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# A BILL FOR AN ACT

RELATING TO STATEWIDE COMPOSTING.

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

1           SECTION 1. The legislature finds that according to the  
2 United States Environmental Protection Agency and United States  
3 Department of Agriculture, food waste is the second largest  
4 component that enters a waste stream and accounts for  
5 twenty-five per cent of all materials sent to landfills. Nearly  
6 fifty per cent of organic materials disposed of in incinerators  
7 and landfills can be diverted for bioconversion, including  
8 composting. Landfills across Hawaii are rapidly reaching  
9 capacity and facing the burden of closure and re-siting, a  
10 process that will cost each county hundreds of millions of  
11 dollars and create community resentment. Recycling organics,  
12 including food waste, into compost has environmental benefits,  
13 such as improving soil health, increasing drought resistance,  
14 and reducing the need for supplemental water, fertilizers, and  
15 pesticides, while also increasing crop yields. Furthermore,  
16 applying compost and organic matter to soil sequesters carbon  
17 from the atmosphere, forming the largest land-based carbon sink,



1 and mitigates climate change by effectively reducing greenhouse  
2 gas emissions. The legislature believes that food waste  
3 diversion and the creation of multi-scale composting operations  
4 across the State will greatly reduce the burdens on landfills,  
5 lower county waste management costs, and move the State closer  
6 to achieving its sustainability and resiliency goals, which  
7 include:

- 8 (1) The Aloha+ Challenge, which is a statewide commitment  
9 to realize the United Nations' Sustainable Development  
10 Goals that sets a goal of seventy per cent waste  
11 reduction before disposal and doubling of local food  
12 production by 2030;
- 13 (2) The Hawaii 2050 sustainability plan, which also sets a  
14 mandate for the State to achieve full sustainability  
15 and resilience through increased food production and  
16 dramatic waste reduction via recycling and  
17 bioconversion strategies; and
- 18 (3) Increasing the generation of local compost to  
19 sequester more carbon and mitigate climate change  
20 pursuant to the strategy identified by the greenhouse



1 gas sequestration task force permanently established  
2 by Act 15, Session Laws of Hawaii 2018.

3 The legislature also finds that the regulation of co-  
4 composting in the State is under the purview of the department  
5 of health solid and hazardous waste branch. Existing  
6 regulations have not been updated in over twenty years, and  
7 currently a single application applies to all co-composting  
8 operations regardless of size or scope. The current permitting  
9 process is an onerous and unreasonable barrier to lawful  
10 participation for small to midsize composting operations whose  
11 operations present a much lower risk potential. Reform and  
12 updating of the co-composting regulations and permitting process  
13 will greatly increase the number of operators diverting organics  
14 from landfills and incinerators, thereby aiding the State and  
15 counties in reaching their sustainability, resilience, and  
16 fiscal goals.

17 Accordingly, the purpose of this Act is to encourage the  
18 production of compost by:

- 19 (1) Requiring the department of health to update its solid  
20 waste rules by January 1, 2022, and every five years  
21 thereafter;



1 (2) Requiring the department of health to establish a  
2 multi-tiered registration and permitting system for  
3 composting facilities; and

4 (3) Allowing solid waste composting in agricultural  
5 districts.

6 SECTION 2. Chapter 342G, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 "§342G- Solid waste; rules. By January 1, 2022, and  
10 every five years thereafter, the department shall update its  
11 rules regarding solid waste. The department shall adopt rules  
12 under chapter 91 as necessary to establish class I, II, III, and  
13 IV solid waste composting facilities; provided that the  
14 department shall establish a tiered registration and permitting  
15 system for all classes of solid waste composting facilities;  
16 provided further that the permit standards for class II solid  
17 waste composting facilities shall be less stringent than the  
18 permit standards for class I solid waste composting facilities."

