



State of Hawaii
DEPARTMENT OF AGRICULTURE
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Honolulu, Hawaii 96814-2512
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TESTIMONY OF RUSSELL S. KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE
ON
WATER, LAND, & OCEAN RESOURCES

FEBRUARY 21, 2012
11:00 A.M.
ROOM 325

HOUSE BILL NO. 2424, H.D. 1
RELATING TO AGRICULTURAL BUILDING PERMITS

Chairperson Chang and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2424, H.D. 1. The purpose of this bill is to exempt from county building permits buildings or structures located on commercial farms or ranches used for general agricultural or aquacultural operations. The department offers comments regarding this bill.

The department recognizes that structures are an integral part of conducting agricultural business. We also recognize that the county permit process creates a minimum standard that potential structures must meet for safety as well as public health reasons. We believe this version of the bill allows both landlords and tenants to work together to create a successful agricultural operation.

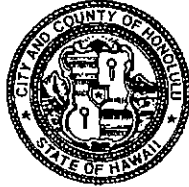
Thank you for the opportunity to submit testimony.



DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.gov • CITY WEB SITE: www.honolulu.gov

PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

February 21, 2012

The Honorable Jerry L. Chang, Chair
and Members of the Committee on Water,
Land, and Ocean Resources
The Honorable Denny Coffman, Chair
and Members of the Committee on Energy
and Environmental Protection
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Chang, Coffman, and Committee Members:

Subject: House Bill No. 2424, H.D. 1
Relating to Agricultural Building Permits

The Department of Planning and Permitting, **opposes** House Bill No. 2424, H.D. 1. This Bill amends Chapter 46, HRS, to mandate that the counties exempt certain agricultural structures from building permits.

While the Department supports the agricultural industry, it cannot come at the expense of jeopardizing life and health. Clearly, this is a homerule issue. It is the counties who should determine what is or isn't low risk, as not only do building codes assure the minimum standards needed to protect life and improvements on private property, but they also protect surrounding properties, particularly against the spread of fire, which in turn, can needlessly endanger city emergency responders. Inadequate infrastructure support and deficient structural specifications can also create harmful impacts to surrounding property, including sanitation issues.

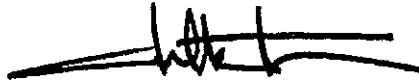
Exemptions from building permit also means that the City and County of Honolulu will not inspect buildings during and after construction. This may not only compromise public health and safety, but create financing difficulties, as banks may be hesitant to issue loans and mortgages on improvements which do not have county assurances based on issuance of a building permit. Thus, in the long run, this state-exemption process may hurt farmers.

Currently, our Department is working with the Honolulu Fire Department and others to determine what kinds of structures could be exempt from the building permit process. To supersede the counties' basic health and safety responsibilities is of deep concern to us. Should House Bill No. 2424, H.D. 1, be adopted, we must assume that liability for the exempted structures will then rest with the State.

The Honorable Jerry L. Chang, Chair
and Members of the Committee on Water,
Land, and Ocean Resources
The Honorable Denny Coffman, Chair
and Members of the Committee on Energy
and Environmental Protection
House of Representatives
Re: House Bill No. 2424, H.D. 1
February 12, 2012
Page 2

Please hold House Bill No. 2424, H.D. 1. Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Tanoue', with a long horizontal line underneath.

David K. Tanoue, Director
Department of Planning and Permitting

DKT:js

hb2424 hd1-k



Oceanic Institute

An Affiliate of Hawaii Pacific University

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

COMMITTEE ON WATER, LAND, AND 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 Oceanic Institute (OI) is a private, 501 (c) (3) non-profit research and development organization dedicated to applied aquaculture and marine science research and education. OI is affiliated with Hawaii Pacific University.

OI strongly supports 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 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 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". OI therefore respectfully requests the House Committee on Agriculture to pass HB2424 for the benefit of Hawaii's farmers and ranchers, and for those who purchase locally-grown agricultural products.

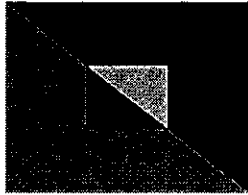
Thank you for the opportunity to comment.



Anthony C. Ostrowski, Ph.D.
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.*

LATE TESTIMONY



Peter J. Boucher, P.E.

