

# **SB 2646**

## Testimony



State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF RUSSELL S. KOKUBUN  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON AGRICULTURE

FEBRUARY 7, 2012  
2:50 P.M.  
ROOM 229

SENATE BILL NO. 2646  
RELATING TO BUILDING PERMITS

Chairperson Nishihara and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2646. The purpose of this bill is to exempt low-risk nonresidential agricultural buildings from the county building permit process. The department respectfully opposes this bill.

The Department recognizes that structures are an integral part of conducting agricultural business. We acknowledge that the county permit process is facing a backlog due to a lack of resources; however, this process creates a minimum standard that potential structures must meet for safety as well as public health reasons. Unregulated grading of building pads, roads, etc. can create significant environmental impacts when heavy rainfall occurs. A structure not built according to plan creates unsafe working conditions, not just for the worker, but for visitors. Unannounced inspections ensure that minimum construction standards are being met and that worker safety is being adhered to. Maintaining these standards ensures that future employees and visitors can expect a safe environment when performing their duties.

Furthermore, should these structures be allowed on leased land, what kind of liability would the landowner face? Will the landowner be forced to allow these



TESTIMONY OF RUSSELL S. KOKUBUN  
BEFORE THE SENATE COMMITTEE ON AGRICULTURE  
FEBRUARY 7, 2012, 2:50 P.M.  
SENATE BILL NO. 2646  
PAGE 2

structures on their land? How is the landowner going to know whether or not their tenant has adhered to the requirements identified in this bill? Will the tenant be able to sue the landlord in the event of a structure failure? If a tenant creates a flooding situation, or allows significant sediment runoff, is the landowner protected from a law suit? Land owners must retain the right to control activities on their land.

Thank you for the opportunity to present testimony.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
WILLIAM J. AILA, JR  
Chairperson**

**Before the Senate Committee on  
AGRICULTURE**

**Tuesday, February 7, 2012  
2:50 PM  
State Capitol, Conference Room 229**

**In consideration of  
SENATE BILL 2646  
RELATING TO BUILDING PERMITS**

Senate Bill 2646 proposes to amend Hawaii Revised Statutes Chapter 46 to exempt from county building permit requirements the construction, installation or operation of nonresidential buildings and structures located on commercial farms or ranches and used for general agricultural or aquacultural operations. Any buildings or structures constructed pursuant to this exemption, however, must still comply with the applicable electrical code 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 electrical 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 terms and conditions of the Department's standard form leases also requires the lessee maintain fire insurance covering all improvements and notes the possibility that the building permit exemption may impact the ability of a lessee to obtain fire insurance or the cost of such insurance.

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



**Oceanic Institute**  
An Affiliate of Hawai'i Pacific University

THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

DATE: Tuesday, February 7, 2012  
TIME: 2:50 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

**RE: Testimony in strong support of SB 2646 RELATING TO BUILDING PERMITS**

Dear Chair Nishihara, Vice Chair Kahele, 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 SB 2646 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.

SB2646 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 Senate Committee on Agriculture to pass SB2646 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.*

**MOKULEIA AQUAFARM**  
QUALITY FARM RAISED AQUACULTURED PRODUCTS

THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

DATE: Tuesday, February 7, 2012  
TIME: 2:50 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

**RE: Testimony in strong support of SB 2646 RELATING TO BUILDING PERMITS**

Dear Chair Nishihara, Vice Chair Kahele, and Committee Members:

**Mokuleia Aquafarm enthusiastically supports SB 2646, a bill which encourages the construction of agricultural infrastructure desperately needed by an entire industry.** This bill provides substantial and critically needed support for an industry fundamental to Hawaii's past and future and it does so without the need for any funding appropriation!

Current building department requirements are designed for commercial and residential buildings in urban areas, and not for ancillary farm structures in rural areas. Compliance with these requirements adds enormous burden onto small farmers to build even the simplest of structures. These farmers are also families who's resources of time and money have already been stretched to their limits just in trying to survive, and cannot afford the high engineering and architectural fees often required for even the simplest structures.

Agriculture in Hawaii is suffering as building permit requirements have become increasingly arduous in recent years as smaller, diversified family farms have attempted to fill the gap left by the loss of sugar and pineapple production. This is especially true for newer, more intensive culture methods such as hydroponics, aquaculture, and aquaponics. Although these techniques are particularly appropriate for Hawaii, where land and water are limited and expensive, they require more structures (such as shade houses, prefabricated greenhouses, tanks, raceways, storage buildings), as well as shelters to protect crops and equipment from theft and/or weather damage.

We respectfully ask you to join more than 30 other states, that exempt nonresidential farm buildings and structures from the stringent requirements needed for residential and commercial buildings in urban areas. As a State that depends so heavily on a vulnerable lifeline of ships and planes for our food supply, we humbly 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 so great an importance to all of us.

