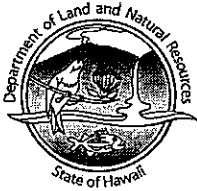


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
GUY H. KAULUKUKUI
FIRST DEPUTY
WILLIAM M. TAM
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
WILLIAM J. AILA, JR
Chairperson

Before the House Committee on
WATER, LAND AND OCEAN RESOURCES

Wednesday, February 21, 2012
11:00 AM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 2424, HOUSE DRAFT 1
RELATING TO AGRICULTURAL BUILDING PERMITS

House Bill 2424, House Draft 1 proposes to amend Chapter 46, Hawaii Revised Statutes, to exempt from county building permit requirements the construction, installation or operation of low-risk nonresidential agricultural buildings and structures. Any buildings or structures constructed pursuant to this exemption, however, must still comply with the state building code electrical standard and wastewater regulations if utilizing such services and with applicable setback codes. The Department of Land and Natural Resources (Department) takes no position on this bill but offers the following comments.

The bill does not identify the agency responsible for determining compliance with the electrical standard and setback codes and wastewater regulations. If such buildings or structures are constructed on public lands managed by the Department, the Department is acting as the landowner and lessor and not as a regulatory agency. Therefore, the Department would not make any determination as to compliance and will rely on the decision of the applicable county agency(ies).

The Department notes that the current draft of the bill clarifies that it is not meant to supersede public or private lease conditions. The terms and conditions of the Department's standard form leases require the lessee to maintain fire insurance covering all improvements. Accordingly, if county permitting is a prerequisite to obtaining fire insurance, a state lessee may still need to secure the necessary county permit approvals.



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street • Honolulu, Hawaii 96819
Phone: (808) 848-2074 • Neighbor-Islands: (800) 482-1272
Fax: (808) 848-1921 • Email: info@hfbf.org
www.hfbf.org

FEBRUARY 21, 2012

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

TESTIMONY ON HB 2424 HD1
RELATING TO BUILDING PERMITS

Room 325
11:00 AM

Chair Chang, Vice Chair Har, and Members of the Committee:

I am Janet Ashman, testifying on behalf of the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

HFBF strongly supports HB 2424 HD1, which would remove an unnecessary impediment to the construction of much-needed agricultural infrastructure. Current county building permit requirements are designed for commercial and residential buildings in urban areas, and are **not appropriate** for farm structures such as greenhouses, storage sheds, and fish tanks. Compliance with these requirements adds greatly to the time and cost needed to build even the simplest of structures. This burden falls especially heavily upon small farmers, family farmers, and beginning farmers, who often do not have the money or spare time to deal with the building permit process.

Building permit requirements have become increasingly burdensome in recent years as smaller, diversified farms and ranches have started up. These farms and ranches tend to have greater infrastructure needs per acre than the sugar and pineapple plantations they have replaced, but they usually have fewer financial resources and less ability to qualify for large construction loans. This is especially true for newer, more intensive farming such as hydroponics, aquaculture, and aquaponics. Although these techniques are particularly appropriate for Hawaii, where land and water are limited and expensive, they do require structures such as shade houses, prefabricated greenhouses, tanks, raceways, storage buildings, and the like.

Even traditional farming requires shelters to protect crops, livestock, and equipment from thieves, vandals, wind, and weather. These structures on agricultural lands present little risk.

Passage of this bill will align Hawaii with the majority of states across the nation that provide exemptions from county building standards for farm buildings located outside the urban core of cities and towns. Hawaii's strict building codes put our farmers and ranchers at a disadvantage compared to farmers in states that have exemptions. This disadvantage adds to the difficulty Hawaii's farmers have in competing with food importers. The measure will support Hawaii's goal of greater food self-sufficiency.

In drafting this bill, we have worked with county building departments, fire departments, state agencies, and legislators to address potential concerns. We respect and appreciate the important job these agencies do in protecting the public's health and safety. We respectfully ask you to recognize, as more than 30 other states do, that nonresidential farm buildings and structures in agricultural areas pose little risk to life and property.

We would like to offer two short amendments; one that would clarify the 2-acre size of the farm or ranch that is eligible for this exemption and the second to allow certain nonresidential agricultural or aquacultural park tenants to qualify for the exemption.

Thank you for the opportunity to testify in strong support of this measure of great importance to Hawaii's farmers and ranchers. Please contact me at (808) 848-2074, if I can assist in any way.

