

STAND. COM. REP. NO. 630-06

Honolulu, Hawaii
Feb 17, 2006

RE: H.B. No. 1368
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Economic Development & Business Concerns,
to which was referred H.B. No. 1368 entitled:

"A BILL FOR AN ACT RELATING TO LAND USE,"

begs leave to report as follows:

The purpose of this bill is to end controversy over the legality of thousands of homes and lots located on agricultural lands by authorizing each county to establish an advisory group to assist the county planning department to identify land use policies and development standards and to identify lands suitable for reclassification into the rural districts.

Prior to the public hearing, your Committee circulated a proposed draft that replaced the contents of this bill with the language of H.B. No. 2525 (Proposed HD1) and received testimony on the Proposed HD1. Specifically, the Proposed HD1 permitted certain dwellings on agricultural lands provided that:

- (1) The dwellings exist on the effective date of this Act;
- (2) The developer has obtained final subdivision approval for at least a portion of the project, has commenced construction of project infrastructure, and sold individual lots prior to the effective date of this Act;
and

HB1368 HD1 HSCR EDB HMS 2006-2172



- (3) Not more than 10 percent of the project area consists of soils classified by the Land Study Bureau's Detailed Land Classification As Overall Master Productivity Rating Class (Soil Rating Class) A or B.

The Hawaii County Mayor, Planning Department of the Hawaii County, Discovery Maps and Guides, West Hawaii Today, Hawaii Government Employees Association AFSCME Local 152, AFL-CIO, Kona Coalition for Concerned Citizens, and numerous concerned citizens testified in support of the Proposed HD1. The Office of Planning supported the Proposed HD1 with an amendment. Hawaii Leeward Planning Conference supported the intent of the Proposed HD1. The Office of Hawaiian Affairs, Outdoor Circle, Life of the Land, Sierra Club Hawaii Chapter, Hawaii's Thousand Friends, Rocky Mountain Institute, Kahea: The Hawaiian-Environmental Alliance, and numerous concerned individuals opposed the Proposed HD1. The Department of Planning and Permitting of the City and County of Honolulu and several concerned individuals offered comments.

In 1976, the Legislature amended the state land use law by limiting dwellings on Soil Rating Class A and B to "farm dwellings" and provided specific requirements that constituted farm dwellings. The Land Use Commission applied the farm dwelling requirement for all other soil classifications outside of Soil Rating Class A and B but did not provide specific minimum standards for the level of agriculture required for farm dwellings. Permit approvals for farm dwellings and accessory agricultural uses were left to the individual counties to decide, the only requirement being that lot sizes had to be a minimum of one acre. The ambiguity and resulting gray areas of this law for farm dwellings located on Soil Rating Class C, D, E, and U allowed the development of numerous one acre, single-dwelling homes on agricultural lands that had little or no connection to agriculture.

Your Committee notes the ambiguity of existing land use laws and intends to proceed in a manner that takes the best interest of the state in mind. Allowing existing developments on agricultural lands to proceed will prevent future liability upon the state and individual counties who provided numerous permits for developments. In deciding the best course of action, your Committee took into consideration the Legislature's lack of specifications for "farm dwellings" and "accessory agricultural uses" on Soil Rating Class C, D, E, and U and attempted to avoid setting a legal precedence that would lead to further liability.



Your Committee finds that passage of this bill will end controversy regarding the ambiguity of state land use laws and looks forward to finding permanent solutions to development on agricultural lands. The Constitutional Convention of 1978 charged the Legislature with identifying important agricultural lands and it is our responsibility to continue this duty in the most practicable means possible.

After much consideration and discussion, your Committee has amended this bill by:

- (1) Substituting its contents with the Proposed HD1; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1368, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1368, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Development & Business
Concerns,



JON RIKI KARAMATSU, Chair



