

ACT 281

H.B. NO. 1952

A Bill for an Act Relating to Accessory Uses on Agricultural Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that urban expansion in and adjacent to agricultural districts has created numerous problems for those engaging in active farming and ranching activities. The legislature notes that one of the common complaints by urban residents living near agricultural areas is the unsightliness of agricultural buildings and agricultural equipment. Accordingly, some of the counties (particularly Hawaii county) have responded to this pressure of urban growth by interpreting the present language of Hawaii law narrowly, resulting in the prohibition in the agricultural districts of many uses and activities considered a normal part of farming and ranching. Under Hawaii's present law, if a coffee mill is not located on the same tax map key parcel as the coffee trees, the mill is not a permitted use. Likewise, cattle trucks stored on a lot in the agricultural district are

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not permitted as long as the cattle are not pastured on the same parcel. Consequently, the farmer or rancher would either be prohibited from engaging in those accessory activities which are a normal part of farming or ranching, or be required to apply for a special permit to conduct normal accessory agricultural uses. A special permit allows unusual and reasonable uses within the agricultural district other than those for which the district is classified. This permit also involves a complicated and lengthy application process and was not intended to apply to activities that are a normal part of agriculture. Therefore, the purpose of this Act is to provide that accessory agricultural uses, such as mills, storage and processing facilities, and maintenance facilities, may be conducted within the agricultural districts whether or not the direct agricultural uses are conducted on the same premises.

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

“(d) Agricultural districts shall include activities or uses as characterized by the cultivation of crops, orchards, forage, and forestry; farming activities or uses related to animal husbandry, aquaculture, game, and fish propagation; aquaculture, which means the production of aquatic plant and animal life for food and fiber within ponds and other bodies of water; wind generated energy production for public, private, and commercial use; bona fide agricultural services and uses which support the agricultural activities of the fee or leasehold owner of the property and accessory to any of the above activities, whether or not conducted on the same premises as the agricultural activities to which they are accessory, including but not limited to [living quarters or dwellings,] farm dwellings as defined in section 205-4.5(a)(4), employee housing, farm buildings, mills, storage facilities, processing facilities, vehicle and equipment storage areas, and roadside stands for the sale of products grown on the premises; wind machines and wind farms; agricultural parks; and open area recreational facilities, including golf courses and golf driving ranges, provided that they are not located within agricultural district lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating class A or B.

These districts may include areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.”

SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Within the agricultural district all lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including but not limited to poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activity or uses related to farming and animal husbandry;
Farm dwelling as used in this paragraph means a single-family

- dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling;
- (5) Public institutions and buildings which are necessary for agricultural practices;
 - (6) Public and private open area types of recreational uses including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
 - (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment [building,] buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, or treatment plants, or corporation yards, or other like structures;
 - (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
 - (9) Roadside stands for the sale of agricultural products grown on the premises;
 - (10) Buildings and uses, including but not limited to mills, storage, and processing facilities, maintenance facilities, and vehicle and equipment storage areas that are normally considered [direct] directly accessory to the abovementioned uses[;] and are permitted under section 205-2(d);
 - (11) Agricultural parks; or
 - (12) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that such facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land.”

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

“(b) Within agricultural districts, uses compatible to the activities described in section 205-2 as determined by the [land use] commission shall be permitted[.]; provided that accessory agricultural uses and services described in sections 205-2 and 205-4.5 may be further defined by each county by zoning ordinance. Other uses may be allowed by special permits issued pursuant to this chapter. The minimum lot size in agricultural districts shall be determined by each county [through its] by zoning ordinance, subdivision ordinance, or other lawful means; provided that the minimum lot size for any agricultural use shall not be less than one acre, except as provided herein. If the county finds that unreasonable economic hardship to the owner or lessee of land cannot otherwise be prevented or where land utilization is improved, the county may allow lot sizes of less than the minimum lot size as specified by law for lots created by a consolidation of existing lots within an agricultural district and the resubdivision thereof; provided that the consolidation and resubdivision do not result in an increase in the number of lots over the number existing prior to consolidation; and provided further that in no event shall a lot, which is equal to or exceeds the minimum lot size of one acre be less than that minimum after the consolidation and resubdivision action. The county may also allow lot sizes of less than the minimum lot

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size as specified by law for lots created or used for public, private, and quasi-public utility purposes, and for lots resulting from the subdivision of abandoned roadways and railroad [easement.] easements.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 18, 1991.)