HOOLUANA RANCH

P. O. BOX 711510
Mt. View, Hawaii 96771

February 19, 2012

TO: Senator Clarence Nishihara
Chairperson, Senate Agriculture Committee

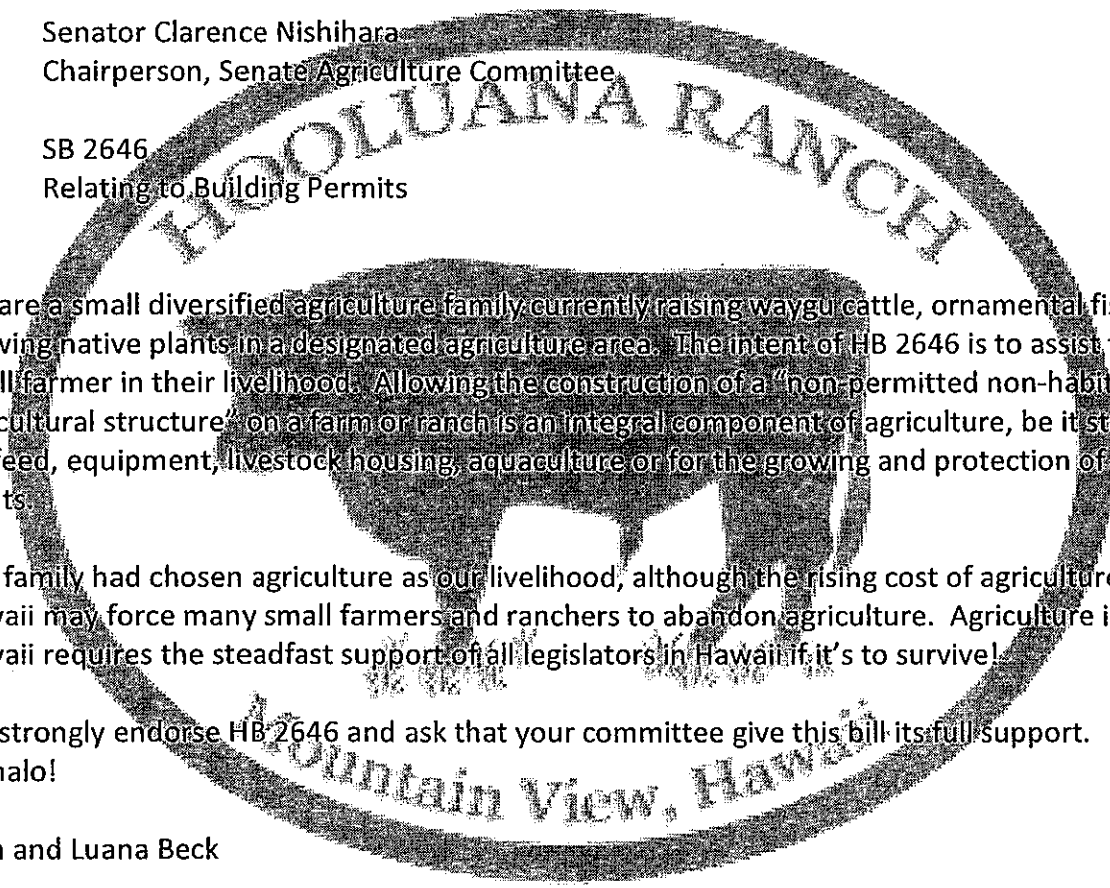
RE: SB 2646
Relating to Building Permits

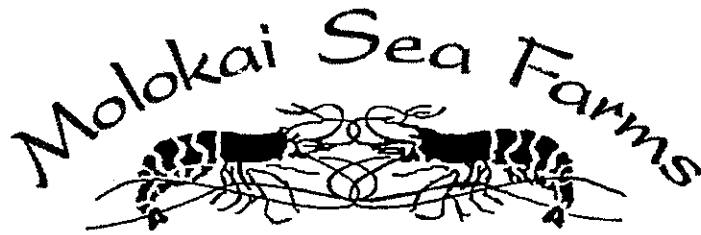
We are a small diversified agriculture family currently raising waygu cattle, ornamental fish and growing native plants in a designated agriculture area. The intent of HB 2646 is to assist the small farmer in their livelihood. Allowing the construction of a "non-permitted non-habitable agricultural structure" on a farm or ranch is an integral component of agriculture, be it storage for feed, equipment, livestock housing, aquaculture or for the growing and protection of fragile plants.

Our family had chosen agriculture as our livelihood, although the rising cost of agriculture in Hawaii may force many small farmers and ranchers to abandon agriculture. Agriculture in Hawaii requires the steadfast support of all legislators in Hawaii if it's to survive!

We strongly endorse HB 2646 and ask that your committee give this bill its full support. Mahalo!

Tom and Luana Beck





P.O. Box 1978 Kaunakakai, Molokai, Hawaii 96748 USA
www.broodstock.com molokaishrimp@mac.com Tel. (808) 658-3276 Fax (760)825-8815

Jerry L. Chang
House District 2
Hawaii State Capitol, Room 435

Feb 20, 2012

RE: WLO 325 2/21/2012 11:00 AM

I have owned and operated Molokai Sea Farms since 1988. I strongly support HB 2424.

Besides operating my aquaculture farm for the past 24 years I just concluded five years serving on the Molokai Planning Commission. The number one complaint that we received on the commission was how long and time consuming the building permit application process takes. Many people choose not to build at all or build illegal structures.

For Hawaii to become more food self sufficient, agro-businesses need to be able to move forward in an expeditious and efficient manner. I believe if this bill is signed into law you will see a surge in local agricultural production with the associated job growth. I hope that you can assist the State of Hawaii to expedite the process of becoming more food and energy self sufficient.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steve Chaikin". The signature is stylized and somewhat cursive.

Steve Chaikin

Owner/Operator

HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012
COMMITTEE ON WATER, LAND AND OCEAN RESOURCES

Rep. Jerry L. Chang, Chair

Rep. Sharon E. Har, Vice Chair

Rep. Rida T.R. Cabanilla	Rep. Derek S.K. Kawakami
Rep. Mele Carroll	Rep. Mark M. Nakashima
Rep. Denny Coffman	Rep. Gil Riviere
Rep. Robert N. Herkes	Rep. Cynthia Thielen
Rep. Ken Ito	

DATE: Tuesday, February 21, 2012

TIME: 11:00 a.m.

