

STAND. COM. REP. NO. 1878-08

Honolulu, Hawaii

A-011, 2008

RE: H.C.R. No. 348  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committee on Water, Land, Ocean Resources & Hawaiian Affairs, to which was referred H.C.R. No. 348 entitled:

"HOUSE CONCURRENT RESOLUTION SUBMITTING TO THE LEGISLATURE ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES APPROVING IN PRINCIPLE A LAND EXCHANGE PURSUANT TO SECTION 171-50, HAWAII REVISED STATUTES,"

begs leave to report as follows:

The purpose of this Concurrent Resolution is to submit to the Legislature action taken by the Board of Land and Natural Resources approving in principle a land exchange pursuant to section 171-50, Hawaii Revised Statutes.

Your Committee heard a proposed H.D. 1 to amend the measure replacing it's title and contents to instead request the Land Use Commission and the county councils and the planning commissions of Maui and Kauai counties to recognize that vacation rental uses in single-family dwellings and farm dwellings in state agricultural districts are not prohibited under chapter 205, Hawaii Revised Statutes.

Your Committee received testimony in support of the proposed H.D. 1 from the Maui Vacation Rental Association; the Kauai Alternate Vacation Association; Steelgrass Farm; Case Lombardi and Pettit, A Law Corporation; Belles Graham Proudfoot Wilson & Chun, LLP Attorneys at Law; and four individuals.

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The Department of Agriculture, the Maui County Council, the Vice Chairperson of the Kauai County Council, a Kauai County Councilmember, the Maui County Farm Bureau, the Hawaii Farm Bureau Federation, Hawaii's Thousand Friends, and three individuals opposed this measure.

One individual submitted comments on the measure.

Your Committee finds that alternative visitor accommodations, including those in single-family dwellings and farm dwelling units, play a dual role in supporting both the tourism and agricultural industries. Some counties, however, have taken the position that chapter 205, Hawaii Revised Statutes, per se prohibits single-family and farm dwelling transient vacation rental uses within state agricultural districts without a special use permit.

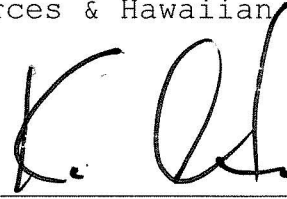
This interpretation of chapter 205, Hawaii Revised Statutes, appears to be contrary to the legislative intent of Act 199, Session Laws of Hawaii 1976 with respect to prohibited uses in state agricultural districts and Act 186, Session laws of Hawaii 1980, which authorized the counties to restrict the location of transient vacation rentals to those existing in multifamily buildings.

After due consideration, and to clarify and assist the Legislature with crafting a solution to this measure, your Committee has amended the proposed H.D. 1 to request the Attorney General to review this issue and to submit a legal opinion to the Legislature as to whether vacation rental uses in single-family dwellings and farm dwellings in state agriculture districts are prohibited under chapter 205, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Water, Land, Ocean Resources & Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 348, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 348, H.D. 1.



Respectfully submitted on  
behalf of the members of the  
Committee on Water, Land, Ocean  
Resources & Hawaiian Affairs,



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KEN ITO, Chair



