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LATE

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE
MONDAY, MARCH 31, 2008
2:00 p.m.
Room 308

SENATE BILL 2198, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO LAND CONSERVATION

Chair Oshiro, Vice-Chair Lee and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2198, Senate Draft 2, House Draft 1 that seeks to establish a tax credit to encourage the preservation and protection of certain donated or "bargain sale" lands in the State at less than fair market value, and in perpetuity. The Department of Agriculture supports this measure with two amendments to reinstate the use of the tax credit to benefit designated important agricultural lands (IAL) and establish the same for significant agricultural lands.

House Draft 1 gutted the contents of Senate Draft 2 and replaced it with the contents of House Bill No. 2518, House Draft 1. By doing so, this removes the opportunity to have agricultural lands preserved under this measure (page 5, line 4) to also be considered for designation as important agricultural lands (IAL) and benefit from any enacted incentives for IAL as provided under Section 205-46. We defer to the Department of Taxation on the fiscal implication of this bill.

The first amendment is to add a new section to clarify that only agricultural lands qualifying for the land conservation tax credit that are designated as IAL may access incentives for IAL that will be developed and enacted by the Legislature.

SECTION . Section 205-45, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A farmer or landowner with lands qualifying under section 205-44 may file a petition for declaratory ruling with the commission at any time in the designation process. The holder of an interest in agricultural lands that qualifies for the land conservation incentives tax credit under section 235- may petition the commission for designation of the agricultural lands as important agricultural lands, and, upon designation, enjoy the incentives for important agricultural lands provided under section 205-46."

The second amendment is to Section 2, page 5, line 10 and is meant to limit agricultural lands qualifying for the land conservation tax credit to "significant agricultural lands" as declared by the Department of Agriculture or lands designated as IAL pursuant to Chapter 205. This ensures that agricultural lands with characteristics such as high productivity potential, currently in agricultural production, and with sufficient quantities of irrigation water are protected. The amendment is in bold print and double-underlined.

"(j) As used in this section:

"Bargain sale" means a sale where a taxpayer is paid less than the fair market value for land or an interest in land.

"Conservation or preservation purpose" means:

- (1) Protection of open space for scenic values;
- (2) Protection of natural areas for wildlife habitat, biological diversity, or native forest cover; or
- (3) Preservation of forest land, agricultural land, watersheds, streams, rainfall infiltration areas, outdoor recreation areas, including hiking, biking, and walking trails, and historic or cultural property;

provided that the resources or areas protected or preserved are designated as significant or important by a relevant state agency; provided further that the agricultural land has been declared as significant agricultural land by the department of agriculture, or designated as important agricultural land pursuant to chapter 205, part III."



**THE TRUST FOR PUBLIC LAND'S TESTIMONY IN SUPPORT
SB 2198 SD 2**

House Committee on Finance

Monday, March 31, 2008, 2:00 p.m., Room 308

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Dear Chairperson Oshiro and Vice Chair Lee:

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The Trust for Public Land (TPL) supports SB 2198 SD 2 Relating to Land Conservation.

As development and urban sprawl increase, concern about the future of land use and its relation to Hawai'i's natural resources, economy and heritage have come to the forefront of community concern. Some of these concerns are protected and embodied in recent laws providing funding for the acquisition of private lands for public conservation purposes. The recent State Legacy Lands Act is but one example.

Funding from programs such as the Legacy Lands Conservation Program yield great benefits to the people of Hawai'i, but further incentives are necessary to provide alternatives to the tremendous financial pressures to convert needed agricultural or conservation land to other uses that generate greater revenue. It is also impossible for the government to acquire and take care of all of these lands.

S.B. 2198 SD 2 provides a voluntary incentive for private landowners to protect our precious lands and offers an alternative to acquisition and government management. It advances conservation by creating a competitive class of land use in an economy where conversion by private landowners to other uses are an attractive or economic necessity.

We urge you to support SB 2198 SD 2.

Very truly yours,

Lea Hong

Hawaiian Islands Program Director