PLACE: Conference Room 325

State Capitol

415 South Beretania Street

Chair Chang, Vice Chair Har, Members of the Committee. My name is John Corbin. I was formerly Manager of the Aquaculture Development Program in the Department of Agriculture and I strongly support H.B. 2424 HD 1 Relating to Agricultural Building Permits. The bill would exempt specified nonresidential agriculture and aquaculture buildings and structures and their appurtenances that are located on commercial farms outside the urban zone from building permit requirements, other than electric and water regulations.

My experience over my 30 years in working with start-up and existing aquaculture farms is that the existing building permit system has often been a significant obstacle to suitable farm construction; costing excessive time and money to owner-operators for less efficient structures. Passage of this bill will enable aquaculture farmers to utilize readily available, low risk, recycled ocean shipping containers, modular structures, agricultural cold frames and storage sheds for more affordable hatchery and office space, feed, and equipment storage, and other farm infrastructure needs. Farmers could then construct and operate their farms in a more timely and cost-effective manner while enhancing farm production and protecting personnel and/or farm equipment from inclement weather, coastal salt spray, birds and theft and vandalism.

Passage of this bill would be a major step forward for encouragement of commercial aquaculture and agriculture development that can locally meet Hawaii's food needs and enhance food security. The importance of local food production goes beyond satisfying our collective hunger, but as a land use, aquaculture and agriculture creates much needed jobs in rural areas, preserves open space and provides stewardship of our natural resources. Hawaii would join 32 other states that currently have agricultural building exemptions that recognize the special needs of these food producing activities. I urge the Committee to pass H.B. 2424 HD 1. Thank you for the opportunity to testify.

John S. Corbin MS, CFP, AICP
President
Aquaculture Planning & Advocacy, LLC
Kaneohe, Hawaii
808-239-8316
jscorbin@aol.com

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 19, 2012 4:07 PM
To: WLOtestimony
Cc: gottlieb@hawaii.rr.com
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Alan Gottlieb
Organization: Hawaii Cattlemen's Council
E-mail: gottlieb@hawaii.rr.com
Submitted on: 2/19/2012

Comments:

HAWAII LIVESTOCK FARMERS COALITION
(a committee of the Hawaii Farm Bureau Federation)
P.O. BOX 700489 KAPOLEI, HAWAII 96709
808-674-9996

COMMITTEE ON WATER, LAND & OCEAN RESOURCES AND
COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

DATE: Tuesday, February 21, 2012
TIME: 11:00 a.m.
PLACE: Conference Room 325

RE: Testimony in strong support of HB 2424 HD 1 RELATING TO AGRICULTURAL BUILDING PERMITS

Chair Chang, Chair Coffman, Vice Chair Har, Vice Chair Kawakami, and Committee Members:

My name is Alan Gottlieb, and I am the Government Affairs Chair for the **The Hawaii Livestock Farmers Coalition (HLFC)**. HLFC consists of Hawaii Cattle Ranchers and Processors, Pork Producers and Processors, Lamb & Goat Producers, Egg Producers, Dairy Producers, and Aquaculture Producers, as well as several local veterinarians who work closely with the livestock industries, the Hawaii Farm Bureau Federation, and other agricultural partners, strongly supports HB 2424 HD 1. This bill exempts nonresidential agricultural and aquacultural buildings and structures, and their appurtenances, located on commercial farms and ranches from building permit requirements other than applicable electric and wastewater regulations, to help support Hawaii's farmers and ranchers. This bill provides a critical agriculture building exemption that is already in place in the majority of other states, to support the continued growth of livestock farming and other forms of diversified agriculture in Hawaii

Historically, building codes are the result of national efforts to quell large urban fires in the early 1900s to help mitigate large-scale fire loss. Since the largest of these devastating fires were primarily in large urban areas, the move to adopt uniform building codes generally did not include rural agricultural structures, particularly since the loss of an agricultural building seldom leads to the loss of human life. While the complexity and reach of building codes have expanded dramatically over the past century, the majority of states provide agricultural building exemptions from the zoning and building codes and building permit process so as to support their State's agricultural producers.*

While the details of agricultural building exemptions vary somewhat from State to State, the common intent of such long-standing statutes and codes has been to support bona fide agriculture, agricultural families and workers, and rural agricultural communities. The benefits of providing such exemptions from the burdensome, costly, and time-consuming building permit process that does not recognize the unique needs and reduced risks associated with agricultural buildings have become increasingly evident and important in recent years with the ever-changing regulatory environment and increasingly competitive global agricultural marketplace in which today's agricultural operations must compete and survive. The HLFC therefore respectfully urges the House Committee on Agriculture to pass HB2424 as written to support Hawaii's commercial farmers and ranchers.

Thank you for the opportunity to comment.

**States with Agricultural Building Exemptions in statute and/or code include: Alabama, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.*



EAST OAHU COUNTY FARM BUREAU

45-260 WAIKALUA ROAD S 101 KANEONE, HI 96744

February 18, 2012

Representative Jerry L. Chang, Chair
Representative Sharon E. Har, Vice Chair
House Committee on Water, Land, and Ocean Resources
State Capitol, 415 S. Beretania St.
Honolulu, Hawaii 96813

Dear Chair Chang, Vice Chair Har, and Members of the Committee:

I am sending this testimony to express the East Oahu County Farm Bureau's **strong support for HB 2424 HD1, "Relating to Agricultural Building Permits."** The East Oahu County Farm Bureau, with approximately 300 members, represents the area of northeast Oahu from Waimanalo to Kahuku.

