

TESTIMONY
SB 2641, SD1

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 SENATE COMMITTEE ON WATER AND LAND
MONDAY, FEBRUARY 25, 2008
2:45 p.m.
Room 414

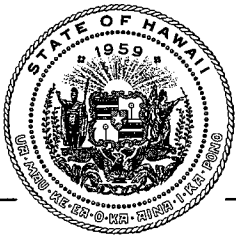
SENATE BILL 2641, S.D. 1
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chairperson Hee and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2641, S.D. 1. 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 may stop legitimate projects caught in the moratorium. The bill as worded is not very clear in its definitions and exactly what would be affected so the impact is difficult to judge.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
ABBEY SETH MAYER
INTERIM DIRECTOR
OFFICE OF PLANNING

OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824

Statement of
ABBEY SETH MAYER
Interim Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WATER AND LAND
Monday, February 25, 2008
2:45 PM
State Capitol, Conference Room 414

in consideration of
SB 2641, SD 1
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chair Hee, Vice Chair Kokubun, and Members of the Senate Committee on Water and Land.

The Office of Planning opposes SB 2641, SD 1, which would impose a five-year moratorium on building and development projects on Agricultural District lands in the State for which general planning has not commenced. We understand the desire to provide some level of protection for the State's agricultural lands in the absence of designated important agricultural lands pursuant to Act 183, Session Laws of Hawaii, 2005. While we recognize the urgency for stemming the use and conversion of agricultural lands to non-agricultural uses, we do not believe this is the appropriate mechanism for addressing this complex issue.

Rather, OP strongly recommends passage of a set of bills that would provide a comprehensive and permanent solution to the issue of non-agricultural uses in the Agricultural District. Of utmost priority is legislation establishing agricultural incentives

to promote agricultural investment and offset the risks and costs of agricultural operations. Such a measure is not only critical to the viability of the agricultural industry and farmers, but as currently framed, is key to initiating the process of designating important agricultural lands. Enhancing the viability of all agricultural businesses is essential to maintaining the long-term value of land for agricultural production. SB 1303, an Administration bill introduced in the 2007 Legislative Session, provides a package of agricultural incentives that offers tax and regulatory relief to landowners of and agricultural businesses on designated important agricultural lands. OP urges the consideration and passage of this proposal or like measures to support agriculture and long-term agricultural use of land in Hawaii.

OP also urges the passage of measures such as SB 2954, an Administration bill, that would establish stricter standards for the Agricultural District to direct non-farm uses away from agricultural lands. Finally, other measures that would support protection for Hawaii's agricultural lands, include legislation to: (1) redefine the Rural District and provide policy guidance to enable it to accommodate non-farm use while protecting rural character and rural industry (such as SB 1355 introduced last session); and (2) enable the reclassification of Agricultural District lands with established non-agricultural uses to the Rural District or other appropriate land use district.

Thank you for the opportunity to testify.

**HAWAII FARM BUREAU FEDERATION
2343 ROSE STREET
HONOLULU, HI 96819**

FEBRUARY 25, 2008

HEARING BEFORE THE
SENATE COMMITTEE ON WATER AND LAND

TESTIMONY ON SB 2641, SD 1
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chair Hee and Members of the Committee:

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 supports the intent of this measure. However, we have concerns about some unintended consequences that may occur if passed.

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 losing something else, faster than agricultural lands -- and that is farmers.

We are concerned that the suggested moratorium 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 moratorium could be viewed as a "downzoning" by lenders, resulting in decreased land values ensuing in decreased borrowing ability due to a downgraded collateral value.

