

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON
WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS AND AGRICULTURE
February 1, 2008
8:30 a.m.**

**HOUSE BILL 2684
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chairpersons Ito and Tsuji and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 2684. The purpose of this bill is to impose a moratorium on development upon all agricultural lands until June 30, 2013. This measure does not apply to development proposals for which "general planning" (i.e. planning, design, or construction) has commenced. This effect of this bill will be to stop the reclassification, rezoning, and development of agricultural land before the identification and designation of Important Agricultural Lands (IAL) by the counties and the State Land Use Commission, respectively. We have concerns about this bill.

The Department of Agriculture (HDOA) deeply appreciates the concern among some members of the Legislature that the effort that went into crafting the IAL legislation that protects the best agricultural lands for agricultural production in increasingly uncertain economic times must continue forward and without delay. We, too, are concerned that the momentum generated three years ago that resulted in the passage and enactment of Act 183, the Important Agricultural Lands Act is being lost because of the lack of incentives sufficient to meet legislative satisfaction and certain conditions that are part of the measure itself. While we share the frustrations of the lack of progress of implementing IAL, this measure could stop legitimate projects caught in the moratorium.



HB 2684, RELATING TO IMPORTANT AGRICULTURAL LANDS

House Committees on Agriculture and
Water, Land, Ocean & Hawaiian Affairs

February 1, 2008

8:30 a.m.

Room: 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB 2684, which would establish a five-year moratorium on the development of agricultural lands located in the State for which general planning has not commenced.

This bill would help the legislature to achieve the worthy mandates established by numerous laws and legislation that all try to support a strong agricultural economic base in this State and to retain these lands in primarily agricultural pursuits.

This bill focuses on class A or B lands found in the Hawaii Revised Statutes (HRS) in Section 205-4.5, which restricts the permissible uses within agricultural districts. These restrictions strive to ensure that these lands are kept chiefly in agricultural uses, to varying degrees of success. This bill would add another tool to work toward ensuring that this can be done.

By not allowing new development on class A or B designated agricultural district lands, the Legislature will be echoing court cases; Article XI, section 3, of the Hawai'i State Constitution; HRS Section 205, and even county ordinances that all address the need to protect our agricultural lands and keep them in agricultural pursuits.

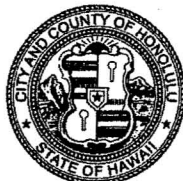
As the Legislature is aware, Hawai'i is heavily dependant upon imported foods and with the rising prices of fuel, our dependence will only get more costly. As such, we need to be more proactive and forward-looking in our approaches toward our agricultural efforts locally. This bill is a step toward creating a less reliant State while reserving our lands for their intended purpose.

Therefore, OHA urges the Committees to SUPPORT HB 2684. Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
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HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

February 1, 2008

The Honorable Ken Ito, Chair
and Members of the Committee on Water, Land,
Ocean Resources & Hawaiian Affairs

The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Ito, Tsuji and Members:

**Subject: House Bill No. 2684
Relating to Agricultural Lands**

The Department of Planning and Permitting **opposes** House Bill No. 2684, which would set a moratorium on all development on agricultural lands for which general planning has not commenced.

This bill is so profoundly vague as to render it impossible to administer. Specifically,

- It would apply to "agricultural lands located in the state." Is this a reference to any lands in the state agricultural district? Zoned agriculture by the counties? Presently under agriculture use?
- The moratorium would apply only to projects for which "general planning" has not commenced. "General planning" is defined to cover projects "for which planning, design or construction has already commenced". For your information, the city does not track the dates of when planning or design work on private sector projects commences. Therefore, the city would not know which projects would be affected. Any project could arguably "back-date" commencement of planning and design, rendering it unaffected by the moratorium.
- The bill appears to be "self-administered" in that it does not restrict the issuance of government permits or other approvals and actions. It appears to suggest that development would stop on its own accord.
- The bill would apply to any building or development not permitted under Chapter 205-4.5, HRS. If the project is not permitted, it would not receive government approvals, which means that construction could not start, regardless of this bill.

The Honorable Ken Ito, Chair
and Members of the Committee on Water, Land,
Ocean Resources & Hawaiian Affairs

The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture
House of Representatives
House Bill 2684
February 1, 2008
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Finally, we believe that to withstand judicial review, the moratorium must serve a public interest, and this bill does not adequately make this determination. Section 1 of the bill mentions Act 183 (2005), but there is no link made between the identification of Important Agricultural Lands (IAL) and the moratorium. Moreover, the sunset date of five years for the moratorium appears to be arbitrary as the bill offers no connection between it and any schedule for decision-making on IAL designation.

In short, this bill should be filed based on profound confusion and lack of any meritorious purpose. Thank you for the opportunity to testify.

