
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that Hawaii is facing a
2 crisis in homelessness and the lack of affordable housing.
3 Furthermore, the proportion of food that is imported into the
4 State is undesirably high, and producing more food locally could
5 benefit the State.

6 The increased use of agricultural land for housing is often
7 perceived to conflict with the goal of increasing local food
8 production. This scenario may be true for important and more
9 productive agricultural land with soils classified by the land
10 study bureau's detailed land classification as overall
11 productivity rating class A or B. However, given Hawaii's
12 housing crisis, the increased use of less agriculturally
13 productive class C, D, and E land demands to be reevaluated.

14 While it has been proposed that the reclassification of
15 lands from agricultural to rural might be one solution, this
16 proposal has had only limited success and could potentially open
17 a Pandora's box to other land uses. There is a desire to retain



1 the rural character of larger lots and green vistas, but the
2 increase in development density that is allowable under the
3 rural classification, such as the creation of half-acre lots,
4 may be undesirable.

5 Increasing housing density without decreasing the minimum
6 agricultural lot size may be a solution that will increase the
7 availability of affordable housing while retaining the rural
8 character that Hawaii so highly values.

9 The cost of purchasing land, even marginal agricultural
10 land, is quite high in the State. The per-acre cost of making
11 that land usable for agriculture may often be even higher. For
12 example, land that had been used for pasture may have been
13 invaded and taken over by the highly invasive tree known as
14 Christmas berry, or *Schinus terebinthifolius*. These trees may
15 need to be removed by the expensive use of heavy machinery, with
16 the soil pushed aside, the underlying rock ripped, the ripped
17 rock regraded, and the previously removed soil regraded.

18 The lack of agricultural income and the cost to purchase
19 land and construct a house usually mandate employment of the
20 owner off the farm. However, if attempts are made to engage in
21 even minimal agriculture, the absence from the farm makes the



1 farm susceptible to theft of agricultural produce, equipment, or
2 household goods, or simply vandalism.

3 Allowing more housing on less-important agricultural land
4 has many benefits. First, the construction of on-farm housing
5 will provide construction jobs. The purchase of construction
6 materials and tools and the furnishing of the house will result
7 in greatly increased local business transactions. These
8 transactions will produce higher excise and income tax revenue
9 for the State. Second, income to the farm owner from the
10 housing, if rented, will result in a substantial increase in the
11 farmer's state income tax and provide revenue to the State. The
12 rise in the value of the property due to the additional housing
13 units will result in substantially increased property taxes to
14 the applicable county. If some of these units are rented for
15 short-term agricultural tourism, there would be a significant
16 increase in transient accommodations tax revenue.

17 Benefits to farm owners are also numerous and include the
18 availability of more individuals on the farm, which could
19 increase the availability of part-time farm labor assistance.
20 The security of the farm will also be enhanced by the presence
21 of more individuals on-site. In addition, if the rental unit



1 income is used to improve the agricultural characteristics of
2 the land, its agricultural productivity will be increased.
3 Making arable land available to occupants of each rented housing
4 unit to use for a garden, orchard, or for animal husbandry,
5 could provide on-farm food for those occupants. The increased
6 availability of labor could facilitate the marketing of
7 agricultural produce through an on-farm fruit and vegetable
8 stand, which could also sell value-added products produced as a
9 result of the increased agricultural activity. This more
10 productive use of agricultural land and the potentially
11 available labor could allow for building and operating the
12 recently allowed activity of on-farm restaurants.

13 The number of additional dwelling units could be
14 proportional to the acreage, with the upper limit of five
15 dwelling units authorized on agricultural lots larger than ten
16 acres. If maintaining rural vistas is paramount, then
17 horticultural border plantings such as bamboo can maintain these
18 scenic vistas along roadways while also providing privacy for
19 the farm occupants.

