May 28, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 28, 2010, the following bill was signed into law:

HB2450 HD1 SD2 CD1  A BILL FOR AN ACT
RELATING TO RENEWABLE ENERGY FACILITIES.
ACT 151 (10)

Sincerely,

LINDA LINGLE
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY FACILITIES.

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

SECTION 1. Act 173, Session Laws of Hawaii 2009 (Act 173), recognized that to develop and finance renewable energy facilities, a site for the facilities and access to the site must often be leased, granted as an easement, or mortgaged to provide financing for the project. However, renewable energy projects may require site acreage or configurations that do not coincide with existing, already subdivided lot boundaries. For instance, land required for a project may constitute only a portion of a large legal lot, and it may be impractical or undesirable to lease or convey the entire legal lot for a renewable energy project, or to encumber the entire legal lot with a mortgage that provides financing for the project.

Therefore, the purpose of Act 173 was to facilitate the financing and development of renewable energy projects by allowing leases and easements pertaining to renewable energy projects, together with mortgages and other conveyances as security for finance, to be created, enforced, and recorded, without requiring the landowner to obtain formal subdivision

HB2450 CD1 HMS 2010-3332
approval, and instead requiring approval for exemption from
subdivision requirements, from the applicable county or other
approving agency.

However, the application of Act 173 was limited to solar
energy facilities permitted under section 205-2(d)(6), on land
with soil classified by the land study bureau's detailed land
classification as overall (master) productivity rating class D
or E or wind energy facilities and related appurtenances located
within a conservation state land use district. The legislature
now finds that there may be other renewable energy projects that
have been approved or permitted by the appropriate agencies that
are required to go through the subdivision process threatening
the financial viability of these projects.

Therefore, the purpose of this Act is to extend the
applicability of Act 173 to include any renewable energy
facilities approved by the land use commission or county
planning commission under chapter 205, or any renewable energy
facilities permitted or approved by the board of land and
natural resources under chapter 183C. Further, it is the intent
of the legislature that the remaining land (i.e. the portion of
the original legal lot of record less the area used for the
renewable energy facility) receive the same legal lot status as
the renewable energy parcel and be recognized as a legal lot of
record by the counties, thus allowing for those remaining lands
to be put to other use and receive its own mortgage financing
and title insurance.

SECTION 2. Section 201N-14, Hawaii Revised Statutes, is
amended by amending subsection (d) to read as follows:

"(d) The exemption from subdivision requirements
authorized by this section shall only apply to leases and
easements that meet the following requirements and shall be
subject to the following limitations:

1. The lease or easement shall restrict the use of the
leased land or easement area to the development and
operation of a renewable energy project; provided
that, to comply with section 205-4.6, agricultural
uses and activities shall not be restricted on
agricultural land;

2. The lease shall have an initial term of at least
twenty years;

3. With respect to leases and easements on lands within
an agricultural state land use district, the exemption
from subdivision requirements provided by this section
shall be for [solar].

HB2450 CD1 HMS 2010-3332
(A) Solar energy facilities permitted under section 205-2(d)(6), on land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class D or E; and

(B) Any renewable energy facilities approved by the land use commission or county planning commission under chapter 205;

(4) With respect to leases and easements on lands within a conservation state land use district, the exemption from subdivision requirements provided by this section shall be for [wind]:

(A) Wind energy facilities, including the appurtenances associated with the production and transmission of wind-generated energy; and

(B) Any renewable energy facilities permitted or approved by the board of land and natural resources under chapter 183C;

and

(5) The county agency charged with administering subdivisions in the county in which the renewable energy project is to be situated or, if the land is in
a conservation state land use district, the department of land and natural resources, shall approve the exemption from subdivision requirements within ninety days after the project's developer and the owner of the land on which the renewable energy project is to be situated have submitted the conceptual schematics or preliminary plans and specifications for the renewable energy project to the county agency or the department of land and natural resources, and have provided to such county agency or the department of land and natural resources, as applicable, a certification and agreement that all applicable and appropriate environmental reviews and permitting shall be completed prior to commencement of development of the renewable energy project. If, on the ninety-first day, an exemption has not been approved, it shall be deemed disapproved by the county agency or the department of land and natural resources, whichever is applicable."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 4. This Act shall take effect upon its approval, and shall be repealed on the same date as section 2 of Act 173, Session Laws of Hawaii 2009.

APPROVED this 28 day of MAY, 2010

GOVERNOR OF THE STATE OF HAWAII