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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. The legislature finds that in 2008, the  
2 legislature passed incentives intended to promote agricultural  
3 viability, sustained growth of the agricultural industry, and  
4 the long-term use and protection of lands designated as  
5 important agricultural lands.

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

16           The legislature recognizes that the lack of affordable  
17 housing for farmers and farm employees is an impediment to



1 increasing food and non-food agricultural production in Hawaii.  
2 There is still a need to develop housing for farmers and farm  
3 employees on lands designated as important agricultural lands  
4 that reduces the cost and time required to supply such housing  
5 and ensures that the housing is used in conjunction with, and  
6 located on, an active farm and is occupied by bona fide farmers  
7 or farm employees.

8 The purpose of this Act is to:

- 9 (1) Establish an important agricultural lands incentive to  
10 facilitate the development of farm cluster housing for  
11 farmers, farm employees, and their immediate family  
12 members;
- 13 (2) Include farm cluster housing under a priority permit  
14 processing procedure for facilities on lands  
15 designated as important agricultural lands; and
- 16 (3) Repeal the existing requirements for farm dwellings  
17 and employee housing on important agricultural lands  
18 to eliminate any restrictions that may be stricter  
19 than what is allowed under the existing definition of  
20 a farm dwelling.



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

4 "§205- Important agricultural lands incentive; farm  
5 cluster housing. (a) There is established an important  
6 agricultural lands incentive to provide an alternative means to  
7 develop housing for farmers and farm employees who actively and  
8 currently farm lands that are designated as important  
9 agricultural lands. The incentive shall be used to support  
10 development of farmer and farm employee housing that reduces  
11 costs and time while ensuring that the housing developed does  
12 not contribute to the loss of agricultural land to  
13 non-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 lands that are designated  
16 as important agricultural lands may apply to a county for a  
17 permit, in a form to be determined by the county, that allows  
18 the landowner or lessee to develop, construct, and maintain farm  
19 cluster housing on the lands for rent to farmers and farm  
20 employees who actively and currently farm on important  
21 agricultural lands and their immediate family members.



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

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

5        (2) Exemption from subdivision of the land and other  
6 county subdivision ordinances;

7        (3) Priority review and processing pursuant to section  
8 205-46.5;

9        (4) The development of more units per lot than allowed by  
10 the underlying county zoning; and

11        (5) The submission to the county of the landowner or  
12 lessee's agricultural plan or agricultural business  
13 plan supporting the development of farm cluster  
14 housing and providing evidence of a real property  
15 agricultural tax dedication granted by the county.

16        The agricultural plan and agricultural tax dedication  
17 verification shall be submitted to the appropriate  
18 county agency for review and comment and may be  
19 submitted by the county to the department of  
20 agriculture for review and comment, before any county  
21 action on the 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 at least ten acres;

5        (2) All farm cluster housing units shall be leased or  
6 rented to a farmer or farm employee who is farming the  
7 important agricultural lands upon which the farm  
8 cluster housing is situated. This restriction shall  
9 be stated in any applicable rental documents;

10       (3) The total land area upon which the farm cluster  
11 housing units and all appurtenances are situated shall  
12 occupy an area that is the lesser of:

13       (A) A contiguous block or area no more than five per  
14 cent of the lot of record; or

15       (B) A contiguous block or area not to exceed ten  
16 acres;

17       (4) The farm cluster housing units shall meet all  
18 applicable building code requirements and  
19 infrastructure requirements and standards necessary to  
20 ensure safe and healthful occupancy;



1       (5) The farm cluster housing units shall not be used for  
2       short-term vacation rentals;

3       (6) The landowner or master lessee shall be responsible  
4       for ensuring compliance with the occupancy requirement  
5       set forth in paragraph (2) and the restriction on use  
6       set forth in paragraph (5); and

7       (7) If farm cluster housing units are vacated as a result  
8       of the cessation of any agricultural operations on the  
9       important agricultural lands, the landowner or master  
10       lessee may rent the farm cluster housing units under  
11       the same restrictions imposed by this section to a  
12       farmer or farm employee of a bona fide farming  
13       operation, as defined in section 165-2, on other  
14       agricultural lands, whether or not those lands have  
15       been designated as important agricultural lands.