The time, cost, and nuisance of obtaining building permits for even minor farm structures is a significant impediment to agriculture in Hawaii. If the law is not changed, permits will become an even greater problem in the future, as new food safety standards will require upgrades to farm buildings and infrastructure. A recent report by Honolulu's new agricultural liaison identified "Urban building standards and permits not suited for agricultural structures" as a major barrier to expanding agriculture on Oahu for all farmers, and especially for food farmers.

HB 2424 HD1, if passed, would exempt low-risk, nonresidential farm structures from building permit requirements. It would remove a major impediment to the expansion of agriculture, and would contribute to the State's goal of greater food self-sufficiency. HB 2424 HD1 is consistent with the laws of more than 30 other states that exempt farm buildings and structures from county building permit regulations. We therefore urge you to help Hawaii's farmers and ranchers by passing HB 2424 HD1 as written.

Thank you for the opportunity to testify.

Sincerely,

Grant Hamachi
President, East Oahu County Farm Bureau



Testimony Reference : HB 2424 HD1

Committee : House Committee on Water, Land, and Ocean Resources

Date of Hearing: Feb 21

From: Hawaii Farmers Union United

SUPPORT with Amendments

Testimony:

The need for this bill is oblivious. Most folks in our community are aware of the cost and difficulties of applying for and obtaining permits, with each county having different standards. Most folks are also aware the non-residential farm structure pose little threat to the community.

With the fact that over 85% of the farms in Hawaii are UNDER TWO acres....this bill is excluding the vast majority of farms. This line should be removed. A farm that is on Agriculture zoned land and in production, should be afforded the same privileges as larger acreage farms.

Please amend Section two:

(1) The low-risk nonresidential building or structure is constructed or installed on a lot that is ~~two~~ ONE more contiguous acres in area and primarily used for agricultural or aquacultural operations;

Please amend Section Two: Line 4. (d) With this line in the bill, it restricts this bill to Fee Simple Owners and excludes the vast majority of farmers. Most State AG and State DLNR leases have a clause requiring lessee to get ALL permits. HFUU recommends at a minimum strike out "public". (d) Nothing in this section is meant to supersede ~~public or~~ private lease conditions.

Thank you for the opportunity to speak for the family farmer in Hawaii.

Glenn Martinez
HFUU President
FYI:

Hawaii Farmer Union United is the largest agriculture organization in the State of Hawaii that represents the small family farmers at the exclusion of GMO and Mega Corporation mono- crop industrial farms. With small family farmers on every island Hawaii Farmers Union is the only Grassroots farm organization where the members have direct voice.

Any testimony given to the Legislature is vetted to the membership. Often the testimony is a blend of opinions voiced directly from membership. We also encourage all individual members to submit testimony directly, particularly where there voice is different then the majority, thus all farmer voices are heard, not just the loudest.

Testimony of
Melvin Matsuda
President
Matsuda-Fukuyama Farms, Inc
on
H.B. 2424
Relating to Building Permits

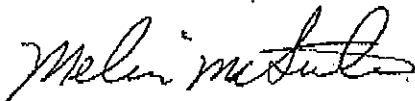
House Committee on Land, Water and Ocean Resources
Tuesday, February 21, 2012
11:00 a.m.
Conference Room 325

Matsuda-Fukuyama Farms fully supports HB 2424. This would allow farmers and ranchers to build much needed storage facilities that house and protect farm equipment and supplies. The current building codes and regulations require us to have an approved building permit to construct storage facilities such as a barn or shed which are necessary and important accessories to our farm operation.

The passage of HB 2424 will enable us to construct buildings that will accommodate our needs to protect our valuable farm equipment from the harsh weather environment without the long and tedious building permitting process. Such storage facilities would be used to house: tractors, plows, sprayers, disc-harrows, fertilizers, irrigation supplies, generators, water pumps, trailers, fuel cells, wooden pallets etc.

I respectfully ask that you pass HB 2424 which will enable us to expand and extend our current structures that store and secure our farm equipment and supplies.

Thank you for allowing me to present my testimony.



Melvin Matsuda
Matsuda-Fukuyama Farms

2029 Nuuanu Ave. #1510
Honolulu, Hawaii 96817
February 19, 2012

Representative Jerry L. Chang, Chair
Representative Sharon Har, Vice Chair
House Committee on Water, Land, and Ocean Resources
415 S. Beretania St.
Honolulu, Hawaii 96813

Dear Chair Chang, Vice Chair Har, and Members of the Committee:

I am sending this testimony to express my **strong support for HB 2424 HD1**. This bill, if passed as written, would remove a major impediment to the growth of Hawaii's diversified agriculture. Hawaii's county building codes, in contrast to those in many Mainland states, unnecessarily treat agricultural buildings and structures as if they were residences or commercial buildings in congested urban areas.

