H.B. NO. 3179

A BILL FOR AN ACT

RELATING TO THE DEFINITION OF RENEWABLE ENERGY PRODUCER.

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

SECTION 1. Act 102, Session Laws of Hawaii 2002, relating to leasing of public lands for renewable energy purposes, authorized the board of land and natural resources to lease public lands to renewable energy producers through direct negotiation. The intent of Act 102, Session Laws of Hawaii 2002, was to encourage the development of renewable energy projects and to reduce the State's dependency on fossil fuels.

The inclusion of biofuels in the definition of renewable energy recognized the value of this important renewable energy technology. The current law, however, does not take into consideration that, unlike other renewable energy technologies, biofuel production does not require its fuel production facilities to be located at the same location as the energy source. In fact, due to generally different requirements for industrial and agricultural zoned districts, it is often advantageous to separate biofuel production facilities from the sources of its feedstock. The growing and production of the

organic materials that constitute the feedstock for biofuel production is an inseparable part of that production process.

Accordingly, the legislature finds that, as an integral part of the production of biofuels as a renewable energy source, growers and producers of organic materials used primarily for the production of biofuels or other fuels should be allowed to lease public lands through direct negotiation.

The purpose of this Act is to amend the definition of "renewable energy producer" under section 171-95, Hawaii Revised Statutes, to include growers and producers of organic materials used primarily for the production of biofuels or other fuels, so that they will be eligible for direct leases of public land.

SECTION 2. Section 171-95, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) For the purposes of this section, "renewable energy producer" means any producer of electrical or thermal energy produced by wind, solar energy, hydropower, landfill gas, waste-to-energy, ocean thermal energy conversion, cold seawater, wave energy, biomass, including municipal solid waste, biofuels or fuels derived from organic sources, hydrogen fuels derived primarily from renewable energy, or fuel cells where the fuel is derived primarily from renewable sources that sell all of the

net power produced from the demised premises to an electric utility company regulated under chapter 269 or that sells all of the thermal energy it produces to customers of district cooling systems. Up to twenty-five per cent of the power produced by a renewable energy producer and sold to the utility or to district cooling system customers may be derived from fossil fuels. "Renewable energy producer" also means any grower or producer of organic materials used primarily for the production of biofuels or other fuels. Nothing herein is intended to prevent the waste product or byproduct of the organic material grown or produced for the production of biofuel, other fuels, electrical energy, or thermal energy, from being used for other useful purposes."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

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Report Title:
Renewable Energy Producer

Description:
Amends the definition of "renewable energy producer" to include growers and producers of organic materials used primarily for the production of biofuels or other fuels, so that they will be eligible for direct leases of public land.

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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO THE DEFINITION OF RENEWABLE ENERGY PRODUCER.

PURPOSE: To amend the definition of "renewable energy producer" to include growers and producers of organic materials used primarily for the production of biofuels or other fuels, so that they will be eligible for direct leases of public land.

MEANS: Amend section 171-95, Hawaii Revised Statutes.

JUSTIFICATION: Act 102, Session Laws of Hawaii (SLH) 2002, relating to leasing of public lands for renewable energy purposes, authorized the Board of Land and Natural Resources to lease public lands to renewable energy producers through direct negotiation. The intent of this Act was to encourage the development of renewable energy projects and to reduce the State's dependency on fossil fuels.

The inclusion of biofuels in the definition of renewable energy recognized the value of this important renewable energy technology. The current law, however, does not take into consideration that, unlike other renewable energy technologies, biofuel production does not require its fuel production facilities to be located at the same location as the energy source. In fact, due to generally different requirements for industrial and agricultural zoned districts, it is often advantageous to separate biofuel production facilities from the sources of its feedstock. The growing and production of the organic materials that constitute the feedstock for biofuel production is an inseparable part of that production process.

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As an integral part of the production of biofuels as a renewable energy source, growers and producers of organic materials used primarily for the production of biofuels or other fuels should be allowed to lease public lands through direct negotiation.

This bill would expand the definition of "renewable energy producer" to include growers and producers of organic materials used primarily for the production of biofuels or other fuels. This bill also clarifies that the waste product or by-product from the organic material grown may be used for other useful purposes (e.g., mulch, feed, or feedstock, etc.).

Impact on the public: With the decrease in reliance on fossil fuels, the public will be given reliable alternate sources of fuel and energy.

Impact on the department and other agencies: This bill provides the Department with the means to comply with the State's current energy policy supporting the development of renewable energy.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LNR 101.

OTHER AFFECTED AGENCIES: Department of Business, Economic Development, and Tourism; Department of Agriculture, Agribusiness Development Corporation

EFFECTIVE DATE: Upon approval.