



GOV. MSG. NO. 1344

July 12, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

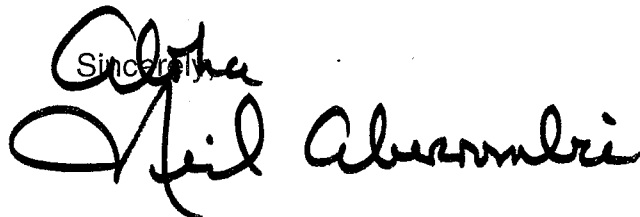
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

I am transmitting herewith HB1230 HD2 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB1230 HD2 SD1 CD1

RELATING TO BUILDING PERMITS.

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 12, 2011

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1230

Honorable Members
Twenty-Sixth Legislature
State of Hawaii

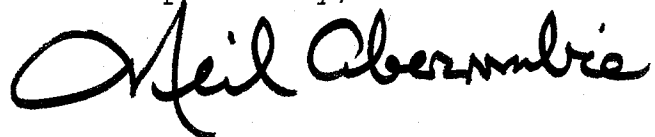
Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1230, entitled "A Bill for an Act Relating to Building Permits."

The purpose of this bill is to exempt construction of nonresidential structures used for agricultural or aquacultural operations from county building permitting processes.

While the goals of this bill are laudable, several difficulties need to be addressed. First, it does not require the reviewer of an owner's proposed building plans to be a state-licensed professional with technical knowledge of the various building code requirements. Second, it eliminates construction compliance inspections by city inspectors during and upon completion of improvements. While this bill would alleviate the delay associated with county building permitting processes for the construction of agricultural or aquacultural improvements, it does so at the expense of the health and safety of the public.

For the foregoing reasons, I am returning House Bill No. 1230 without my approval.

Respectfully,

A handwritten signature in black ink that reads "Neil Abercrombie". The signature is written in a cursive, flowing style.

NEIL ABERCROMBIE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO BUILDING PERMITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "S46- Agricultural and aquacultural structures; no
5 building permit required. (a) Notwithstanding any law to the
6 contrary, no county shall require a building permit for the
7 construction of a nonresidential structure used for agricultural
8 or aquacultural operations; provided that:

9 (1) The owner and/or occupier agrees to defend, indemnify,
10 and hold harmless the State, counties, and any of
11 their agencies, officers, and employees from and
12 against all liability, loss, damage, cost, and
13 expense, including attorneys' fees and costs, and all
14 claims, suits, and demands arising out of or resulting
15 from the lack of building permits for any
16 nonresidential structure, and waives any statutory or
17 other immunity from liability that may be asserted by



1 the owner and/or occupier to limit the owner and/or
2 occupier's obligation to so defend, indemnify, and
3 hold harmless the State and counties and any of their
4 agencies, officers, and employees;

5 (2) The owner and/or occupier obtains a certification from
6 a duly qualified third party reviewer that certifies
7 under penalty of law that the third party reviewer has
8 reviewed the owner and/or occupier's proposed building
9 plans and that in the third party reviewer's
10 professional opinion, the proposed building plans are
11 in compliance with all applicable codes, rules, and
12 all other applicable requirements of the appropriate
13 county planning and permitting department and the
14 State;

15 (3) The owner and/or occupier submits the proposed
16 building plans, indemnification and hold harmless
17 attestation, and third party review certification to
18 the appropriate county planning and permitting
19 department; provided that the exemption from building
20 permit requirements provided under this section shall
21 not apply unless the nonresidential structure is



1 constructed in accordance with the proposed building
2 plan;

3 (4) The proposed structure is nonresidential and its floor
4 area under roof or eave is one thousand five hundred
5 square feet or less; and

6 (5) The property upon which the proposed structure is to
7 be built has an area of at least three acres.

8 (b) As used in this section:

9 "Agricultural" means relating to the raising of animals or
10 the planting, cultivating, harvesting, and processing of crops,
11 including those planted, cultivated, harvested, and processed
12 for food, ornamental, grazing, or forestry purposes.

13 "Aquacultural" means relating to the propagation,
14 cultivation, or farming of aquatic plants and animals in
15 controlled or selected environments for research purposes,
16 commercial purposes, or stocking purposes, including aquaponics
17 or any growing of plants or animals with aquaculture effluents.

18 "Floor area" means the area of all floors of a structure
19 excluding unroofed areas, measured from the exterior faces of
20 the exterior walls or from the center line of the party walls
21 dividing a structure. The floor area of a structure, or portion



1 thereof, which is not enclosed by exterior walls shall be the
2 area under the covering, roof, or floor above which is supported
3 by posts, columns, partial walls, or similar structural members
4 that define the wall line."

5 SECTION 2. The Hawaii Farm Bureau Federation and each
6 county planning department shall report to the legislature no
7 later than twenty days prior to the convening of the regular
8 session of 2012 regarding the impact of this Act, including
9 proposed amendments to this Act, if any.

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on July 1, 2011.

APPROVED this day of , 2011

GOVERNOR OF THE STATE OF HAWAII