20 The use of water catchments, solar power, battery power
21 walls, wireless internet connections, and environmentally and



1 agriculturally friendly composting waste water systems would
2 make infrastructure requirements minimal. Given the limited on-
3 farm traffic, paved driveway surfaces that could result in
4 possible drainage problems would be discouraged, while grass,
5 gravel, or water-permeable paving would be encouraged.

6 Because there would not be increased land costs, except
7 minimal costs for site preparation, the cost of dwelling units,
8 if simply constructed, could be kept to under \$100 per square
9 foot. Kit-type dwelling units with efficient pre-cut lumber,
10 sheet siding of cement-based panels, and metal roofing to
11 facilitate water catchment, could allow efficient cost control.

12 Many successful examples of a comprehensive approach to
13 farm housing exist. On another island, Ireland, agriculture has
14 been supported and enhanced by the on-farm presence of thousands
15 of bed-and-breakfast accommodations and farm-stay units.
16 Agricultural tourism and agricultural activity have been
17 productively integrated and enhanced.

18 The purpose of this Act is to allow for increased housing
19 capacity on non-prime agricultural lands.

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



- 1 "(d) Agricultural districts shall include:
- 2 (1) Activities or uses as characterized by the cultivation
- 3 of crops, crops for bioenergy, orchards, forage, and
- 4 forestry;
- 5 (2) Farming activities or uses related to animal husbandry
- 6 and game and fish propagation;
- 7 (3) Aquaculture, which means the production of aquatic
- 8 plant and animal life within ponds and other bodies of
- 9 water;
- 10 (4) Wind generated energy production for public, private,
- 11 and commercial use;
- 12 (5) Biofuel production, as described in section
- 13 205-4.5(a)(16), for public, private, and commercial
- 14 use;
- 15 (6) Solar energy facilities; provided that:
- 16 (A) This paragraph shall apply only to land with soil
- 17 classified by the land study bureau's detailed
- 18 land classification as overall (master)
- 19 productivity rating class B, C, D, or E; and
- 20 (B) Solar energy facilities placed within land with
- 21 soil classified as overall productivity rating



1 class B or C shall not occupy more than ten per
2 cent of the acreage of the parcel, or twenty
3 acres of land, whichever is lesser, unless a
4 special use permit is granted pursuant to section
5 205-6;

6 (7) Bona fide agricultural services and uses that support
7 the agricultural activities of the fee or leasehold
8 owner of the property and accessory to any of the
9 above activities, regardless of whether conducted on
10 the same premises as the agricultural activities to
11 which they are accessory, including farm dwellings as
12 defined in section 205-4.5(a)(4), employee housing,
13 farm buildings, mills, storage facilities, processing
14 facilities, photovoltaic, biogas, and other small-
15 scale renewable energy systems producing energy solely
16 for use in the agricultural activities of the fee or
17 leasehold owner of the property, agricultural-energy
18 facilities as defined in section 205-4.5(a)(17),
19 vehicle and equipment storage areas, and plantation
20 community subdivisions as defined in section
21 205-4.5(a)(12);



- 1 (8) Wind machines and wind farms;
- 2 (9) Small-scale meteorological, air quality, noise, and
- 3 other scientific and environmental data collection and
- 4 monitoring facilities occupying less than one-half
- 5 acre of land; provided that these facilities shall not
- 6 be used as or equipped for use as living quarters or
- 7 dwellings;
- 8 (10) Agricultural parks;
- 9 (11) Agricultural tourism conducted on a working farm, or a
- 10 farming operation as defined in section 165-2, for the
- 11 enjoyment, education, or involvement of visitors;
- 12 provided that the agricultural tourism activity is
- 13 accessory and secondary to the principal agricultural
- 14 use and does not interfere with surrounding farm
- 15 operations; and provided further that this paragraph
- 16 shall apply only to a county that has adopted
- 17 ordinances regulating agricultural tourism under
- 18 section 205-5;
- 19 (12) Agricultural tourism activities, including overnight
- 20 accommodations of twenty-one days or less, for any one
- 21 stay within a county; provided that this paragraph