We understand the real threat of developing agricultural lands and that further checks and balances may be needed until we establish incentives for important agricultural lands. One suggestion is that we mandate the Land Use Commission and/or the County to obtain prior approval from the Department of Agriculture on all rezoning, special use permits, and agricultural subdivisions projects on agricultural lands. This will ensure that DOA's expertise and knowledge on the validity of the project and that no substantial negative impact will be on existing and future agricultural activity. This will also give DOA the strength it needs to be taken seriously. This suggestion will mandate that no project will be approved without the DOA's approval or how the developer will address the DOA's concerns. Other suggestion is to provide additional requirements such as requiring the developers to provide an agricultural impact statement, limiting the size of the farm dwelling and requiring an agricultural business plan be submitted on an annual basis. These are just some of the suggestions that can assure that agricultural lands are being utilized in a way that is in the best interest of the agricultural industry .

We respectfully request the legislature to move quickly to enact the necessary incentives to implement the IAL process ...one that truly results in farming and ranching activity. Strong, viable farming and ranching activity, contributing to Hawaii's self sufficiency and economy is the best way to curb development on lands in the agricultural district and keep them in production.

Thank you for allowing us to testify on this measure.



Hawaii Reserves, Inc.
A LAND MANAGEMENT COMPANY

February 22, 2008

Via Facsimile (808) 586-6659
Senate Committee on Water & Land
Senator Clayton Hee, Chair

Re: S.B. 2641, S.D. 1 (Relating To Important Agricultural Lands)
Testimony In Opposition
Hearing: Monday, February 25, 2008, 2:45 p.m., Conf. Rm. 414

Honorable Chair Hee, Vice Chair Kokubun and Committee Members:

Thank you for allowing me the opportunity to testify in opposition to Senate Bill 2641, SD 1 on behalf of Hawaii Reserves, Inc., a land management company that currently leases to farmers, and in the past has operated its own farm division. While this bill is well intentioned, we do not believe it is the right vehicle to enhance our state's agriculture.

First, the language is vague, particularly with regard to the phrases "agricultural lands located in the state", "general planning", and "projects for which planning, design, or construction has already commenced".


Second, depending upon one's interpretation of the above language, this measure could bring good and needed projects to a halt. For example, our company is planning to build on land currently zoned agricultural an affordable housing project in a "sustainable affordable development" – development projects where 30% of the units must be affordable to persons in the county's median income range, and the sales price of at least 51% of the residential lots must be no higher than 80% of the fair market value of the lots in fee (HRS 516-1). If passed this bill could stop the creation of much needed affordable housing in our community and others.

Third, this bill ignores the process initiated by the relatively recent passage of the Important Agricultural Lands bills. At a time when farmers and landowners need incentives to compete in a global agricultural market, this bill does not address the real problem. Our county and state enjoy an overabundance of unused agricultural lands subsequent to the decline in the pineapple and sugar cane industries, but our farmers are struggling financially. What we observe is not farmers in search of more ag land to farm, but rather an excess of vacant ag land waiting to be farmed. Based on our experience with our own farm business that ultimately folded, and as a landowner currently leasing to farmers, the real issue is how to help farmers and landowners make productive use of already existing, abundant agricultural lands.

Fourth, if passed this measure would undoubtedly be challenged as working a taking without just compensation, and thereby create a breeding ground for litigation.

For these reasons and others we respectfully request that you hold S.B. 2641, S.D. 1.

Kind regards


Steve Keali'iwahamana Hoag, Esq.
Director of Human Resources
& Government Relations
and Assistant to the President



The REALTOR® Building
1136 12th Avenue, Suite 220
Honolulu, Hawaii 96816

Phone: (808) 733-7060
Fax: (808) 737-4977
Neighbor Islands: (888) 737-9070
Email: har@hawaii Realtors.com

February 23, 2008

The Honorable Clayton Hee, Chair
Senate Committee on Water and Land
State Capitol, Room 414
Honolulu, Hawaii 96813

RE: S.B. 2641, SD1 Relating to Important Agricultural Lands
Hearing Date: Monday, February 25, 2008 @ 2:45 p.m., Room 414

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) opposes S.B. 2641, SD1.

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 S.B. 2641, SD1 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.

TESTIMONY
SB 2641, SD1
(END)