Sincerely yours,



Henry Eng, FAICP, Director
Department of Planning and Permitting

HE:jmf
hb2684-kh.doc



TESTIMONY TO THE HOUSE COMMITTEES ON WATER, LAND, OCEAN RESOURCES
& HAWAIIAN AFFAIRS & AGRICULTURE
FRIDAY, FEBRUARY 1, 2008 AT 8:30 P.M.
ROOM 325, STATE CAPITOL

RE: H.B. 2684 Relating to Important Agricultural Lands

Chairs Ito and Tsuji, Vice Chairs Karamatsu and Brower, Members of the Committees:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber opposes HB 2684 as drafted.

The Chamber is the largest business organization in Hawaii, representing 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

H.B. No. 2684 establishes a five-year moratorium on any building or development project on agricultural lands located in the State; provided that:

1. The moratorium on building or development projects on agricultural lands shall be limited to any building or development project for which general planning has not commenced ("general planning" means projects for which planning, design, or construction has already commenced);
2. The building or development project is intended to effect parcels of agricultural land with an overall (master) productivity rating of class A or B, and designated as an agricultural district;
3. The building or development project is intended to effect parcels of agricultural land located in the State, and designated as an agricultural district; and
4. The building or development project is not a permissible use within an agricultural district under section 205-4.5, Hawaii Revised Statutes.

Act 183, SLH 2005 established a process to identify important agricultural lands (IAL). The IAL designation was established during the 1978 Constitutional Convention. A significant amount of effort was invested by many different groups and individuals who participated in a legislative initiated process in developing Act 183.

Act 183 was based on promoting agricultural viability and simply identifying agricultural lands believed to be important. Act 183 provides for incentives to be enacted that would assist in making agribusinesses viable and thus, allow for designation of IAL based on "growing" agribusiness.

Over the past two sessions, legislation has been introduced to create incentives to promote agricultural viability in

Hawaii. In addition, efforts were made to have the Counties enact incentives to promote agricultural viability in their respective counties. So far, these incentives have not been put in place.

The bill before you proposes to place a moratorium on the development of agricultural lands for five years. We believe this bill does not take into consideration the needed incentives required in Act 183 and the agribusiness viability in designating important agricultural lands. Therefore, we ask that the Legislature consider developing a meaningful incentive package to assist agribusiness grow instead.

For these reasons, The Chamber does not support HB 2684 as drafted. Thank you for the opportunity to submit testimony.

HAWAII FARM BUREAU FEDERATION
2343 ROSE STREET
HONOLULU, HI 96819

JANUARY 30, 2008

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES AND HAWAIIAN AFFAIRS
AND
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY

HB 2357 RELATING TO AGRICULTURAL LANDS
HB 2359 RELATING TO AGRICULTURAL LANDS
HB 2684 RELATING TO IMPORTANT AGRICULTURAL LANDS

Chair Ito, Chair Tsuji and Members of the Committees:

My name is Alan Takemoto, Executive Director, of the Hawaii Farm Bureau Federation, which is the largest non-profit general agriculture organization representing approximately 1,600 farm and ranch family members statewide.

The Hawaii Farm Bureau Federation OPPOSES HB 2357, HB2359 AND HB2684 defining alternate procedures for identification of Important Agricultural Lands..

The purpose of the Important Agricultural Lands initiative is agricultural viability. As policies and measures that support agriculture, farming and ranching are provided, agriculture will become a desirable career with long term viability -- not a hope but a reality. Strong agricultural enterprises will seek to keep their lands in agriculture, thereby having truly IMPORTANT AGRICULTURAL LANDS.

We understand the concern behind this Bill. Many lands that are productive agricultural lands could be developed before the current IAL process is implemented. There is fear that these lands will forever be lost.

We, on the other hand, fear that designation of lands as "Important Agricultural Lands" without associated measures that support and incentivize farming and ranching operations, will result in vacant lands ...zoned agriculture but without actual agricultural activity. Hope is not a strategy. In reality, we are loosing something else, faster than agricultural lands – and that is farmers.

We are concerned that the suggested Bills can have unintended consequences. For example, our farmers and ranchers already have a difficult time qualifying for loans that will allow them to expand their operations. The Bills could be viewed as a "downzoning" by lenders, resulting in decreased land values ensuing in decreased borrowing ability due to a downgraded collateral value. Thank you.



Maui County Farm Bureau

*An Affiliate of the American Farm Bureau Federation and Hawaii Farm Bureau Federation
Serving Maui's Farmers and Ranchers*

TESTIMONY

HB 2357 RELATING TO AGRICULTURAL LANDS HB 2359 RELATING TO AGRICULTURAL LANDS HB 2684 RELATING TO IMPORTANT AGRICULTURAL LANDS

HEARING BEFORE THE HOUSE COMMITTEE ON AGRICULTURE AND COMMITTEE ON WATER, LAND & HAWAIIAN AFFAIRS

Chair Tsuji and Ito and Committee Members:

My name is Warren Watanabe, Executive Director of the Maui County Farm Bureau, a non-profit general agriculture organization and an affiliate of the Hawaii Farm Bureau Federation.

Maui County Farm Bureau, on behalf of its member farmers, ranchers and agricultural organizations **strongly opposes** HB 2357, HB2359 and HB 2684 replacing the current IAL process.