1 shall apply only to a county that includes at least
2 three islands and has adopted ordinances regulating
3 agricultural tourism activities pursuant to section
4 205-5; provided further that the agricultural tourism
5 activities coexist with a bona fide agricultural
6 activity. For the purposes of this paragraph, "bona
7 fide agricultural activity" means a farming operation
8 as defined in section 165-2;

- 9 (13) Open area recreational facilities;
- 10 (14) Geothermal resources exploration and geothermal
11 resources development, as defined under section 182-1;
- 12 (15) Agricultural-based commercial operations, including:
 - 13 (A) A roadside stand that is not an enclosed
14 structure, owned and operated by a producer for
15 the display and sale of agricultural products
16 grown in Hawaii and value-added products that
17 were produced using agricultural products grown
18 in Hawaii;
 - 19 (B) Retail activities in an enclosed structure owned
20 and operated by a producer for the display and
21 sale of agricultural products grown in Hawaii,



1 value-added products that were produced using
 2 agricultural products grown in Hawaii, logo items
 3 related to the producer's agricultural
 4 operations, and other food items; and

5 (C) A retail food establishment owned and operated by
 6 a producer and permitted under title 11, chapter
 7 12 of the rules of the department of health that
 8 prepares and serves food at retail using products
 9 grown in Hawaii and value-added products that
 10 were produced using agricultural products grown
 11 in Hawaii.

12 The owner of an agricultural-based commercial
 13 operation shall certify, upon request of an officer or
 14 agent charged with enforcement of this chapter under
 15 section 205-12, that the agricultural products
 16 displayed or sold by the operation meet the
 17 requirements of this paragraph; [~~and~~]

18 (16) Hydroelectric facilities as described in section
 19 205-4.5(a)(23) [~~-~~]; and

20 (17) Multiple dwelling units on privately owned
 21 agricultural lots with soils classified by the land



1 study bureau's detailed land classification as overall
2 (master) productivity rating class C, D, or E;
3 provided that dwelling units authorized pursuant to
4 this paragraph shall not be required to be accessory
5 or appurtenant to agricultural activities; provided
6 further that the number of dwelling units per lot
7 shall be limited as follows:

8 (A) Not more than two dwelling units on a lot that is
9 equal to or greater than one acre, but less than
10 three acres;

11 (B) Not more than three dwelling units on a lot that
12 is equal to or greater than three acres, but less
13 than five acres;

14 (C) Not more than four dwelling units on a lot that
15 is equal to or greater than five acres, but less
16 than ten acres; and

17 (D) Not more than five dwelling units on a lot that
18 is equal to or greater than ten acres;

19 provided further that this paragraph does not
20 authorize dwelling units on important agricultural
21 lands or land with soils classified by the land study



1 bureau's detailed land classification as overall
2 (master) productivity rating class A or B, in excess
3 of those authorized pursuant to section 205-4.5; and
4 provided further that notwithstanding any other law to
5 the contrary, any county may prohibit such dwelling
6 units or may limit such dwelling units to certain
7 areas of the county.

8 As used in this paragraph, "dwelling unit" means a
9 structure or portion thereof used exclusively for
10 residential occupancy and having all necessary
11 facilities for permanent residency, including
12 facilities for cooking, eating, living, sanitation,
13 and sleeping.

14 Agricultural districts shall not include golf courses and golf
15 driving ranges, except as provided in section 205-4.5(d).

16 Agricultural districts include areas that are not used for, or
17 that are not suited to, agricultural and ancillary activities by
18 reason of topography, soils, and other related characteristics."

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

21 SECTION 4. This Act shall take effect on July 31, 2150.



Report Title:

Agricultural Land; Dwelling Units; Authorized

Description:

Authorizes dwelling units on privately owned agricultural land with soils of overall productivity rating classes C, D, or E, subject to certain conditions. Allows the counties to prohibit such dwelling units or to limit such dwelling units to certain areas of the county. (HB778 HD2)

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