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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

**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. The purpose of Act 173 was  
6 to facilitate the financing and development of renewable energy  
7 projects by allowing leases and easements pertaining to  
8 renewable energy projects, together with mortgages and other  
9 conveyances as security for finance, to be created, enforced,  
10 and recorded, without requiring the landowner to obtain formal  
11 subdivision approval, and instead requiring approval for  
12 exemption from subdivision requirements, from the applicable  
13 county or other approving agency.

14           The need to encourage and facilitate renewable energy  
15 facilities in the State persists, but critical sections of Act  
16 173 will be repealed on July 1, 2013, unless the legislature  
17 acts.



1           The purpose of this Act is to extend the repeal date of Act  
2 173 to highlight the State's commitment to encouraging and  
3 facilitating renewable energy projects throughout the State and  
4 to clarify that wind energy projects qualify for the exemptions.

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:



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) Wind energy facilities permitted under section  
7 205-2(d) (4) and (8), including the appurtenances  
8 associated with the production and transmission  
9 of wind generated energy; and

10 [~~(B)~~] (C) Any renewable energy facilities approved by  
11 the land use commission or county planning  
12 commission under chapter 205;

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

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

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



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



1 SECTION 3. Act 173, Session Laws of Hawaii 2009, is  
2 amended by amending section 7 to read as follows:

3 "SECTION 7. This Act shall take effect upon its approval;  
4 provided that sections 2 and 4 of this Act shall be repealed on  
5 July 1, [~~2013-~~] 2020."

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

8 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Renewable Energy; Subdivision Requirements; Exemption

**Description:**

Extends the repeal date of Act 173 (2009), which exempts renewable energy projects from subdivision requirements on State agricultural or conservation lands from July 1, 2013, to July 1, 2020. Clarifies that wind energy projects are included in the exemption. (SD1)

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