construction of any new structure that is not deemed a  
2 permitted use under this subsection;

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

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



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



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

5                   (ii) Restoration of the disturbed earth to  
6                   substantially the same physical condition as  
7                   existed prior to the development of the  
8                   solar energy facility.

9                   For the purposes of this paragraph, "agricultural  
10                  activities" means the activities described in  
11                  paragraphs (1) to (3);

12               (22) Geothermal resources exploration and geothermal  
13               resources development, as defined under section 182-1;  
14               or

15               (23) Hydroelectric facilities, including the appurtenances  
16               associated with the production and transmission of  
17               hydroelectric energy, subject to section 205-2;  
18               provided that the hydroelectric facilities and their  
19               appurtenances:



- 1 (A) Shall consist of a small hydropower facility as  
2 defined by the United States Department of  
3 Energy, including:  
4 (i) Impoundment facilities using a dam to store  
5 water in a reservoir;  
6 (ii) A diversion or run-of-river facility that  
7 channels a portion of a river through a  
8 canal or channel; and  
9 (iii) Pumped storage facilities that store energy  
10 by pumping water uphill to a reservoir at  
11 higher elevation from a reservoir at a lower  
12 elevation to be released to turn a turbine  
13 to generate electricity;  
14 (B) Comply with the state water code, chapter 174C;  
15 (C) Shall, if over five hundred kilowatts in  
16 hydroelectric generating capacity, have the  
17 approval of the commission on water resource  
18 management, including a new instream flow  
19 standard established for any new hydroelectric  
20 facility; and



1 (D) Do not impact or impede the use of agricultural  
2 land or the availability of surface or ground  
3 water for all uses on all parcels that are served  
4 by the ground water sources or streams for which  
5 hydroelectric facilities are considered.

6 (b) Uses not expressly permitted in subsection (a) shall  
7 be prohibited, except the uses permitted as provided in sections  
8 205-6 and 205-8, and construction of single-family dwellings on  
9 lots existing before June 4, 1976. Any other law to the  
10 contrary notwithstanding, no subdivision of land within the  
11 agricultural district with soil classified by the land study  
12 bureau's detailed land classification as overall (master)  
13 productivity rating class A or B shall be approved by a county  
14 unless those A and B lands within the subdivision are made  
15 subject to the restriction on uses as prescribed in this section  
16 and to the condition that the uses shall be primarily in pursuit  
17 of an agricultural activity.

18 Any deed, lease, agreement of sale, mortgage, or other  
19 instrument of conveyance covering any land within the  
20 agricultural subdivision shall expressly contain the restriction  
21 on uses and the condition, as prescribed in this section that



1 these restrictions and conditions shall be encumbrances running  
2 with the land until such time that the land is reclassified to a  
3 land use district other than agricultural district.

4 If the foregoing requirement of encumbrances running with  
5 the land jeopardizes the owner or lessee in obtaining mortgage  
6 financing from any of the mortgage lending agencies set forth in  
7 the following paragraph, and the requirement is the sole reason  
8 for failure to obtain mortgage financing, then the requirement  
9 of encumbrances shall, insofar as such mortgage financing is  
10 jeopardized, be conditionally waived by the appropriate county  
11 enforcement officer; provided that the conditional waiver shall  
12 become effective only in the event that the property is  
13 subjected to foreclosure proceedings by the mortgage lender.

14 The mortgage lending agencies referred to in the preceding  
15 paragraph are the Federal Housing Administration, Federal  
16 National Mortgage Association, Department of Veterans Affairs,  
17 Small Business Administration, United States Department of  
18 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate  
19 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any  
20 other federal, state, or private mortgage lending agency



1 qualified to do business in Hawaii, and their respective  
2 successors and assigns.

3 (c) Within the agricultural district, all lands with soil  
4 classified by the land study bureau's detailed land  
5 classification as overall (master) productivity rating class C,  
6 D, E, or U shall be restricted to the uses permitted for  
7 agricultural districts as set forth in section 205-5(b).

8 (d) Notwithstanding any other provision of this chapter to  
9 the contrary, golf courses and golf driving ranges approved by a  
10 county before July 1, 2005, for development within the  
11 agricultural district shall be permitted uses within the  
12 agricultural district.

13 (e) Notwithstanding any other provision of this chapter to  
14 the contrary, plantation community subdivisions as defined in  
15 this section shall be permitted uses within the agricultural  
16 district, and section 205-8 shall not apply.

17 [†](f)[†] Notwithstanding any other law to the contrary,  
18 agricultural lands may be subdivided and leased for the  
19 agricultural uses or activities permitted in subsection (a);  
20 provided that:

21 (1) The principal use of the leased land is agriculture;



1           (2) No permanent or temporary dwellings or farm dwellings,  
2           including trailers and campers, are constructed on the  
3           leased area. This restriction shall not prohibit the  
4           construction of storage sheds, equipment sheds, or  
5           other structures appropriate to the agricultural  
6           activity carried on within the lot; and

7           (3) The lease term for a subdivided lot shall be for at  
8           least as long as the greater of:

9           (A) The minimum real property tax agricultural  
10           dedication period of the county in which the  
11           subdivided lot is located; or

12           (B) Five years.

13 Lots created and leased pursuant to this section shall be legal  
14 lots of record for mortgage lending purposes and shall be exempt  
15 from county subdivision standards.

16           (g) Notwithstanding any other law to the contrary,  
17 composting and co-composting operations shall be permitted uses  
18 within the agricultural district."

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



# H.B. NO. 1349

1 SECTION 7. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Lian Mats*

JAN 27 2021



# H.B. NO. 1349

**Report Title:**

Composting; Co-Composting; Solid Waste Composting Facilities;  
Department of Health; Rules; Agricultural Districts

**Description:**

Requires the department of health to establish a multi-tiered registration and permitting system for all classes of solid waste composting facilities. Requires the department of health to update its co composting rules by 1/1/2023, and every ten years thereafter. Permits composting and co-composting operations in agricultural districts.

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