Respectfully Submitted,

Jeffrey A. Koch,  
Owner, Mokuleia Aquafarm





73-4460 Queen Kaahumanu Hwy  
#117 Kailua-Kona, Hawaii 96740  
phone/fax: 808-329-6018  
[jim.wyban@gmail.com](mailto:jim.wyban@gmail.com)  
[www.SPFGenetics.com](http://www.SPFGenetics.com)

February 5, 2012

THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

DATE: Tuesday, February 7, 2012  
TIME: 2:50 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

**RE: Testimony in support of SB 2646 RELATING TO BUILDING PERMITS**

Dear Chair Nishihara and Committee Members:

High Health Aquaculture Inc (HHA) is a commercial shrimp breeding company located in Kona since 1994. HHA strongly supports SB 2646 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.

Agricultural building exemptions across the country support bona fide agriculture, agricultural families and workers, and rural agricultural communities. The benefits of such exemptions are important with the ever-changing regulatory environment and increasingly competitive global agricultural marketplace in which today's agricultural operations must compete and survive.

SB2646 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, which reads, the State shall "promote diversified agriculture" and "increase agricultural self-sufficiency".

Best regards,

Jim Wyban PhD  
High Health Aquaculture Inc.  
Kona Hawaii USA



**Shrimp  
Improvement Systems**  
Hawaii LLC

THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

DATE: Tuesday, February 7, 2012  
TIME: 2:50 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

**RE: Testimony in strong support of SB 2646 RELATING TO BUILDING PERMITS**

Dear Chair Nishihara, Vice Chair Kahele, 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 SB 2646 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

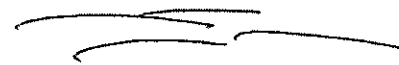
purposes.”

**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.

SB2646 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 Agriculture to pass SB2646 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.*



TESTIMONY BEFORE THE SENATE COMMITTEE ON  
AGRICULTURE

SENATE BILL 2646

RELATING TO BUILDING PERMITS

PRESENTED TO THE TWENTY-SIXTH LEGISLATURE

FEBRUARY 2012

CHAIRPERSON NISHIHARA 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 SB 2646, Relating to Building Permits. This Act will exempt nonresidential agriculture and aquaculture buildings and structures, and their appurtenances, located on commercial farms and ranches from building permit requirements other than electric and wastewater regulations, to support Hawaii's farmers and ranchers.

The existing building codes and permitting processes are not efficiently tailored to meet the needs of 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 SB 2646.



*Hawaii  
Aquaculture &  
Aquaponics Association*

THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

DATE: Tuesday, February 7, 2012  
TIME: 2:50 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

**RE: Testimony in strong support of SB 2646 RELATING TO BUILDING PERMITS**

Dear Chair Nishihara, Vice Chair Kahele, and Committee Members:

The Hawaii Aquaculture and Aquaponics Association (HAAA), representing Hawaii's aquaculture and aquaponics industry statewide, strongly supports SB 2646 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 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.

SB2646 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”. The HAAA therefore respectfully requests the Senate Committee on Agriculture to pass SB2646 for the benefit of Hawaii’s farmers and ranchers, and for the benefit of those who purchase locally-grown agricultural products.

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.*

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

COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

DATE: Tuesday, February 7, 2012  
TIME: 2:50 p.m.  
PLACE: Conference Room 229

**RE: Testimony in strong support of SB 2646 RELATING TO BUILDING PERMITS**

Dear Chair Nishihara, Vice Chair Kahele, 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 SB 2646 as written. 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 Senate Committee on Agriculture to pass SB2646 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.*



Aquaponics Hawaii/Hawaii Taro Company LLC  
P.O. Box 371  
Hanalei Hawaii  
96714

THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair


DATE: Tuesday, February 7, 2012  
TIME: 2:50 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

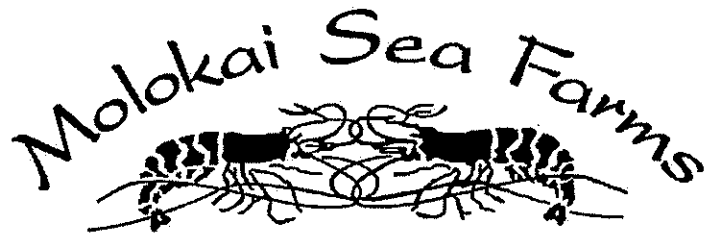
RE: Testimony in strong support of SB-2646 RELATING TO BUILDING PERMITS

Dear Chair Nishihara, Vice Chair Kahele, and Committee Members:

Aquaponics Hawaii and the Hawaii Taro Company, strongly supports SB 2646 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.