I hope my personal experience will serve as an example. Almost 30 years ago, my business partner and I leased 17 acres in Kahuku and established an aquaculture farm producing edible seaweed (*ogo*), primarily for the local market on Oahu. We invested the little money we had, farmed for 27 years, and eventually became successful enough to support ourselves and several workers. Early in the history of the farm, we needed to put up a shed to protect our tools and equipment from the damp, salty environment. It was a 10-by-20-foot shed made of recycled lumber, built with our own labor, anchored securely to a concrete pad, far from any other buildings in a remote agricultural area. The total cost was probably about \$500, which barely fit within our budget. We applied for a building permit, but were told that plans for the shed must be approved by an architect and an engineer. The cost of hiring these experts would have been many times the construction cost of the shed itself, and far beyond our limited resources, so we were forced to withdraw our permit application. It seemed excessive then – and still seems so to me now – to require such expertise for the construction of a simple tool shed.

In 2009 our farm's lease expired, and we had to leave. I seriously considered starting another farm, this time using the new and highly efficient technique of aquaponics, in some other location. I had to concede that I could not start over again. The time and costs involved in complying with building code requirements for the necessary structures – even though those structures would have posed little risk to anyone's safety – were major factors in my decision. Further, since aquaponics is relatively new and the best techniques have not been defined for all sites and crops, I would have had to start small and build incrementally as I learned what worked best for me. Such gradual development of farm structures is not feasible when a permit is needed for each change. I believe the existing codes make it very difficult for small farmers and startup agribusinesses – in other words, the farmers of the future – to invest in much-needed infrastructure. Therefore, I hope you will pass HB 2424 HD1.

Thank you for the opportunity to state my opinion on this important matter.

Sincerely,



Frederick M Mencher



TESTIMONY BEFORE THE COMMITTEES ON WATER,
LAND & OCEAN RESOURCES AND ENERGY &
ENVIRONMENTAL PROTECTION

HOUSE BILL 2424, HD1

RELATING TO AGRICULTURAL BUILDING PERMITS

PRESENTED TO THE TWENTY-SIXTH LEGISLATURE

FEBRUARY 2012

CHAIRPERSONS JERRY CHANG & DENNY COFFMAN and Members of the
Committees:

STRONG SUPPORT.

My name is Loren Mochida, Director of Agricultural Operations at W. H. Shipman, Limited in Keaau on the Big Island. We are a local kamaaina-family owned land management company that is engaged in Agriculture and Commercial/Industrial development and leasing. We currently lease lands to over 130 individually growers at W.H. Shipman, Ltd.

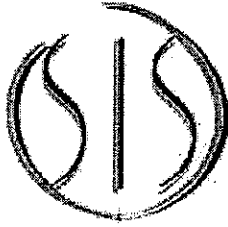
W. H. Shipman, Ltd., and their growers provide strong support to HB 2424, HD1, Relating to Agricultural Building Permits. This Act will encourage and support diversified agriculture self-sufficiency by providing an agricultural building exemption for commercial farms and ranches.

Hawaii does not currently have a statutory agricultural building exemption despite its long agricultural history and its current dependency on agricultural food and fuel imports.



The existing building codes and permitting processes are overly burdensome to commercial agriculture and aquaculture industries and adds substantial costs to establish or expand farming and ranching activities. A search of CONUS statutes and codes has determined that at least 32 states currently have agricultural building exemptions.

Thank you very much for the opportunity to provide testimony on HB 2424, HD1.



**Shrimp
Improvement Systems**
Hawaii LLC

THE HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES

Representative Sharon Har, Vice Chair

DATE: Tuesday, February 21, 2012
TIME: 11:00 a.m.
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

RE: Testimony in strong support of HB 2424 HD-1 RELATING TO AGRICULTURAL BUILDING PERMITS

Dear Chair Chang, Vice Chair Har, and Committee Members:

Shrimp Improvement Systems Hawaii LLC is the leading shrimp broodstock production company in Hawaii. We generate more than 6.5 million dollars of revenue annually for Hawaii's economy and we strongly support HB 2424 HD-1 as written. This bill exempts nonresidential agricultural buildings and structures on commercial farms and ranches from building permit requirements, thereby eliminating an unnecessary obstacle to the construction of essential agricultural infrastructure and helping to improve the economic viability of Hawaii's agricultural sector, without any cost to the State.

Background: Historically, building codes are the result of national efforts to quell large urban fires in the early 1900s to help mitigate large-scale fire loss. Since the largest of these devastating fires were primarily in large urban areas, the move to adopt uniform building codes generally did not include rural structures, particularly since the loss of an agricultural building seldom leads to the loss of human life.

Current status: While the complexity and reach of building codes have expanded dramatically over the past century, the agricultural building exemptions present in statute or code in most agricultural states remain in place, exempting agricultural buildings and, in a number of states, agricultural dwellings, from the zoning and building codes and building permit process. An extensive search of State statutes and codes has determined that at least 32 states currently have agricultural building exemptions.*

Right to farm: A number of states include agricultural building exemptions under their "right to farm" declarations. The State of Iowa declared in the **Code of Iowa**, Section 335.2 that "no ordinance adopted under this chapter applies to land, farm houses, farm barns, farm outbuildings or other buildings or structures which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used." The **Illinois Compiled Statutes** Chapter 55 Section 5/5-12001 state "agricultural structures/buildings shall be exempt from zoning ordinance and building code regulations requiring building permits, fees, minimum design standards and specifications, and occupancy permits..." **Arizona Revised Statute** (ASR) 11-830 states "nothing in any ordinance authorized in this ARS shall prevent, restrict, or otherwise regulate use or improvements on land tracts ... used for general agricultural

73-4460 Queen Kaahumanu Highway #108, Kailua-Kona, Hawaii 96740
Phone: 808 334 9737

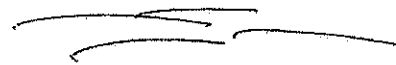
purposes.”