19 SECTION 3. Section 205-2, Hawaii Revised Statutes, is  
20 amended by amending subsection (d) to read as follows:

21 "(d) Agricultural districts shall include:



- 1 (1) Activities or uses as characterized by the cultivation  
2 of crops, crops for bioenergy, orchards, forage, and  
3 forestry;
- 4 (2) Farming activities or uses related to animal husbandry  
5 and game and fish propagation;
- 6 (3) Aquaculture, which means the production of aquatic  
7 plant and animal life within ponds and other bodies of  
8 water;
- 9 (4) Wind-generated energy production for public, private,  
10 and commercial use;
- 11 (5) Biofuel production, as described in section  
12 205-4.5(a)(16), for public, private, and commercial  
13 use;
- 14 (6) Solar energy facilities; provided that:
- 15 (A) This paragraph shall apply only to land with soil  
16 classified by the land study bureau's detailed  
17 land classification as overall (master)  
18 productivity rating class B, C, D, or E; and
- 19 (B) Solar energy facilities placed within land with  
20 soil classified as overall productivity rating  
21 class B or C shall not occupy more than ten per



1 cent of the acreage of the parcel, or twenty  
2 acres of land, whichever is lesser, unless a  
3 special use permit is granted pursuant to section  
4 205-6;

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

21 (8) Wind machines and wind farms;



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



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

8 (13) Open area recreational facilities;

9 (14) Geothermal resources exploration and geothermal  
10 resources development, as defined under section 182-1;

11 (15) Agricultural-based commercial operations registered in  
12 Hawaii, 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;

5 (C) A retail food establishment owned and operated by  
6 a producer and permitted under chapter 11-50,  
7 Hawaii administrative rules, that prepares and  
8 serves food at retail using products grown in  
9 Hawaii and value-added products that were  
10 produced using agricultural products grown in  
11 Hawaii;

12 (D) A farmers' market, which is an outdoor market  
13 limited to producers selling agricultural  
14 products grown in Hawaii and value-added products  
15 that were produced using agricultural products  
16 grown in Hawaii; and

17 (E) A food hub, which is a facility that may contain  
18 a commercial kitchen and provides for the  
19 storage, processing, distribution, and sale of  
20 agricultural products grown in Hawaii and



1 value-added products that were produced using  
2 agricultural products grown in Hawaii.

3 The owner of an agricultural-based commercial  
4 operation shall certify, upon request of an officer or  
5 agent charged with enforcement of this chapter under  
6 section 205-12, that the agricultural products  
7 displayed or sold by the operation meet the  
8 requirements of this paragraph; ~~and~~

9 (16) Hydroelectric facilities as described in section  
10 205-4.5(a)(23) ~~[-]~~; and

11 (17) Solid waste composting operations.

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

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

17 SECTION 4. Section 205-4.5, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§205-4.5 Permissible uses within the agricultural  
20 districts. (a) Within the agricultural district, all lands  
21 with soil classified by the land study bureau's detailed land



1 classification as overall (master) productivity rating class A  
2 or B and for solar energy facilities, class B or C, shall be  
3 restricted to the following permitted uses:

4 (1) Cultivation of crops, including crops for bioenergy,  
5 flowers, vegetables, foliage, fruits, forage, and  
6 timber;

7 (2) Game and fish propagation;

8 (3) Raising of livestock, including poultry, bees, fish,  
9 or other animal or aquatic life that are propagated  
10 for economic or personal use;

11 (4) Farm dwellings, employee housing, farm buildings, or  
12 activities or uses related to farming and animal  
13 husbandry. "Farm dwelling", as used in this  
14 paragraph, means a single-family dwelling located on  
15 and used in connection with a farm, including clusters  
16 of single-family farm dwellings permitted within  
17 agricultural parks developed by the State, or where  
18 agricultural activity provides income to the family  
19 occupying the dwelling;

20 (5) Public institutions and buildings that are necessary  
21 for agricultural practices;



- 1           (6) Public and private open area types of recreational  
2           uses, including day camps, picnic grounds, parks, and  
3           riding stables, but not including dragstrips,  
4           airports, drive-in theaters, golf courses, golf  
5           driving ranges, country clubs, and overnight camps;
- 6           (7) Public, private, and quasi-public utility lines and  
7           roadways, transformer stations, communications  
8           equipment buildings, solid waste transfer stations,  
9           major water storage tanks, and appurtenant small  
10          buildings such as booster pumping stations, but not  
11          including offices or yards for equipment, material;  
12          vehicle storage, repair or maintenance, treatment  
13          plants, corporation yards, or other similar  
14          structures;
- 15          (8) Retention, restoration, rehabilitation, or improvement  
16          of buildings or sites of historic or scenic interest;
- 17          (9) Agricultural-based commercial operations as described  
18          in section 205-2(d)(15);
- 19          (10) Buildings and uses, including mills, storage, and  
20          processing facilities, maintenance facilities,  
21          photovoltaic, biogas, and other small-scale renewable



