
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) Allowing landowners and lessees of important agricultural lands to apply to a county 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, with an exemption for certain counties;
- (2) Including farm cluster housing under a county priority permit processing procedure for facilities on lands designated as important agricultural lands; and
- (3) Repealing a restriction on farm dwellings on important agricultural lands that is stricter than what is allowed within agricultural districts.

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

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



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

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

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

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

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

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

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

provided that at least one public hearing on the proposed
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) As used in this section, "farm cluster housing" means
14 a housing development that concentrates housing units and shared
15 infrastructure in a compact area within the larger lot and
16 minimizes the land area occupied by the housing development."

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

20 "~~[§] 205-46.5~~ **Agricultural processing facilities; farm**
21 cluster housing; permits; priority. (a) Any agency subject to



1 this chapter [~~or title 13~~] that issues permits shall establish
2 and implement a procedure for the priority processing of permit
3 applications and renewals, at no additional cost to the
4 applicant, for [~~agricultural~~] the following:

5 (1) Agricultural processing facilities that process crops
6 or livestock from an agribusiness; or

7 (2) Farm cluster housing developed pursuant to section
8 205-___;

9 provided that the majority of the lands held, owned, or used by
10 the agribusiness or farm cluster housing applicant shall be land
11 designated as important agricultural lands pursuant to this
12 part, excluding lands held, owned, or used by the agribusiness
13 or applicant in a conservation district.

14 Any priority permit processing procedure established
15 pursuant to this section shall not provide or imply that any
16 permit application filed under the priority processing procedure
17 shall be automatically approved."

18 SECTION 4. Section 205-45.5, Hawaii Revised Statutes, is
19 repealed.

20 ~~["§205-45.5] Important agricultural land; farm dwellings~~
21 ~~and employee housing. A landowner whose agricultural lands are~~



1 ~~designated as important agricultural lands may develop,~~
2 ~~construct, and maintain farm dwellings and employee housing for~~
3 ~~farmers, employees, and their immediate family members on these~~
4 ~~lands, provided that:~~

5 ~~(1) The farm dwellings and employee housing units shall be~~
6 ~~used exclusively by farmers and their immediate family~~
7 ~~members who actively and currently farm on important~~
8 ~~agricultural land upon which the dwelling is situated,~~
9 ~~provided further that the immediate family members of~~
10 ~~a farmer may live in separate dwelling units situated~~
11 ~~on the same designated land,~~

12 ~~(2) Employee housing units shall be used exclusively by~~
13 ~~employees and their immediate family members who~~
14 ~~actively and currently work on important agricultural~~
15 ~~land upon which the housing unit is situated; provided~~
16 ~~further that the immediate family members of the~~
17 ~~employee shall not live in separate housing units and~~
18 ~~shall live with the employee,~~

19 ~~(3) The total land area upon which the farm dwellings and~~
20 ~~employee housing units and all appurtenances are~~
21 ~~situated shall not occupy more than five per cent of~~



1 ~~the total important agricultural land area controlled~~
2 ~~by the farmer or the employee's employer or fifty~~
3 ~~acres, whichever is less;~~

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

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

9 ~~(6) Consideration may be given to the cluster development~~
10 ~~of farm dwellings and employee housing units to~~
11 ~~maximize the land area available for agricultural~~
12 ~~production; and~~

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

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



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

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

6 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. (SD1)

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

