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# A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1       SECTION 1. In 2008, the legislature passed a package of  
2 incentives for lands designated as important agricultural lands  
3 pursuant to article XI, section 3, of the Hawaii State  
4 Constitution. Enacted as Act 233, Session Laws of Hawaii 2008,  
5 the incentives were intended to promote agricultural viability,  
6 sustained growth of the agricultural industry, and the long-term  
7 use and protection of lands designated as important agricultural  
8 lands.

9       Act 233, Session Laws of Hawaii 2008, included a provision  
10 for landowners to develop, construct, and maintain farm  
11 dwellings and employee housing for farmers, employees, and their  
12 immediate family members on lands designated as important  
13 agricultural lands; provided that the occupants of these  
14 dwellings are actively engaged in farming. Although intended as  
15 an incentive for the designation and agricultural use of  
16 important agricultural lands, it is unclear whether this  
17 provision, codified as section 205-45.5, Hawaii Revised



1 Statutes, imposes more restrictive standards for farm dwellings  
2 and employee housing on important agricultural lands than the  
3 existing standards for farm dwellings and employee housing on  
4 lands in the agricultural land use district in chapter 205,  
5 Hawaii Revised Statutes.

6 The lack of affordable housing for farmers and farm labor  
7 is an impediment to increasing food and non-food agricultural  
8 production in Hawaii. The legislature finds that there is still  
9 a need for a means to develop housing for farmers and farm  
10 employees on lands designated as important agricultural lands  
11 that reduces the cost and time required to supply such housing  
12 and ensures that the housing is used in conjunction with and  
13 located on an active farm and occupied by bona fide farmers and  
14 farm employees. This Act is intended to ensure reduced  
15 infrastructure requirements for important agricultural lands  
16 pursuant to section 205-51, Hawaii Revised Statutes, to  
17 facilitate the provision of certain farmer and farm employee  
18 housing to meet agricultural industry needs.

19 The purpose of this Act is to facilitate development of  
20 housing for farmers and farm employees who actively and  
21 currently farm on important agricultural lands by:



- 1 (1) Allowing landowners and lessees of important  
2 agricultural lands to apply to a county to develop,  
3 construct, and maintain farm cluster housing on the  
4 lands for rent to farmers and farm employees who  
5 actively and currently farm on the land, with an  
6 exemption for certain counties;
- 7 (2) Including farm cluster housing under a county priority  
8 permit processing procedure for facilities on lands  
9 designated as important agricultural lands; and
- 10 (3) Repealing a restriction on farm dwellings on important  
11 agricultural lands that is stricter than what is  
12 allowed within agricultural districts.

13 SECTION 2. Chapter 205, Hawaii Revised Statutes, is  
14 amended by adding a new section to part III to be appropriately  
15 designated and to read as follows:

16 **"§205- Important agricultural lands incentive; farm**  
17 **cluster housing.** (a) Notwithstanding section 205-51(b) and any  
18 other law to the contrary, a landowner or lessee of agricultural  
19 lands that are designated as important agricultural lands may  
20 apply to a county to develop, construct, and maintain farm  
21 cluster housing on the lands for rent to farmers and farm



1 employees who actively and currently farm on important  
2 agricultural lands and their immediate family members.

3 (b) Each county shall enact an ordinance to allow farm  
4 cluster housing on important agricultural lands. The ordinance  
5 shall:

6 (1) Allow farm cluster housing that conforms with the  
7 conditions in subsection (c);

8 (2) Exempt farm cluster housing on important agricultural  
9 lands from land subdivision and other county  
10 subdivision ordinances;

11 (3) Establish priority review and processing for farm  
12 cluster housing;

13 (4) Provide for more units per lot than are allowed by  
14 right by the underlying county zoning; and

15 (5) Require submittal to the county of an agricultural  
16 plan or agricultural business plan that supports the  
17 plan for the farm cluster housing and provides  
18 evidence of a real property tax agricultural  
19 dedication granted by the county;

20 provided that at least one public hearing on the proposed  
21 ordinance shall be held before its adoption; provided further



1 that the ordinance shall require the agricultural plan or  
2 agricultural business plan and verification of the real property  
3 tax agricultural dedication to first be reviewed and commented  
4 upon by the appropriate county agency and may require the  
5 agricultural plan or agricultural business plan and verification  
6 of the real property tax agricultural dedication to be submitted  
7 to the department of agriculture for review and comment before  
8 county action on the application.

9 (c) Farm cluster housing shall be subject to the following  
10 conditions:

11 (1) Farm cluster housing shall be allowed only on lots of  
12 record that are greater than or equal to ten acres;

13 (2) The primary occupant of each farm cluster housing unit  
14 shall be a farmer or farm employee who actively and  
15 currently farms the important agricultural lands upon  
16 which the farm cluster housing unit is situated;

17 (3) The total land area upon which farm cluster housing  
18 and all appurtenances are situated shall occupy a  
19 contiguous block or area that is no more than five per  
20 cent of the lot of record or ten acres, whichever is  
21 less;



- 1        (4) Each farm cluster housing unit shall not exceed eight  
2        hundred square feet of total floor area;
- 3        (5) Farm cluster housing units shall meet building code  
4        requirements and infrastructure requirements and  
5        standards reduced to the minimum requirements  
6        necessary to ensure safe and healthful occupancy;
- 7        (6) Short-term vacation rental use of farm cluster housing  
8        units shall be prohibited;
- 9        (7) The landowner or master lessee shall be responsible  
10       for ensuring compliance with the restriction of  
11       occupancy of the farm cluster housing units to farmers  
12       or farm employees who are actively and currently  
13       farming the land and their immediate family members,  
14       and the restriction on use of farm cluster housing  
15       units shall be clearly stated in the rental documents;  
16       and
- 17       (8) If a farm cluster housing unit is vacated as a result  
18       of the cessation of any agricultural operations on the  
19       land, the landowner or master lessee may rent the farm  
20       cluster housing unit under the same restrictions under  
21       this section to farmers or farm employees who are



1           actively and currently farming other agricultural  
2           lands.