Sincerely,

  
Hobey Beck  
Owner/Operator



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

---

Clarence K. Nishihara

Senate District 18  
Hawaii State Capitol, Room 204

Feb 6, 2012

**RE: In Support of SB 2646 Relating to Building Permits**

I have owned and operated Molokai Sea Farms since 1988. I strongly support SB 2646.

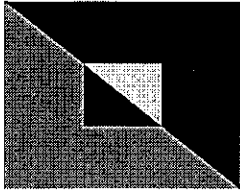
Besides operating my aquaculture farm for the past 24 years I just concluded five years serving on the Molokai Planning Commission. The number one complaint that we received on the commission was how long **and time consuming** the building permit application process takes. Many people choose not to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

Respectfully Submitted,

Steve Chaikin

Owner/Operator



**Peter J. Boucher, P.E.**  
Civil, Environmental and Aquacultural Engineering

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

February 6, 2012

TO: COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

RE: SB 2646 RELATING TO BUILDING PERMITS  
Tuesday, February 7, 2012: 2:50 PM  
Conference Room 229

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 cabin 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.*

THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

DATE: Tuesday, February 7, 2012  
TIME: 2:50 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

**RE: Testimony in strong support of SB 2646 RELATING TO BUILDING PERMITS**


Dear Chair Nishihara, Vice Chair Kahele, and Committee Members:

I am writing as an individual who works with agricultural professionals throughout the state to offer my strong support to SB 2646 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.

SB 2646 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 Senate 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.

  
Luisa F. Castro

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 03, 2012 7:03 AM  
**To:** AGL Testimony  
**Cc:** mgalimba@kuahiwiranch.com  
**Subject:** Testimony for SB2646 on 2/7/2012 2:50:00 PM

Testimony for AGL 2/7/2012 2:50:00 PM SB2646

Conference room: 229  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Michelle Galimba  
Organization: Kuahiwi Ranch  
E-mail: [mgalimba@kuahiwiranch.com](mailto:mgalimba@kuahiwiranch.com)  
Submitted on: 2/3/2012

**Comments:**

We strongly support this bill as a way to ease onerous and inappropriate restrictions on agriculture.

THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

DATE: Tuesday, February 7, 2012  
TIME: 2:50 P.M.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

Chair Nishihara, Vice Chair Kahele, 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 S.B. 2646 Relating to Building Permits. The bill would exempt specified nonresidential agriculture and aquaculture buildings and structures and their appurtenances that are located on commercial farms 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 activities.

I urge the Committee to pass S.B. 2646. 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

2029 Nuuanu Ave. #1510  
Honolulu, Hawaii 96817  
February 5, 2012

Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair  
Senate Committee on Agriculture  
415 S. Beretania St.  
Honolulu, Hawaii 96813

Dear Chair Nishihara, Vice Chair Kahele, and Members of the Committee:

I am sending this testimony to express my **strong support for SB 2646**. 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. 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 SB 2646 without amendment.

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

Sincerely,



Frederick M. Mencher

THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON AGRICULTURE

Senator Clarence K. Nishihara, Chair  
Senator Gilbert Kahele, Vice Chair

DATE: Tuesday, February 7, 2012  
TIME: 2:50 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii

RE: Testimony in strong support of SB 2646 (RELATING TO BUILDING PERMITS)

Aloha Chair Nishihara, Vice Chair Kahele, and Committee Members:

I strongly support SB 2646 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 Hawaii. Over 30 states<sup>1</sup> 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 Hawaii.

Mahalo,

Dr. Tetsuzan Benny Ron

Scientist and Educator  
Young Street  
Honolulu, Hawaii

---

<sup>1</sup> 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.



February 7, 2012

TO: COMMITTEE ON AGRICULTURE

Senator Clarence K. Nishihara, Chair

Senator Gilbert Kahele, Vice Chair

RE: SB 2646 RELATING TO BUILDING PERMITS

Tuesday, February 7, 2012: 2:50 PM

Conference Room 229

This testimony is provided in *strong support* of bill SB 2646 as written.

This bill eliminates unnecessary obstacles to the construction of essential agricultural infrastructure. I write as a private consultant and as an individual with more than thirty years exposure to the commercial aquaculture sector in Hawaii.

These activities help to improve the economic viability of Hawaii's agricultural sector; as such they need to be expedited. Aquaculture production reduces Hawaii's dependence on imported food and increases the sustainability of our agricultural industry. Local aquaculture production needs to be aggressively supported by this legislature.

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

Sincerely,

Paul Bienfang, President  
Analytical Services Inc.  
P. O. Box 62311  
Honolulu, HI 96839