Building permit exclusions and exemptions: Many states provide agricultural exclusions or agricultural building exemptions under their building codes. **Pennsylvania’s Uniform Construction Code**, Section 104 states “This act shall not apply to: ... (4) any agricultural building.” The **Tennessee Code 13-7-114** provides: “This part shall not be construed as authorizing the requirement of building permits nor providing any regulation of the erection, construction, or reconstruction of any building or other structure on lands now devoted to agricultural uses or which may hereafter be used for agricultural purposes, ...” The **Kentucky Building Code** Section 101.2 exempts “Farm dwellings and other buildings and structures located on farms which are incident to the operation of the farm and located outside the boundary of a municipality.” **Oregon State law 455.315** allows exemption from the requirement for a building permit and inspections when the proposed building meets the agricultural-building requirements. **Florida’s Statute 604.50** states “Notwithstanding any other law to the contrary, any nonresidential farm building is exempt from the Florida Building Code and any county or municipal building code.”

Conclusion: While the details of agricultural building exemptions vary across the country, the common intent of such long-standing statutes and codes has been to support bona fide agriculture, agricultural families and workers, and rural agricultural communities. The benefits of providing such exemptions have become increasingly evident and important in recent years with the ever-changing regulatory environment and increasingly competitive global agricultural marketplace in which today’s agricultural operations must compete and survive.

HB2424 HD-1 addresses the construction and agricultural needs of the Hawaii agricultural community while continuing to address the fire and life safety needs of Hawaii’s urban centers and residential communities. The agricultural building exemption will help to decrease agricultural building construction costs in Hawaii while helping to increase farm production and employment, and is consistent with the intent of the Hawaii Constitution, Article XI, Section 3, which reads, the State shall “promote diversified agriculture” and “increase agricultural self-sufficiency”. Shrimp Improvement Systems Hawaii LLC therefore respectfully requests the Senate Committee on Water, Land, and Ocean Resources to pass HB2424 HD-1 for the benefit of Hawaii’s farmers and ranchers, and for those who purchase locally-grown agricultural products.

Thank you for the opportunity to comment.



Joseph Tabrah
President/Manager

**States with Agricultural Building Exemptions in statute and/or code include: Alabama, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.*



THE HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Representative Jerry L. Chang, Chair
Representative Sharon E. Har, Vice Chair

DATE: Tuesday, February 21, 2012
TIME: 11:00 a.m.
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

RE: Testimony in strong support of HB 2424 HD 1 RELATING TO AGRICULTURAL BUILDING PERMITS

Dear Chair Chang, Vice Chair Har, and Committee Members:

The Hawaii Aquaculture and Aquaponics Association (HAAA), representing Hawaii's aquaculture and aquaponics industry statewide, strongly supports HB 2424 HB1 but respectfully requests your consideration of two minor amendments noted at the end of my testimony. This bill exempts nonresidential agricultural buildings and structures on commercial farms and ranches from building permit requirements, thereby eliminating an unnecessary obstacle to the construction of essential agricultural infrastructure and helping to improve the economic viability of Hawaii's agricultural sector, without any cost to the State.

Background: Historically, building codes are the result of national efforts to quell large urban fires in the late 1800s and early 1900s to help mitigate large-scale fire loss. The first model building code in the United States was published in 1905 by the National Board of Fire Underwriters, an insurance group. Since the largest of these devastating fires were primarily in large urban areas, the move to adopt uniform building codes generally did not include rural structures, particularly since the loss of an agricultural building seldom leads to the loss of human life. The Minnesota Governor's Council on Fire Prevention and Control reported in 2010 that to date "there hasn't been a case of a loss of human life" involving agricultural buildings, which are exempt from the state building code.

Current status: While the complexity and reach of building codes have expanded dramatically over the past century, the agricultural building exemptions present in statute or code in the majority of states remain in place, exempting agricultural buildings and, in a number of states, agricultural dwellings, from the zoning and building codes and building permit process. An extensive search of State statutes and codes has determined that at least 32 states currently have agricultural building exemptions.*

Right to farm: A number of states include agricultural building exemptions under their "right to farm" declarations. The State of Iowa declared in the **Code of Iowa**, Section 335.2 that "no ordinance adopted

under this chapter applies to land, farm houses, farm barns, farm outbuildings or other buildings or structures which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used.” The **Illinois Compiled Statutes** Chapter 55 Section 5/5-12001 state “agricultural structures/buildings shall be exempt from zoning ordinance and building code regulations requiring building permits, fees, minimum design standards and specifications, and occupancy permits...” **Arizona Revised Statute** (ASR) 11-830 states “nothing in any ordinance authorized in this ARS shall prevent, restrict, or otherwise regulate use or improvements on land tracts ... used for general agricultural purposes.”