1 energy systems producing energy solely for use in the  
2 agricultural activities of the fee or leasehold owner  
3 of the property, and vehicle and equipment storage  
4 areas that are normally considered directly accessory  
5 to the above-mentioned uses and are permitted under  
6 section 205-2(d);

7 (11) Agricultural parks;

8 (12) Plantation community subdivisions, which as used in  
9 this chapter means an established subdivision or  
10 cluster of employee housing, community buildings, and  
11 agricultural support buildings on land currently or  
12 formerly owned, leased, or operated by a sugar or  
13 pineapple plantation; provided that the existing  
14 structures may be used or rehabilitated for use, and  
15 new employee housing and agricultural support  
16 buildings may be allowed on land within the  
17 subdivision as follows:

18 (A) The employee housing is occupied by employees or  
19 former employees of the plantation who have a  
20 property interest in the land;



- 1 (B) The employee housing units not owned by their  
2 occupants shall be rented or leased at affordable  
3 rates for agricultural workers; or
- 4 (C) The agricultural support buildings shall be  
5 rented or leased to agricultural business  
6 operators or agricultural support services;
- 7 (13) Agricultural tourism conducted on a working farm, or a  
8 farming operation as defined in section 165-2, for the  
9 enjoyment, education, or involvement of visitors;  
10 provided that the agricultural tourism activity is  
11 accessory and secondary to the principal agricultural  
12 use and does not interfere with surrounding farm  
13 operations; ~~and~~ provided further that this paragraph  
14 shall apply only to a county that has adopted  
15 ordinances regulating agricultural tourism under  
16 section 205-5;
- 17 (14) Agricultural tourism activities, including overnight  
18 accommodations of twenty-one days or less, for any one  
19 stay within a county; provided that this paragraph  
20 shall apply only to a county that includes at least  
21 three islands and has adopted ordinances regulating



1 agricultural tourism activities pursuant to section  
2 205-5; provided further that the agricultural tourism  
3 activities coexist with a bona fide agricultural  
4 activity. For the purposes of this paragraph, "bona  
5 fide agricultural activity" means a farming operation  
6 as defined in section 165-2;

7 (15) Wind energy facilities, including the appurtenances  
8 associated with the production and transmission of  
9 wind generated energy; provided that the wind energy  
10 facilities and appurtenances are compatible with  
11 agriculture uses and cause minimal adverse impact on  
12 agricultural land;

13 (16) Biofuel processing facilities, including the  
14 appurtenances associated with the production and  
15 refining of biofuels that is normally considered  
16 directly accessory and secondary to the growing of the  
17 energy feedstock; provided that biofuel processing  
18 facilities and appurtenances do not adversely impact  
19 agricultural land and other agricultural uses in the  
20 vicinity.

21 For the purposes of this paragraph:



1 "Appurtenances" means operational infrastructure  
2 of the appropriate type and scale for economic  
3 commercial storage and distribution, and other similar  
4 handling of feedstock, fuels, and other products of  
5 biofuel processing facilities.

6 "Biofuel processing facility" means a facility  
7 that produces liquid or gaseous fuels from organic  
8 sources such as biomass crops, agricultural residues,  
9 and oil crops, including palm, canola, soybean, and  
10 waste cooking oils; grease; food wastes; and animal  
11 residues and wastes that can be used to generate  
12 energy;

13 (17) Agricultural-energy facilities, including  
14 appurtenances necessary for an agricultural-energy  
15 enterprise; provided that the primary activity of the  
16 agricultural-energy enterprise is agricultural  
17 activity. To be considered the primary activity of an  
18 agricultural-energy enterprise, the total acreage  
19 devoted to agricultural activity shall be not less  
20 than ninety per cent of the total acreage of the  
21 agricultural-energy enterprise. The agricultural-





1 energy facility shall be limited to lands owned,  
2 leased, licensed, or operated by the entity conducting  
3 the agricultural activity.

4 As used in this paragraph:

5 "Agricultural activity" means any activity  
6 described in paragraphs (1) to (3) of this subsection.

7 "Agricultural-energy enterprise" means an  
8 enterprise that integrally incorporates an  
9 agricultural activity with an agricultural-energy  
10 facility.

11 "Agricultural-energy facility" means a facility  
12 that generates, stores, or distributes renewable  
13 energy as defined in section 269-91 or renewable fuel  
14 including electrical or thermal energy or liquid or  
15 gaseous fuels from products of agricultural activities  
16 from agricultural lands located in the State.