While these Bills speak towards the implementation of Act 183, Important Agricultural Lands, the crux of these Bills remains "Land Use". Act 183 was passed with support from landowners as well as farmers because for the first time, after 30 years of trying to pass IAL legislation, a Bill was introduced that addressed agriculture ...the criteria needed to ensure agricultural activity on Important Agricultural Lands.

We understand the concern that while the IAL process occurs, agricultural lands deemed to be ideal for crop production may be developed. However, we must not forget, we have many lands that are currently fallow due to lack of farmers or because farmers have found it too difficult to remain viable. On Maui, there are over 100 acres of ideal farmland which just 5 years ago, had fields of cabbage, onion, lettuce and other vegetables providing not only for the Maui market but for Oahu as well. The farmers were third generation farmers, owning their own lands, equipment and homes on the land. Yet, viability was difficult. Approaching or past 50 years of age, their retirement looked bleakso they have found employment outside of their farms and their lands now lie idle, ripe for development. It is because of cases such as this, that we feel strongly that the implementation of IAL cannot be a land use issue but a farmer viability issue. The incentives incorporated in the proposed IAL omnibus measure addresses the large picture needs for long term commitment by landowners and farmers to agriculture.

As a leader of Maui County Farm Bureau, it has been difficult seeing these farmers leave an occupation I know they loved. Seeing them worry about retirement after spending decades working

hard growing crops and providing for the people of Hawaii is heartbreaking. We have a few young farmers. They are realists. They have given themselves a timetable. If they are not successful within a set timeframe, they plan to exit farming. These farmers have recently suffered major damage during the storms in early December. How much they will be able to recover is in question. When I look at the IAL measures, the first question in my mind is “ Will it save these farmers?”

We must not lose sight of the goal of having active agriculture on these lands that contribute towards not only Hawaii’s level of self sufficiency but to Hawaii’s economy. Agriculture is not just a lifestyle ...it is first and foremost a business that provides food and fiber for the people. When planes cannot fly and ships cannot sail, agriculturally zoned lands without farmers and ranchers growing crops and raising livestock will be useless ...it will be too late. Today, we must commit to grow farmers and ranchers and in that process have lands that remain in agriculture --- truly Important agricultural Lands. This is the vision behind the crafters of the existing Important Agricultural Lands Legislation.

We respectfully request that these **Bills be held and focus be placed on enacting incentives** so landowners will designate their lands as Important Agricultural Lands as soon as possible. Time is of the urgency. We cannot lose any more farmers or ranchers.

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

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560 N. Nimitz Highway, #50
Honolulu, Hawaii 96817
(808) 524-2249 - FAX (808) 524-6893

January 31, 2008

Honorable Representative Ken Ito, Chair
Honorable Representative Jon Riki Karamatsu, Vice Chair
Members of the House Committee on Water, Land, Ocean Resources & Hawaiian
Affairs
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: IN OPPOSITION OF HB 2684
RELATING TO IMPORTANT AGRICULTURAL LAND
Hearing: Friday, February 1, 2008, 8:30 a.m.

Dear Chair Ito, Vice Chair Karamatsu and the House Committee on Water, Land,
Ocean Resources & Hawaiian Affairs:

For the Record my name is Buzz Hong the Executive Director for the Hawaii
Building & Construction Trades Council, AFL-CIO. Our Council is comprised
of 16-construction unions and a membership of 26,000 statewide.

The Council opposes the passage of HB 2684, which establishes a five-year
moratorium on the development of agricultural lands located in the State for
which general planning has not commenced.

Thank you for the opportunity to submit this testimony in opposition of
HB2684.

Sincerely,

William "Buzz" Hong

WBH/dg



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Association of
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February 1, 2008

The Honorable Ken Ito, Chair

House Committee on Water, Land, Ocean Resources & Hawaii Affairs

The Honorable Clift Tsuji, Chair

House Committee on Agriculture

State Capitol, Room 325

Honolulu, Hawaii 96813

**RE: H.B. 2684 Relating to Important Agricultural Lands
Hearing Date: February 1, 2008 @ 8:30 a.m., Room 325**

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) **opposes** H.B. 2684.

HAR supports strategies to create an environment for sustainable development and the protection of open space; however, such efforts should not impede on private property rights. A major impact of this proposed moratorium is the “taking” of the property owners ability to build his/her residence or any other building on property he/she owns. We believe H.B. 2684 deprives property of all value, no matter how brief.

While we understand the intent of this bill is to protect important agricultural lands, which is an issue we support, we believe that the impact on agricultural lands that meet this classification is tremendous. This bill proposes a sweeping moratorium that is overly broad and would leave no room to examine each situation thoughtfully.

With the liberal interpretation, it could have a major negative impact on land values. It will exacerbate the housing crisis in such a way that would artificially inflate the value of lots currently on the market in addition to an inflationary effect on property taxes. With such limited supply, rents increase, starter home prices jump, and affordable housing becomes increasingly scarce.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.