Building permit exclusions and exemptions: Many states provide their agricultural exclusions or agricultural building exemptions under their building codes. **Pennsylvania’s Uniform Construction Code**, Section 104 states “This act shall not apply to: ... (4) any agricultural building.” The **Tennessee Code** 13-7-114 provides: “This part shall not be construed as authorizing the requirement of building permits nor providing any regulation of the erection, construction, or reconstruction of any building or other structure on lands now devoted to agricultural uses or which may hereafter be used for agricultural purposes, ...” The **Kentucky Building Code** Section 101.2 exempts “Farm dwellings and other buildings and structures located on farms which are incident to the operation of the farm and located outside the boundary of a municipality.” **Oregon State law** 455.315 allows exemption from the requirement for a building permit and inspections when the proposed building meets the agricultural-building requirements. **Florida’s Statute** 604.50 states “Notwithstanding any other law to the contrary, any nonresidential farm building is exempt from the Florida Building Code and any county or municipal building code.”

Conclusion: While the details of agricultural building exemptions vary across the country, the common intent of such long-standing statutes and codes has been to support bona fide agriculture, agricultural families and workers, and rural agricultural communities. The benefits of providing such exemptions have become increasingly evident and important in recent years with the ever-changing regulatory environment and increasingly competitive global agricultural marketplace in which today’s agricultural operations must compete and survive.

HB2424 HD1 addresses the construction and agricultural building needs of the Hawaii agricultural community while continuing to address the fire and life safety needs of Hawaii’s urban centers and residential communities. The agricultural building exemption will help to decrease agricultural building construction costs in Hawaii while helping to increase farm production and employment, and is consistent with the wording and intent of the Hawaii Constitution, Article XI, Section 3, which reads, the State shall “promote diversified agriculture” and “increase agricultural self-sufficiency”.

Requested amendments: The HAAA respectfully requests the Senate Committee on Water, Land & Ocean Resources to amend HB2424 HD1 as follows:

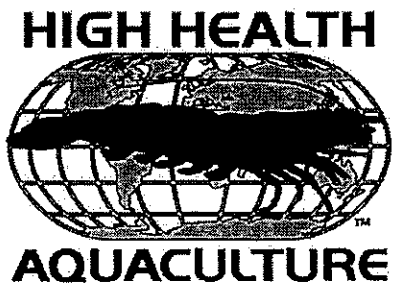
Page 3, lines 12-15 (1) The low-risk nonresidential building or structure is constructed or installed on a farm or ranch [lot] that is two or more contiguous acres in area, or one or more acres in area if located in a non-residential agricultural or aquacultural park setting, and primarily used for agricultural or aquacultural operations;

These requested amendments would address: 1) the situation of a farm or ranch comprised of multiple contiguous lots of record where one or more of the subject lots is less than two acres while the farm or ranch in total is two or more acres; 2) the situation of the Natural Energy Laboratory of Hawaii (NELH) where the minimum lot size is one acre. Passage of HB2424 HD1 with these requested amendments will benefit Hawaii’s farmers and ranchers, and also the residents and visitors who purchase locally-grown agricultural products, without any cost to the State.

Thank you for the opportunity to comment.

Ronald P. Weidenbach
HAAA President

**States with Agricultural Building Exemptions in statute and/or code include: Alabama, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.*



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February 20, 2012

HB 2424 HD1

House Committee on Water, Land, and Ocean Resources

Feb. 21 at 11:00 AM in Conference Room 325, State Capitol Building.

Dear Members of the Committee:

I am writing to express my **strong support for HB 2424 HD1**. This bill would remove a major impediment to the growth of Hawaii's diversified agriculture. Hawaii's individual county building codes treat agricultural buildings and structures as if they were residences or commercial buildings in congested urban areas. This is a significant deterrent to agricultural development and investment.

HHA is a commercial shrimp breeding company based at NELHA in Kona. We have been a commercial company since 1994.

Passage of HB 2424 would reduce regulatory burden on agriculture ventures and improve the investment climate for food producers.

I strongly urge you to support HB 2424.

Best regards,

Jim Wyban, PhD
President
High Health Aquaculture Inc.

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2012 1:33 PM
To: WLOtestimony
Cc: hollyalgood@sbcglobal.net
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: HOLLY ALGOOD
Organization: Individual
E-mail: hollyalgood@sbcglobal.net
Submitted on: 2/20/2012

Comments:

Dear Members of the Committee:

We are sending this testimony to express our strong support for HB 2424. Hawaii's county building codes put unnecessary burdens on new farmers and ranchers like ourselves. We live in rural Hawi on 34 acres.

When we bought our old sugar cane land in 2008, it was virtually barren with almost no trees. It is very windy and sunny in Hawi at our 200 foot elevation and we were anxious to put up windbreaks and bring life back to the land. Our goal is to grow a food and hardwood forest to bring wildlife back and bring organic local food to market. We purchased a John Deere tractor two years ago to help us till and plant the land. The tractor with several implements was a major expense of over \$50,000. We started to get a permit for a simple tractor and implement cover between two containers but the process became so cumbersome and expensive we stopped. We've planted hundreds of native and other hardwood and fruit trees with our tractor and backhoe. Our location has harsh winds, strong sun and much salt spray, yet the trees are surviving and our bananas are bearing fruit. However our tractor and implements are rusting due to uncovered storage. Our investment is decomposing before our eyes. The tractor would have a much longer life if covered. By passing this bill you enable us and other new farmers and ranchers to protect their investments in equipment much more easily.

