

STAND. COM. REP. NO. 1680

Honolulu, Hawaii

AJAZ, 2007

RE: S.B. No. 1236
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Sir:

Your Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture, to which was referred S.B. No. 1236, S.D. 1, entitled:

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

beg leave to report as follows:

The purpose of this bill is to protect and preserve Hawaii's agriculture industry by requiring the Land Use Commission (LUC) to include the Hawaii Right to Farm Act under Chapter 165, Hawaii Revised Statutes (HRS), as a condition to any reclassification of land contiguous to an agricultural district to an urban or rural district designation.

The Hawaii Agriculture Research Center and Hawaii Crop Improvement Association testified in support of this bill. The Hawaii Farm Bureau Federation and Hawaii's Thousand Friends supported the intent of this measure. The Department of Agriculture supported this bill with amendments. The Office of Planning, Department of Planning and Permitting of the City and County of Honolulu, and several concerned individuals provided comments.

While preventing adjacent urbanization from infringing on farming operations may be one way to protect agricultural lands, your Committees find that the comprehensive strategy set forth in H.B. No. 257, H.D. 1 will be more effective in complying with the

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mandate of Article XI, Section 3, of the state constitution that requires the State to "conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands."

Accordingly, your Committees have amended this bill by deleting its contents and inserting in its place the substance of H.B. No. 257, H.D. 1. that:

- (1) Requires counties to:
 - (a) When approving the subdivision of lands in the agricultural land use district, restrict its use to agribusiness or subsistence farming and requiring those restrictions to be recorded in the Bureau of Conveyances or Land Court; and
 - (b) Prior to issuing a building permit for a farm dwelling, require the applicant to submit a farm plan and have substantially established agricultural activity on the lot;
 - (c) When approving a petition for a land use district boundary amendment, find that the boundary amendment is:
 - (i) Reasonable;
 - (ii) Not violative of the standards for land use districts;
 - (iii) Consistent with policies and criteria established by the Hawaii State Plan and the LUC; and
 - (iv) Consistent with county requirements;
- (2) Clarifies that single-family dwellings in agricultural subdivisions without significant agribusiness, agricultural activity, or subsistence farming, and guest cottages are prohibited in agricultural districts;
- (3) Discontinues the use of Land Study Bureau soil classifications to determine uses in agricultural districts;



- (4) Repeals the county's authorization to further define accessory agricultural uses and services by zoning ordinance as they relate to the agricultural land use district standards and permissible uses within the agricultural district;
- (5) Qualifies the authorization of the counties to issue special permits in agricultural and rural districts for certain "unusual and reasonable uses" by providing that the permitted use cannot be violative of land use district standards or permissible uses in the applicable district;
- (6) Clarifies that agricultural district lands may be subdivided and leased for permitted uses; provided that the principal use is for agricultural activities or agribusiness;
- (7) Provides that county special permits for rural district lands greater than 15 acres and agricultural district lands are subject to the approval of the LUC;
- (8) Extends the prohibition on the use of agricultural district lands for golf courses and golf driving ranges to golf-related facilities, private membership facilities, or other resort facilities, including hotels and resort-related commercial uses, time shares, and commercial vacation homes;
- (9) Clarifies that certain permitted uses in the agricultural districts, including farm dwellings, shall be in pursuit of an agricultural activity, agribusiness, or subsistence farming;
- (10) Clarifies that the prohibition on subdividing land in agricultural districts for the development and sale of residential homes is a condition that applies to all agricultural subdivisions;
- (11) Requires that county ordinances for procedures and requirements for agricultural tourism in agricultural districts be adopted within 18 months of the effective date of this bill; and
- (12) Increases minimum lot sizes in agricultural districts from one to five acres.

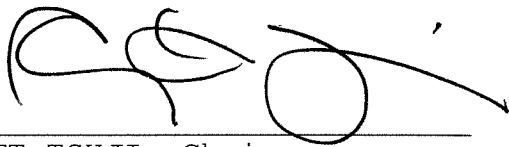


Your Committees have further amended this bill by:

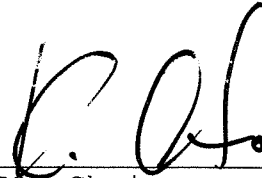
- (1) Providing the county approvals of subdivisions and farm dwellings will remain valid in the event the land use district classification of the affected land is reclassified; provided that the uses permitted under the approval are permissible uses under the new land use district classification; and
- (2) Making technical, nonsubstantive amendments for style, clarity, and clarity.

As affirmed by the records of votes of the members of your Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1236, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1236, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Water, Land,
Ocean Resources & Hawaiian
Affairs and Agriculture,



CLIFT TSUJI, Chair



KEN ITO, Chair