17 "Appurtenances" means operational infrastructure  
18 of the appropriate type and scale for the economic  
19 commercial generation, storage, distribution, and  
20 other similar handling of energy, including equipment,



1 feedstock, fuels, and other products of agricultural-  
2 energy facilities;

3 (18) Construction and operation of wireless communication  
4 antennas, including small wireless facilities;  
5 provided that, for the purposes of this paragraph,  
6 "wireless communication antenna" means communications  
7 equipment that is either freestanding or placed upon  
8 or attached to an already existing structure and that  
9 transmits and receives electromagnetic radio signals  
10 used in the provision of all types of wireless  
11 communications services; provided further that "small  
12 wireless facilities" shall have the same meaning as in  
13 section 206N-2; provided further that nothing in this  
14 paragraph shall be construed to permit the  
15 construction of any new structure that is not deemed a  
16 permitted use under this subsection;

17 (19) Agricultural education programs conducted on a farming  
18 operation as defined in section 165-2, for the  
19 education and participation of the general public;  
20 provided that the agricultural education programs are  
21 accessory and secondary to the principal agricultural



1 use of the parcels or lots on which the agricultural  
2 education programs are to occur and do not interfere  
3 with surrounding farm operations. For the purposes of  
4 this paragraph, "agricultural education programs"  
5 means activities or events designed to promote  
6 knowledge and understanding of agricultural activities  
7 and practices conducted on a farming operation as  
8 defined in section 165-2;

9 (20) Solar energy facilities that do not occupy more than  
10 ten per cent of the acreage of the parcel, or twenty  
11 acres of land, whichever is lesser or for which a  
12 special use permit is granted pursuant to section 205-  
13 6; provided that this use shall not be permitted on  
14 lands with soil classified by the land study bureau's  
15 detailed land classification as overall (master)  
16 productivity rating class A;

17 (21) Solar energy facilities on lands with soil classified  
18 by the land study bureau's detailed land  
19 classification as overall (master) productivity rating  
20 B or C for which a special use permit is granted  
21 pursuant to section 205-6; provided that:



- 1           (A) The area occupied by the solar energy facilities  
2           is also made available for compatible  
3           agricultural activities at a lease rate that is  
4           at least fifty per cent below the fair market  
5           rent for comparable properties;
- 6           (B) Proof of financial security to decommission the  
7           facility is provided to the satisfaction of the  
8           appropriate county planning commission prior to  
9           date of commencement of commercial generation;  
10          and
- 11          (C) Solar energy facilities shall be decommissioned  
12          at the owner's expense according to the following  
13          requirements:
- 14           (i) Removal of all equipment related to the  
15           solar energy facility within twelve months  
16           of the conclusion of operation or useful  
17           life; and
- 18           (ii) Restoration of the disturbed earth to  
19           substantially the same physical condition as  
20           existed prior to the development of the  
21           solar energy facility.



1 For the purposes of this paragraph, "agricultural  
2 activities" means the activities described in  
3 paragraphs (1) to (3);

4 (22) Geothermal resources exploration and geothermal  
5 resources development, as defined under section 182-1;  
6 or

7 (23) Hydroelectric facilities, including the appurtenances  
8 associated with the production and transmission of  
9 hydroelectric energy, subject to section 205-2;  
10 provided that the hydroelectric facilities and their  
11 appurtenances:

12 (A) Shall consist of a small hydropower facility as  
13 defined by the United States Department of  
14 Energy, including:

15 (i) Impoundment facilities using a dam to store  
16 water in a reservoir;

17 (ii) A diversion or run-of-river facility that  
18 channels a portion of a river through a  
19 canal or channel; and

20 (iii) Pumped storage facilities that store energy  
21 by pumping water uphill to a reservoir at



1 higher elevation from a reservoir at a lower  
2 elevation to be released to turn a turbine  
3 to generate electricity;

4 (B) Comply with the state water code, chapter 174C;

5 (C) Shall, if over five hundred kilowatts in  
6 hydroelectric generating capacity, have the  
7 approval of the commission on water resource  
8 management, including a new instream flow  
9 standard established for any new hydroelectric  
10 facility; and

11 (D) Do not impact or impede the use of agricultural  
12 land or the availability of surface or ground  
13 water for all uses on all parcels that are served  
14 by the ground water sources or streams for which  
15 hydroelectric facilities are considered.