We also have been experimenting with aquaponics with which we grow ample greens to supplement the diet of our organic chickens. We know many others here who are doing wonderful things with their aquaponic gardens which promise much opportunity for locally grown food. Again it would alleviate a great burden to not have to worry about permits for the small structures beneficial to have for aquaponics growing.

Farming is much harder than many know. It is many hours of work without great financial payback. Going through the permitting process for farm buildings adds unnecessary stress and work. Thank you for listening and I hope you will pass HB 2424 without amendment.

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 19, 2012 5:14 PM
To: WLOtestimony
Cc: mgalimba@kuahiwiranch.com
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Michelle Galimba
Organization: Individual
E-mail: mgalimba@kuahiwiranch.com
Submitted on: 2/19/2012

Comments:

Please support this bill as it will help to lower costs for Hawaii's agricultural producers.

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 17, 2012 6:58 PM
To: WLOtestimony
Cc: lsgusman@yahoo.com
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Linda Gusman
Organization: Individual
E-mail: lsgusman@yahoo.com
Submitted on: 2/17/2012

Comments:

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 19, 2012 8:42 AM
To: WLOtestimony
Cc: haws@aol.com
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM
Attachments: supportHB2424 HD1.rtf

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Maria Haws
Organization: Individual
E-mail: haws@aol.com
Submitted on: 2/19/2012

Comments:

As a supporter of Hawaii's aquaculture industry, I strongly support HB 2424 HD1, which would remove an unnecessary impediment to the construction of agricultural infrastructure. Current county building permit requirements are designed for commercial and residential buildings in urban areas, and are not appropriate for farm structures such as greenhouses, storage sheds, and fish tanks. Compliance with these requirements adds greatly to the time and cost needed to build even the simplest of structures. This burden falls especially heavily upon small farmers, family farmers, and beginning farmers, who often do not have the money or spare time to deal with the building permit process.

Building permit requirements have become increasingly burdensome in recent years as smaller, diversified farming and ranching operations have multiplied. These diverse farms and ranches tend to have greater infrastructure needs per acre than the sugar and pineapple plantations they have replaced, and usually have fewer financial resources and less ability to qualify for large construction loans than a plantation would. This is especially true for newer, more intensive culture methods such as hydroponics, aquaculture, and aquaponics. These techniques are particularly appropriate for Hawaii, where land and water are limited and expensive, but they require structures such as shade houses, prefabricated greenhouses, tanks, raceways, storage buildings, and the like. Even less intensive operations may require shelters to protect their crops, livestock, and equipment from thieves, vandals, wind, and weather. These structures on agricultural lands present little risk to the public.

A majority of U.S. states provide exemptions from county building standards for agricultural buildings and structures located outside the urban core of cities and towns. Hawaii's strict building codes put our farmers and ranchers at a disadvantage compared to those in states that have exemptions. This disadvantage is one reason why Hawaii's farmers have difficulty competing with imported food.

There may be opposition to **HB 2424 HD1** by county building departments, fire departments, and other county and state agencies. With respect to the important job these agencies do in protecting the public's health and safety it is important to recognize, as more than 30 other states do, that the threat to life and property from fire and other disasters is minimal for nonresidential farm buildings and structures in agricultural areas compared to that for residential and commercial buildings in urban areas. In contrast, Hawaii's dependence on a fragile 2500-mile lifeline of ships and planes for 85-90% of our food supply presents a clear threat to the public's health and safety. We therefore ask that you support Hawaii's goal of greater food self-sufficiency by passing SB 2646 as written.

Thank you for the opportunity to testify on this matter of great importance to Hawaii's farmers and ranchers.

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 19, 2012 9:28 PM
To: WLOtestimony
Cc: busybody6@live.com
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Terri Matsuoka
Organization: Individual
E-mail: busybody6@live.com
Submitted on: 2/19/2012

Comments:

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2012 8:16 AM
To: WLOtestimony
Cc: jmattoshbp@aol.com
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Jill Mattos
Organization: Individual
E-mail: jmattoshbp@aol.com
Submitted on: 2/20/2012

Comments:

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2012 8:06 AM
To: WLOtestimony
Cc: RJZACK@aol.com
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Roy Mattos
Organization: Individual
E-mail: RJZACK@aol.com
Submitted on: 2/20/2012

Comments:

This would help farmers and ranchers who do not live near to farm to help store equipment and supplies. It takes to long to get permits from the County. Farmers and ranchers need quicker movements in order to survey.

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 18, 2012 1:35 PM
To: WLOtestimony
Cc: scottemcfarland@gmail.com
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Scott McFarland
Organization: Individual
E-mail: scottemcfarland@gmail.com
Submitted on: 2/18/2012

Comments:

As a small organic farmer on Kauai, I support this proposed bill.

Scott E. McFarland

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 19, 2012 4:56 PM
To: WLOtestimony
Cc: DAMAGICJUICE@GMAIL.COM
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: STANLEY RUIDAS
Organization: Individual
E-mail: DAMAGICJUICE@GMAIL.COM
Submitted on: 2/19/2012

Comments:

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2012 8:06 AM
To: WLOtestimony
Cc: tjscagnoliii@dow.com
Subject: Testimony for HB2424 on 2/21/2012 11:00:00 AM

Testimony for WLO 2/21/2012 11:00:00 AM HB2424

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Tom Scagnoli
Organization:
E-mail: tjscagnoliii@dow.com
Submitted on: 2/20/2012

Comments: