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February 22, 2008

The Honorable Marcus Oshiro, Chair and Members  
House Committee on Finance  
Hawaii State Capitol, Room 308  
Honolulu, HI 96813

BY E-MAIL

**Subject: Testimony on House Bill No. H.B. 2357, HD1  
Relating to Agricultural Lands**

Dear Chair Oshiro, Vice Chair Lee, and Members:

My name is David Arakawa, Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable and rational land use planning, legislation and regulation affecting common problems in Hawaii.

We appreciate the opportunity to provide testimony in **support of H.B. No. 2357, HD1**. LURF also **generally supports H.B. No. 2807, HD1**, which together with H.B. 2357 HD1, are major steps towards providing the land owner incentives to designate Important Agricultural Lands ("IAL"), pursuant to §205-46 of the Hawaii Revised Statutes ("HRS") and Act 183, Session Laws of Hawaii ("SLH") 2005. We respectfully request that the Finance Committee pass both H.B. No 2357, HD1 and H.B. No. 2807, HD1 (with the amendments suggested by LURF). **H.B. No. 2357, HD1 and H.B. 2897, HD1 are major positive steps in the right direction, but further work will be needed before the issuance of a declaration of satisfaction of implementing incentives under Act 183. "The clock should not start" on IAL designations until there is a comprehensive IAL incentive package that addresses both landowner and farming interests.** The provisions of **H.B. No. 2357, HD1**, together with a majority of the provisions of **H.B. 2807, HD1**, are major positive steps towards providing the land owner incentives to designate IAL, pursuant to HRS §205-46 and Act 183, SLH 2005. However, Act 183 calls for a comprehensive package of meaningful landowner incentives at the state and county level, so we anticipate further work to be done by the agricultural and landowner stakeholders, by state legislators relating to this IAL incentive legislation, as well as by county administrators and council members with respect to incentive legislation with the counties, before a declaration of satisfaction can be issued relating to the requirements of HRS §205-46 and Part II, §9 of Act 183, SLH 2005 have been fully met.

**H.B. No. 2357, HD1.** This proposed bill would provide incentives to establish and sustain viable agricultural operations on important agricultural lands, including the following:

- **PART II State Income Tax and General Excise Tax (“GET”)**. Exclusion from income tax and exemption from GE tax collected on IAL leases. This bill would amend Chapter 235, HRS by adding a new section that would allow rental income from agricultural leases on IAL to be excluded from gross and adjusted gross income, and taxable income, under certain conditions. This measure would also exempt rental income derived from agricultural leases on IAL from the general excise tax law, under certain conditions;
- **PART III Residential (Agricultural Workforce) Housing**. Allow agricultural workforce dwelling units on IAL lands for farmers, employees and their immediate family members who actively and currently farm on the IAL lands. Total land area for housing shall not exceed an unspecified percentage of total IAL and must be supported by an Agricultural Plan which is approved by the DOA;
- **PART IV Important Agricultural Land Qualified Agricultural Cost Tax Credits**. Provides tax credits for qualified agricultural costs for plans, design, engineering, construction, renovation, repair, maintenance and equipment primarily for agricultural purposes: roads, utilities, agricultural processing facilities, water wells, reservoirs, dams, water storage facilities, pipelines, ditches or irrigation systems, agricultural workforce housing, other related professional costs. The five (5) years of tax credits are as follows: 50% of qualified agricultural costs for the year the costs are expended; 20% for the following year; and 10% for the following three (3) years. Includes refundable tax credit to support farmers with limited income. The maximum caps for these credits shall be set by the legislature. Every taxpayer who applies for the credits shall submit an annual written statement which will include information which will allow the quantitative and qualitative assessment of the outcomes of the tax credit to be determined. The Department of Agriculture (“DOA”) in consultation with the Department of Taxation (DOTAX), shall submit an annual report evaluating the effectiveness of the tax credit, and findings and recommendations to improve the effectiveness of the tax credit to further encourage the development of agricultural businesses;
- **PART V Loan Guaranty Program for Important Agricultural Lands**. Financing is also a critical component of the long-term viability of agriculture on IAL. This would allow the Chairperson of the Board of Agriculture, after consultation with the Director of Finance (confirmation of sufficient funds), to guarantee loans made by commercial lenders (authorized to do business in Hawaii) to agricultural producers to develop and implement agricultural projects on IAL. The terms of the loans shall be as follows: for operating costs – ten (10) years, for capital improvement costs – twenty (20) years. The interest rate charged on the loan shall be one percent below the commercial lender’s prime rate. The loan guarantee may be for up to eighty-five percent (85%) of the outstanding principal amount of the loan, but shall not include fees or accrued interest. The maximum amount of the loan shall not exceed \$2.5 million;
- **PART VI Information for State DOA Agricultural Water Use and Development Plan and Master Irrigation Inventory Plans**. The proposed bill would include the following:
  - Require the inventory to cover both public and private irrigation water systems;

- Add the identification of source of water used for agricultural operations, particularly those on IAL;
- Add the identification of current and future water needs for agricultural operations, particularly those on IAL; and
- Add that each county water use and development plan include a status of water and land development on IAL.
- **PART VII State Priority Permit Processing for Agricultural Processing Facilities.** Requires any applicable state agency issuing permits to establish and implement a procedure for the priority processing of permit applications and renewals, at no additional costs, for agricultural processing facilities which process crops or livestock from an agribusiness with a majority of lands held, owned, or used as IAL.
- **PART VIII Declaration of Satisfaction.** This provision declares that this Act establishes the incentives for the designation of IAL in satisfaction of section 205-46, Hawaii Revised Statutes (“HRS”), and section 9 of Act 183, Session Laws of Hawaii 2005 (SLH”).