3           (d) The appropriate officer or agency charged with the  
4           administration of county zoning laws within each county shall be  
5           authorized to enforce the building and use restrictions in this  
6           section and impose penalties for violations of this section or  
7           the county permit.

8           (e) Farm dwellings and farm employee housing units on  
9           lands designated as important agricultural lands that are not  
10          processed as farm cluster housing pursuant to this section shall  
11          be subject to all applicable state laws, county ordinances, and  
12          rules.

13          (f) Any county that, as of the effective date of this Act,  
14          has a law in effect that authorizes the development,  
15          construction, and maintenance of farm cluster housing or similar  
16          housing and imposes less restrictive requirements than the  
17          requirements of this section on that housing shall be exempt  
18          from this section.

19          (g) As used in this section, "farm cluster housing" means  
20          a housing development that concentrates housing units and shared



1 infrastructure in a compact area within the larger lot and  
2 minimizes the land area occupied by the housing development."

3 SECTION 3. Section 205-46.5, Hawaii Revised Statutes, is  
4 amended by amending its title and subsection (a) to read as  
5 follows:

6 "[+]§205-46.5[+] **Agricultural processing facilities; farm**  
7 **cluster housing; permits; priority.** (a) Any agency subject to  
8 this chapter [~~or title 13~~] that issues permits shall establish  
9 and implement a procedure for the priority processing of permit  
10 applications and renewals, at no additional cost to the  
11 applicant, for [~~agricultural~~] the following:

12 (1) Agricultural processing facilities that process crops  
13 or livestock from an agribusiness; or

14 (2) Farm cluster housing developed pursuant to section  
15 205- ;

16 provided that the majority of the lands held, owned, or used by  
17 the agribusiness or farm cluster housing applicant shall be land  
18 designated as important agricultural lands pursuant to this  
19 part, excluding lands held, owned, or used by the agribusiness  
20 or applicant in a conservation district.





1 Any priority permit processing procedure established  
2 pursuant to this section shall not provide or imply that any  
3 permit application filed under the priority processing procedure  
4 shall be automatically approved."

5 SECTION 4. Section 205-45.5, Hawaii Revised Statutes, is  
6 repealed.

7 ~~["[§205-45.5] Important agricultural land; farm dwellings~~  
8 ~~and employee housing. A landowner whose agricultural lands are~~  
9 ~~designated as important agricultural lands may develop,~~  
10 ~~construct, and maintain farm dwellings and employee housing for~~  
11 ~~farmers, employees, and their immediate family members on these~~  
12 ~~lands; provided that:~~

13 ~~(1) The farm dwellings and employee housing units shall be~~  
14 ~~used exclusively by farmers and their immediate family~~  
15 ~~members who actively and currently farm on important~~  
16 ~~agricultural land upon which the dwelling is situated;~~  
17 ~~provided further that the immediate family members of~~  
18 ~~a farmer may live in separate dwelling units situated~~  
19 ~~on the same designated land;~~

20 ~~(2) Employee housing units shall be used exclusively by~~  
21 ~~employees and their immediate family members who~~



1           ~~actively and currently work on important agricultural~~  
2           ~~land upon which the housing unit is situated; provided~~  
3           ~~further that the immediate family members of the~~  
4           ~~employee shall not live in separate housing units and~~  
5           ~~shall live with the employee;~~

6           ~~(3) The total land area upon which the farm dwellings and~~  
7           ~~employee housing units and all appurtenances are~~  
8           ~~situated shall not occupy more than five per cent of~~  
9           ~~the total important agricultural land area controlled~~  
10           ~~by the farmer or the employee's employer or fifty~~  
11           ~~acres, whichever is less;~~

12           ~~(4) The farm dwellings and employee housing units shall~~  
13           ~~meet all applicable building code requirements;~~

14           ~~(5) Notwithstanding section 205-4.5(a)(12), the landowner~~  
15           ~~shall not plan or develop a residential subdivision on~~  
16           ~~the important agricultural land;~~

17           ~~(6) Consideration may be given to the cluster development~~  
18           ~~of farm dwellings and employee housing units to~~  
19           ~~maximize the land area available for agricultural~~  
20           ~~production; and~~



~~(7) The plans for farm dwellings and employee housing  
units shall be supported by agricultural plans that  
are approved by the department of agriculture."]~~

SECTION 5. This Act does not affect rights and duties that  
matured, penalties that were incurred, and permit proceedings  
that were begun before its effective date under the use and  
district standards for the state agricultural land use district  
and underlying county zoning.

SECTION 6. The revisor of statutes shall insert the  
effective date of this Act in the appropriate location in  
section 2 of this Act.

SECTION 7. Statutory material to be repealed is bracketed  
and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2050.



**Report Title:**

Important Agricultural Lands; Farm Cluster Housing; County  
Approval

**Description:**

Allows landowners and lessees of important agricultural lands to apply to the counties to develop, construct, and maintain farm cluster housing on the lands for rent to farmers and farm employees who actively and currently farm on the land, subject to certain exemptions. Removes restrictions on farm dwellings on important agricultural lands that are stricter than that for farm dwellings within agricultural districts. Effective 7/1/2050. (HD3)

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