Civil, Environmental and Aquacultural Engineering

1537 Kalote Place
Hilo, Hawaii 96720
808-981-0827
pboucher@hawaii.rr.com

February 21, 2012

TO: COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Jerry L. Chang, Chair

Rep. Sharon E. Har, Vice Chair

RE: HB2424 HD1 RELATING TO AGRICULTURAL BUILDING PERMITS

Tuesday, February 21, 2012: 11:00 AM

Conference Room 325

This testimony is provided in strong support of the referenced bill as written. The 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.

I am writing both as a private engineering consultant and as the operator of a small aquaponics farm in Hilo. It has taken me almost three years to complete construction of a small structure associated with my aquaponics operation. The process has been severely delayed by the building permit process. This has made me question whether it is worth the effort to build greenhouse structures to cover a portion of the operation. I am sure that this situation has been faced by many if not most of the struggling farmers in Hawaii.

Passage of this bill will encourage current and prospective aquaculturists and other farmers to expand their operations. This in turn will reduce Hawaii's dependence on imported food and increase the sustainability of our agricultural industry.

Thank you for the opportunity to testify in support of this important bill.

Sincerely,

Peter J. Boucher, P.E.

LATE TESTIMONY

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

House Committee on Water, Land, and 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 HD1 RELATING TO AGRICULTURAL BUILDING PERMITS

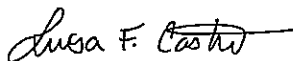
Dear Chair Chang, Vice Chair Har, and Committee Members:

I am writing as an individual who works with agricultural professionals throughout the state to offer my strong support to HB 2424 HD1 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.

I work with many farmers who are trying to start-up or keep their families agricultural operations alive and have incurred huge costs to build or retrofit farm buildings. If zoning ordinance and building code regulations were mandated requiring building permits, fees, minimum design standards and specifications, and occupancy permits, it would add an extraordinary burden to these family farms. I fear many would not be able to continue farming, as the cost would become too burdensome. Therefore, Hawaii should look to the many examples of time-tested agricultural building exemptions that currently exist in other states to approve the common intent of such long-standing statutes and codes to support bona fide agriculture, agricultural families and workers, and rural agricultural communities.

HB 2424 HD 1 addresses both the fire and life safety needs of Hawaii's urban centers and residential communities and the construction and agricultural needs of the Hawaii agricultural community. 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". I, therefore, respectfully request the House Committee on Water, Land, and Ocean Resources to pass HB2424 HD1 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.



Luisa F. Castro

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2012 9:37 AM
To: WLOtestimony
Cc: aquaticdave@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: David L. Cohen
Organization: Individual
E-mail: aquaticdave@gmail.com
Submitted on: 2/21/2012

Comments:

LATE TESTIMONY

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2012 8:38 AM
To: WLOtestimony
Cc: kaiawemakanani@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: Kaiawe Makanani
Organization: Individual
E-mail: kaiawemakanani@aol.com
Submitted on: 2/21/2012

Comments:

LATE TESTIMONY

THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Jerry L. Chang, Chair
Rep. 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
Honolulu, Hawai'i

RE: Testimony in strong support of HB 2424, HD1 (RELATING TO BUILDING PERMITS)

Aloha Chair Jerry L. Chang, Vice Chair Sharon E. Har, and Committee Members:

I strongly support HB 2424, HD1 as written at the present, stating that the purpose of this Act is to promote and support diversified agriculture and agricultural self-sufficiency in the State by exempting certain nonresidential agricultural buildings that are on commercial farms and ranches located outside of urban districts and used for agricultural or aquacultural operations from county building permit requirements which exempts nonresidential agricultural buildings and structures on commercial farms and ranches from building permit requirements. This will improve the economic viability of Hawaii's aquaculture sector without additional cost to the State of Hawai'i. Over 30 states¹ across the United States of America already incorporate agricultural building exemptions under their "right to farm" declarations. Numerous states also provide agricultural exclusions or agricultural building exemptions under their building codes. Although the particulars of agricultural building exemptions differ among the states over all the meaning of such codes has been to sustain and benefit the local production of food and thus the livelihood of farmers and their families, while bringing about a ripple effect onto the agricultural jobs and community building associated with the farming activities across the United State of America. In addition, this bill will encourage future investments and commitment by farmers and the young generation to continue with the family values and devotion to the so needed production of local healthy food and by that to help bring about future food security and food safety to the State of Hawai'i.

Mahalo,

Dr. Tetsuzan Benny Ron

Scientist and Educator
Honolulu, Hawai'i

¹ 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.