
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY FACILITIES.

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

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

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



1 approval, and instead requiring approval for exemption from
2 subdivision requirements, from the applicable county or other
3 approving agency.

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

14 Therefore, the purpose of this Act is to extend the
15 applicability of Act 173 to include any renewable energy
16 facilities approved by the land use commission or county
17 planning commission under chapter 205, or any renewable energy
18 facilities permitted or approved by the board of land and
19 natural resources under chapter 183C. Further, it is the intent
20 of the legislature that the remaining land (i.e. the portion of
21 the original legal lot of record less the area used for the
22 renewable energy facility) receive the same legal lot status as



1 the renewable energy parcel and be recognized as a legal lot of
2 record by the counties, thus allowing for those remaining lands
3 to be put to other use and receive its own mortgage financing
4 and title insurance.

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

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

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

17 (2) The lease shall have an initial term of at least
18 twenty years;

19 (3) With respect to leases and easements on lands within
20 an agricultural state land use district, the exemption
21 from subdivision requirements provided by this section
22 shall be for [~~sole~~]:



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

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

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

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

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

19 and

20 (5) The county agency charged with administering
21 subdivisions in the county in which the renewable
22 energy project is to be situated or, if the land is in



1 a conservation state land use district, the department
2 of land and natural resources, shall approve the
3 exemption from subdivision requirements within ninety
4 days after the project's developer and the owner of
5 the land on which the renewable energy project is to
6 be situated have submitted the conceptual schematics
7 or preliminary plans and specifications for the
8 renewable energy project to the county agency or the
9 department of land and natural resources, and have
10 provided to such county agency or the department of
11 land and natural resources, as applicable, a
12 certification and agreement that all applicable and
13 appropriate environmental reviews and permitting shall
14 be completed prior to commencement of development of
15 the renewable energy project. If, on the ninety-first
16 day, an exemption has not been approved, it shall be
17 deemed disapproved by the county agency or the
18 department of land and natural resources, whichever is
19 applicable."

20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval,
2 and shall be repealed on the same date as section 2 of Act 173,
3 Session Laws of Hawaii 2009.



Report Title:

Renewable Energy Facilities; Subdivision Requirement; Exemptions

Description:

Clarifies that the exemption from subdivision requirements for leases and easements for renewable energy facilities applies to renewable energy facilities on agricultural land approved by the Land Use Commission and county planning commissions, and renewable energy facilities on conservation land permitted by the Board of Land and Natural Resources. (HB2450 CD1)

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