16 (b) Uses not expressly permitted in subsection (a) shall  
17 be prohibited, except the uses permitted as provided in sections  
18 205-6 and 205-8, and construction of single-family dwellings on  
19 lots existing before June 4, 1976. Any other law to the  
20 contrary notwithstanding, no subdivision of land within the  
21 agricultural district with soil classified by the land study



1 bureau's detailed land classification as overall (master)  
2 productivity rating class A or B shall be approved by a county  
3 unless those A and B lands within the subdivision are made  
4 subject to the restriction on uses as prescribed in this section  
5 and to the condition that the uses shall be primarily in pursuit  
6 of an agricultural activity.

7 Any deed, lease, agreement of sale, mortgage, or other  
8 instrument of conveyance covering any land within the  
9 agricultural subdivision shall expressly contain the restriction  
10 on uses and the condition, as prescribed in this section that  
11 these restrictions and conditions shall be encumbrances running  
12 with the land until such time that the land is reclassified to a  
13 land use district other than agricultural district.

14 If the foregoing requirement of encumbrances running with  
15 the land jeopardizes the owner or lessee in obtaining mortgage  
16 financing from any of the mortgage lending agencies set forth in  
17 the following paragraph, and the requirement is the sole reason  
18 for failure to obtain mortgage financing, then the requirement  
19 of encumbrances shall, insofar as such mortgage financing is  
20 jeopardized, be conditionally waived by the appropriate county  
21 enforcement officer; provided that the conditional waiver shall



1 become effective only in the event that the property is  
2 subjected to foreclosure proceedings by the mortgage lender.

3       The mortgage lending agencies referred to in the preceding  
4 paragraph are the Federal Housing Administration, Federal  
5 National Mortgage Association, Department of Veterans Affairs,  
6 Small Business Administration, United States Department of  
7 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate  
8 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any  
9 other federal, state, or private mortgage lending agency  
10 qualified to do business in Hawaii, and their respective  
11 successors and assigns.

12       (c) Within the agricultural district, all lands with soil  
13 classified by the land study bureau's detailed land  
14 classification as overall (master) productivity rating class C,  
15 D, E, or U shall be restricted to the uses permitted for  
16 agricultural districts as set forth in section 205-5(b).

17       (d) Notwithstanding any other provision of this chapter to  
18 the contrary, golf courses and golf driving ranges approved by a  
19 county before July 1, 2005, for development within the  
20 agricultural district shall be permitted uses within the  
21 agricultural district.





1 (e) Notwithstanding any other provision of this chapter to  
2 the contrary, plantation community subdivisions as defined in  
3 this section shall be permitted uses within the agricultural  
4 district, and section 205-8 shall not apply.

5 [†] (f) [†] Notwithstanding any other law to the contrary,  
6 agricultural lands may be subdivided and leased for the  
7 agricultural uses or activities permitted in subsection (a);  
8 provided that:

9 (1) The principal use of the leased land is agriculture;

10 (2) No permanent or temporary dwellings or farm dwellings,  
11 including trailers and campers, are constructed on the  
12 leased area. This restriction shall not prohibit the  
13 construction of storage sheds, equipment sheds, or  
14 other structures appropriate to the agricultural  
15 activity carried on within the lot; and

16 (3) The lease term for a subdivided lot shall be for at  
17 least as long as the greater of:

18 (A) The minimum real property tax agricultural  
19 dedication period of the county in which the  
20 subdivided lot is located; or

21 (B) Five years.



1 Lots created and leased pursuant to this section shall be legal  
2 lots of record for mortgage lending purposes and shall be exempt  
3 from county subdivision standards.

4 (g) Notwithstanding any other law to the contrary, solid  
5 waste composting operations shall be permitted uses within the  
6 agricultural district."

7 SECTION 5. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$ or so  
9 much thereof as may be necessary for fiscal year 2020-2021 for  
10 one full-time equivalent (1.0 FTE) program specialist position  
11 in the solid and hazardous waste branch of the department of  
12 health.

13 The sum appropriated shall be expended by the department of  
14 health for the purposes of this Act.

15 SECTION 6. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.



**Report Title:**

Composting; Solid Waste; Department of Health; Rules;  
Agricultural Districts; Appropriation

**Description:**

Requires DOH to periodically update its solid waste rules.  
Requires DOH to establish a multi-tiered registration and  
permitting system for composting facilities. Allows solid waste  
composting in agricultural districts. Establishes and  
appropriates funds for a program specialist position. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