16       (e) The officer or agency charged with the administration  
17       of county zoning laws within each county shall enforce the  
18       building and use restrictions in this section and impose  
19       penalties for violations of any provision of this section or of  
20       any related county permit.



1        (f) Farm dwellings and employee housing units on lands  
2 designated as important agricultural lands that are not  
3 processed as farm cluster housing pursuant to this section shall  
4 be subject to all applicable state laws, county ordinances, and  
5 rules.

6        (g) As used in this section:

7        "Farm cluster housing" means an agricultural housing  
8 development that concentrates farm dwellings and farm employee  
9 housing units and shared infrastructure in a compact area within  
10 the larger lot and minimizes the land area occupied by the  
11 housing development.

12        "Short-term vacation rental" means "short-term rental  
13 home", "transient vacation rental", "transient vacation unit",  
14 or "transient vacation use", as those terms are defined by  
15 county ordinance."

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

19        **"[+]§205-46.5[+] Agricultural processing facilities; farm**  
20 **cluster housing; permits; priority.** (a) Any agency subject to  
21 this chapter or title 13 that issues permits for:



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

3        (2) Farm cluster housing developed pursuant to section  
4                    205-\_\_\_\_\_ ,

5 shall establish and implement a procedure for the priority  
6 processing of those permit applications and renewals, at no  
7 additional cost to the applicant [~~for agricultural processing~~  
8 ~~facilities that process crops or livestock from an~~  
9 ~~agribusiness~~]; provided that the majority of the lands held,  
10 owned, or used by the agribusiness or farm cluster housing  
11 applicant shall be land designated as important agricultural  
12 lands pursuant to this part, excluding lands held, owned, or  
13 used by the agribusiness or applicant in a conservation  
14 district.

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

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



1           ~~["§205-45.5] Important agricultural land; farm dwellings~~  
2 ~~and employee housing.~~ A landowner whose agricultural lands are  
3 designated as important agricultural lands may develop,  
4 construct, and maintain farm dwellings and employee housing for  
5 farmers, employees, and their immediate family members on these  
6 lands; provided that:

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

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



- 1       ~~(3) The total land area upon which the farm dwellings and~~  
2       ~~employee housing units and all appurtenances are~~  
3       ~~situated shall not occupy more than five per cent of~~  
4       ~~the total important agricultural land area controlled~~  
5       ~~by the farmer or the employee's employer or fifty~~  
6       ~~acres, whichever is less;~~
- 7       ~~(4) The farm dwellings and employee housing units shall~~  
8       ~~meet all applicable building code requirements;~~
- 9       ~~(5) Notwithstanding section 205-4.5(a)(12), the landowner~~  
10       ~~shall not plan or develop a residential subdivision on~~  
11       ~~the important agricultural land;~~
- 12       ~~(6) Consideration may be given to the cluster development~~  
13       ~~of farm dwellings and employee housing units to~~  
14       ~~maximize the land area available for agricultural~~  
15       ~~production; and~~
- 16       ~~(7) The plans for farm dwellings and employee housing~~  
17       ~~units shall be supported by agricultural plans that~~  
18       ~~are approved by the department of agriculture." ]~~

19       SECTION 5. This Act does not affect rights and duties that  
20       matured, penalties that were incurred, and permit proceedings  
21       begun before its effective date under the use and district



1 standards for the state agricultural land use district and  
2 underlying county zoning.

3 SECTION 6. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 3000.



**Report Title:**

Important Agricultural Lands; Important Agricultural Lands  
Incentive; Farm Cluster Housing; County Ordinances

**Description:**

Establishes an important agricultural lands incentive to provide alternative means to develop housing for farmers and farm employees. Authorizes a landowner or lessee of important agricultural lands to apply to a county for a permit allowing the landowner or lessee to develop, construct, and maintain farm cluster housing. Requires each county to enact ordinances to allow farm cluster housing on important agricultural lands. Establishes requirements for farm cluster housing. Repeals existing requirements for farm dwellings and employee housing on important agricultural lands. Effective 7/1/3000. (HD1)

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

