
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 section 3 of article XI 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 occupants of these dwellings
14 are actively engaged in farming. Although intended as an
15 incentive for the designation and agricultural use of important
16 agricultural lands, it is unclear whether this provision,
17 codified as section 205-45.5, Hawaii Revised Statutes, imposes



1 more restrictive standards for farm dwellings and employee
2 housing on important agricultural lands than the existing
3 standards for farm dwellings and employee housing on lands in
4 the agricultural land use district in chapter 205, Hawaii
5 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 there is still a
9 need for a means to develop housing for farmers and farm
10 employees on lands designated as important agricultural lands
11 that both reduces the cost and time required to supply such
12 housing and ensures that the housing is used in conjunction with
13 and located on an active farm and occupied by bona fide farmers
14 and farm employees. This Act is intended to ensure reduced
15 infrastructure standards 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:

20 (1) Establish a new section for applications to the
21 counties that would facilitate development of housing



1 for farmers and farm employees; provided that
2 occupancy is restricted to active farmers and farm
3 employees and their immediate family members, and
4 clustering of the units is required to minimize the
5 land taken out of agricultural production. The
6 benefits and incentives of the county application
7 process would include the following:

8 (A) Relief from county subdivision and certain
9 infrastructure requirements; and

10 (B) Relief from applicable minimum lot sizes and
11 dwelling unit limitations of the underlying
12 county zoning;

13 (2) Amend section 205-46.5, Hawaii Revised Statutes, to
14 include farm dwelling and farm employee housing
15 clusters under a county priority permit processing
16 procedure for facilities on lands designated as
17 important agricultural lands; and

18 (3) Repeal section 205-45.5, Hawaii Revised Statutes, to
19 eliminate what is perceived to be a restriction on
20 farm dwellings on important agricultural lands that is
21 stricter than what is allowed under the definition of



1 farm dwelling in section 205-4.5(a)(4), Hawaii Revised
2 Statutes.

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

6 "§205- Important agricultural lands incentive; farm
7 cluster housing. (a) The purpose of this important
8 agricultural lands incentive is to provide an alternative means
9 to develop housing for farmers and farm employees who actively
10 and currently farm important agricultural lands that reduces
11 costs and time while ensuring that the housing developed does
12 not contribute to the loss of agricultural land to non-
13 agricultural residential uses or residential sprawl.

14 (b) Notwithstanding section 205-51(b) and any other law to
15 the contrary, a landowner or lessee of agricultural lands that
16 are designated as important agricultural lands may apply to a
17 county to develop, construct, and maintain farm cluster housing
18 on the lands for rent to:

19 (1) Farmers and farm employees who actively and currently
20 farm on important agricultural lands; and



1 (2) Immediate family members of the individuals described
2 in paragraph (1).

3 (c) Each county shall enact ordinances to allow farm
4 cluster housing on important agricultural lands. The ordinance
5 shall provide for:

6 (1) Conformance with the conditions in subsection (d);

7 (2) Exemption from subdivision of the land and other
8 county subdivision ordinances;

9 (3) Priority review and processing;

10 (4) More units per lot than allowed by right by the
11 underlying county zoning; and

12 (5) Submittal to the county of an agricultural plan or
13 agricultural business plan that supports the plan for
14 the farm cluster housing and evidence of a real
15 property tax agricultural dedication granted by the
16 county. The agricultural plan and agricultural tax
17 dedication verification shall be submitted to the
18 appropriate county agency for review and comment and
19 may be submitted to the department of agriculture for
20 review and comment, prior to county action on the
21 application.



1 (d) Farm cluster housing shall be subject to the following
2 conditions:

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

5 (2) The primary occupant of each farm cluster housing unit
6 shall be a farmer or farm employee who actively and
7 currently farms the important agricultural lands upon
8 which the farm cluster housing units are situated;

9 (3) The total land area upon which the farm cluster
10 housing units and all appurtenances are situated shall
11 occupy a contiguous block or area no more than five
12 per cent of the lot of record or ten acres, whichever
13 is less;

14 (4) The farm cluster housing units shall meet building
15 code requirements and infrastructure requirements and
16 standards reduced to the minimum necessary to ensure
17 safe and healthful occupancy;

18 (5) Short-term vacation rental use of the farm cluster
19 housing units shall be prohibited;

20 (6) The landowner or master lessee shall be responsible
21 for ensuring compliance with the restriction of



1 occupancy of the farm cluster housing units to farmers
2 or farm employees who are actively and currently
3 farming the land, and their immediate family members.
4 The restriction on use shall be clearly stated in the
5 rental documents; and

6 (7) If farm cluster housing units are vacated as a result
7 of the cessation of any agricultural operations on the
8 land, the landowner or master lessee may rent the farm
9 cluster housing units under the same restrictions
10 imposed by this section to farmers or farm employees
11 who are actively and currently farming other
12 agricultural lands.

13 (e) The appropriate officer or agency charged with the
14 administration of county zoning laws within each county may
15 enforce the building and use restrictions in this section and
16 impose penalties for violations of any provision of this section
17 or the county permit.

18 (f) Farm dwellings and employee housing units on lands
19 designated as important agricultural lands that are not
20 processed as farm cluster housing pursuant to this section shall



1 be subject to all applicable state laws, county ordinances, and
2 rules.

3 (g) For the purposes of this section, "farm cluster
4 housing" means a housing development that concentrates housing
5 units and shared infrastructure in a compact area within the
6 larger lot and minimizes the land area occupied by the housing
7 development."

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

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

17 (1) Agricultural processing facilities that process crops
18 or livestock from an agribusiness; or

19 (2) Farm cluster housing developed pursuant to section
20 205-_____;



1 provided that the majority of the lands held, owned, or used by
2 the agribusiness or farm cluster housing applicant shall be land
3 designated as important agricultural lands pursuant to this
4 part, excluding lands held, owned, or used by the agribusiness
5 or applicant in a conservation district.

6 Any priority permit processing procedure established
7 pursuant to this section shall not provide or imply that any
8 permit application filed under the priority processing procedure
9 shall be automatically approved."

10 SECTION 4. Section 205-45.5, Hawaii Revised Statutes, is
11 repealed.

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

18 (1) ~~The farm dwellings and employee housing units shall be~~
19 ~~used exclusively by farmers and their immediate family~~
20 ~~members who actively and currently farm on important~~
21 ~~agricultural land upon which the dwelling is situated;~~



1 ~~provided further that the immediate family members of~~
2 ~~a farmer may live in separate dwelling units situated~~
3 ~~on the same designated land;~~

4 ~~(2) Employee housing units shall be used exclusively by~~
5 ~~employees and their immediate family members who~~
6 ~~actively and currently work on important agricultural~~
7 ~~land upon which the housing unit is situated; provided~~
8 ~~further that the immediate family members of the~~
9 ~~employee shall not live in separate housing units and~~
10 ~~shall live with the employee;~~

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

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

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



1 ~~(6) Consideration may be given to the cluster development~~
2 ~~of farm dwellings and employee housing units to~~
3 ~~maximize the land area available for agricultural~~
4 ~~production; and~~

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

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

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect on June 30, 3000.

16



Report Title:

Important Agricultural Lands; Farm Cluster Housing

Description:

Repeals the provision for farm dwelling and farm employee housing on Important Agricultural Lands and adopts a new provision for farm cluster housing as an incentive for the designation of lands as Important Agricultural Lands pursuant to chapter 205, Hawaii Revised Statutes. Effective 6/30/3000.
(HD1)

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