**Support for the Farm Bureau and LURF Omnibus IAL Incentives Package.**

The legislature is fully aware of the significance in the successful passage, just two years ago, of Act 183 Relating to Important Agricultural Lands. Act 183 established policies and procedures for the identification of IAL and provides a process to develop protection, incentive measures and agricultural viability for IAL. Act 183 also established certain “milestones” for performance on the part of the legislature, administration, private landowners/farmers, and the Counties. The Act was a direct result of building consensus on areas of agreement as opposed to focusing on areas of disagreement. Act 183 represents a collaboration of a variety of different interests groups, community representatives and agricultural stakeholders, including the Hawaii Farm Bureau Federation (“Farm Bureau”) and LURF.

**LURF’s Comments.**

- **Revisions to original Farm Bureau/LURF IAL Incentives Package (H.B. No.2808), now deleted in H.B. 2357, HD1.** A number of farmer and landowner incentives were deleted in the HD 1 version, including the following: real property tax credit, the Water Code public trust doctrine amendments. HD 1 also deleted the provisions relating to workforce housing on rural lands, and concurrent designation of IAL and reclassification of other agricultural lands to the rural district. However, these provisions relating to workforce housing and concurrent designation and reclassification are still a part of H.B. 2807, HD1, which is also on the agenda for approval by the Finance Committee this afternoon.
- **PART VII, the “declaration of satisfaction” provision, should be deleted.** Further discussions and work will be necessary by the farmers, landowners and legislators this session, as well as with the counties. A declaration of satisfaction is premature at this time, because it depends on the final versions of H.B. No. 2357, HD1 and H.B. No. 2897, H.D. 1. We believe that if all the parties work together (including the counties), perhaps such a declaration could be made by the end of 2008 or early 2009.

**Conclusion.** LURF urges the Finance Committee to approve **both** H.B. No. 2357, HD1 and H.B. No. 2807, HD1 (with the amendments proposed by LURF in its testimony on

H.B. 2807, HD1). **H.B. No. 2357, HD1 and H.B. 2897, HD1 are major positive steps in the right direction, but further work will be needed before the issuance of a declaration of satisfaction of implementing incentives under Act 183.**

**“The clock should not start” on IAL designations until there is a comprehensive IAL incentive package that addresses both landowner and farming interests.** The provisions of **H.B. No. 2357, HD1**, together with a majority of the provisions of **H.B. 2807, HD1**, are major positive steps towards providing the land owner incentives to designate IAL, pursuant to HRS §205-46 and Act 183, SLH 2005. However, Act 183 calls for a comprehensive package of meaningful landowner incentives at the state and county level, so we anticipate further work to be done by the agricultural and landowner stakeholders, by state legislators relating to this IAL incentive legislation, as well as by county administrators and council members with respect to incentive legislation with the counties, before a declaration of satisfaction can be issued relating to the requirements of HRS §205-46 and Part II, §9 of Act 183, SLH 2005 have been fully met.

LURF appreciates the opportunity to express our views on this matter.

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February 22, 2008

Honorable Marcus Oshiro, Chair, Committee on Finance  
Hawai'i State Capitol, Conference Room 308  
415 South Beretania Street  
Honolulu, HI 96813

**RE: HB 2357, HD1 RELATING TO IMPORTANT AGRICULTURAL LANDS  
Committee on Finance, February 22, 2008, 1 PM Room 308**

Chair Oshiro and Members of the Committee:

I am Harry Saunders, President of Castle & Cooke Hawai'i. We appreciate the opportunity to express our views on HB 2357, HD1, relating to important agricultural lands.

The intent of Act 183 (2005) "is not only to set policies for important agricultural lands and to identify important agricultural lands but also to **provide for the development of incentives for agricultural viability in Hawaii, particularly for agricultural enterprises that farm important agricultural lands and for landowners of important agricultural lands.** These incentives would be designed to promote the retention of important agricultural lands for viable agricultural use over the long term."

We strongly feel that a comprehensive incentive program for both farmers and landowners is essential to move IAL forward. And we respectfully point out that LAND is the key component to this issue and its use and benefit to address farmers and landowners must be considered.

For these reasons we ask your Committee to allow continued discussion on this bill and allow time for further refinements to HB 2357, HD1, relating to important agricultural lands.

Mahalo for your interest in hearing our position. Should you have any questions, feel free to contact Carleton Ching, Vice President of Government and Community Relations, at 548-3793, or Mark Takemoto, Natural Resources Administrator at 548-6656.

Sincerely,

Harry A. Saunders  
President