



**STATE OF HAWAII**  
**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dliir.director@hawaii.gov](mailto:dliir.director@hawaii.gov)

March 25, 2012

The Honorable Angus McKelvey, Chair  
Committee on Consumer Protection and Commerce  
House of Representatives  
State Capitol, Room 320  
Honolulu, Hawaii 96813

Dear Chair McKelvey:

Subject: S.B. 586, S.D. 1, H.D. 1 Relating to Agricultural Building Permits

I am Robert Westerman, Vice Chair of the State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). The SFC and the KFD opposes S.B. 586, S.D. 1, H.D. 1, which seeks to exempt nonresidential buildings on commercial farms and ranches located outside the urban district.

The building permit process involves several agencies that review and ensure that newly constructed buildings meet minimum safety and health standards. Each of these agencies has expertise in the various components of a building, including structural, electrical, plumbing, wastewater, etc. New construction must meet minimum fire and life safety standards, consistently regarding fire fighting access roads and water supply. Without the regulatory oversight of the permit process, buildings may not meet minimum standards. This may pose a potential danger to the occupants and personnel who respond to life safety and property protection incidents.

The SFC would offer the following questions for your consideration:

1. If structures are built without a permit would public utility companies allow connections to electrical, water and sewer supplies?
2. Without a permit approval would insurance companies insure a structure and its owner from liability, fire, or other natural disaster?

The Honorable Angus McKelvey, Chair  
Page 2  
March 25, 2013



3. Would an on-site energy source not be required to meet minimum safety standards?
4. Would a mortgage lender allow the purchase of buildings, structures, or facilities without an approved building permit?

Although the SFC is sensitive to the support of agricultural self-sufficiency in the state, the county building permit process functions for the safety, health and protection of all its citizens and should not be circumvented as a convenient solution for a select group.

The SFC and the KFD urge your committee's deferral on the passage of S.B. 586, S.D. 1, H.D. 1.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,

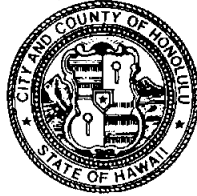
  
 ROBERT WESTERMAN  
Vice Chair

RW/LR:cc

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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

KIRK CALDWELL  
MAYOR



GEORGE I. ATTA  
FAICP, LEED AP, CEI  
DIRECTOR DESIGNATE  
  
ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

March 27, 2013

The Honorable Angus L. K. McKelvey, Chair  
and Members of the Committee on Consumer  
Protection & Commerce  
Hawaii State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair McKelvey and Members:

Subject: Senate Bill No. 586, SD 1, HD 1  
Relating to Agricultural Building Permits

The Department of Planning and Permitting **opposes** Senate Bill No. 586 SD 1, HD 1, which provides exemptions from building code and permit requirements for nonresidential buildings or structures, including indigenous Hawaiian hale, on commercial farms and ranches located outside the urban district. Specifically, the provisions of this bill would create a violation of the electrical code due to mandates which dictates the counties shall issue a building permit to install an electrical service and meter to a pole adjacent to an unpermitted structure. The electrical code does not allow structures to be energized by this type of installation.

Further, the provisions of this bill are circumventing minimum life-safety requirements of the electrical code. Because the intent and purpose of the building permit and codes are to provide minimum standards to protect the building environment from potential hazards, it is prudent not to exempt the electrical installation from the minimum requirements of the building codes.

We therefore respectfully request this bill, which is seriously flawed, be held in committee. Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in cursive script that reads "George I. Atta".

George I. Atta, FAICP, LEED AP, CEI  
Director Designate  
Department of Planning and Permitting

GIA:jmf  
sb586sd1hd1-AgBdgPrmts-t

ALAN M. ARAKAWA  
MAYOR



JEFFREY A. MURRAY  
CHIEF

ROBERT M. SHIMADA  
DEPUTY CHIEF

**COUNTY OF MAUI**  
DEPARTMENT OF FIRE AND PUBLIC SAFETY

200 DAIRY ROAD  
KAHULUI, MAUI, HAWAII 96732  
(808) 270-7561  
FAX (808) 270-7919  
EMAIL: fire.dept@mauicounty.gov

March 25, 2012

The Honorable Angus McKelvey, Chair  
Committee on Consumer Protection and Commerce  
House of Representatives  
State Capitol, Room 320  
Honolulu, Hawaii 96813

Dear Chair McKelvey:

Subject: S.B. 586, S.D. 1, H.D. 1 Relating to Agricultural Building Permits

I am Jeffrey A. Murray, Fire Chief of the County of Maui, Department of Fire & Public Safety (MFD) and a member of the State Fire Council (SFC). The MFD and the SFC opposes S.B. 586, S.D. 1, H.D. 1, which seeks to exempt nonresidential buildings on commercial farms and ranches located outside the urban district.

The building permit process involves several agencies that review and ensure that newly constructed buildings meet minimum safety and health standards. Each of these agencies has expertise in the various components of a building, including structural, electrical, plumbing, wastewater, etc. New construction must meet minimum fire and life safety standards, consistently regarding fire fighting access roads and water supply. Without the regulatory oversight of the permit process, buildings may not meet minimum standards. This may pose a potential danger to the occupants and personnel who respond to life safety and property protection incidents.

The SFC would offer the following questions for your consideration:

1. If structures are built without a permit would public utility companies allow connections to electrical, water and sewer supplies?
2. Without a permit approval would insurance companies insure a structure and its owner from liability, fire, or other natural disaster?

The Honorable Angus McKelvey, Chair  
Page 2  
March 25, 2013

3. Would an on-site energy source not be required to meet minimum safety standards?
4. Would a mortgage lender allow the purchase of buildings, structures, or facilities without an approved building permit?

Although the SFC is sensitive to the support of agricultural self-sufficiency in the state, the county building permit process functions for the safety, health and protection of all its citizens and should not be circumvented as a convenient solution for a select group.

The MFD and the SFC urge your committee's deferral on the passage of S.B. 586, S.D. 1, H.D. 1.

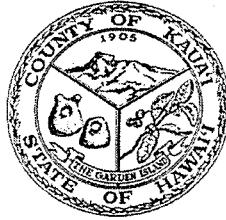
Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,



JEFFREY A. MURRAY  
Fire Chief

**Bernard P. Carvalho, Jr.**  
Mayor



**Larry Dill, P.E.**  
County Engineer

**Gary K. Heu**  
Managing Director

**Lyle Tabata**  
Deputy County Engineer

**DEPARTMENT OF PUBLIC WORKS**

**County of Kaua'i, State of Hawai'i**

4444 Rice Street, Suite 275, Līhu'e, Hawai'i 96766

TEL (808) 241-4992 FAX (808) 241-6604

March 21, 2013

The Honorable Angus L.K. McKelvey, Chair  
And Members of the Committee on Consumer Protection & Commerce  
Hawai'i State House of Representative  
Hawai'i State Capitol  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Subject: Senate Bill No. 586 SD1, Relating to Agriculture Building Permits

Dear Chair McKelvey and Members:

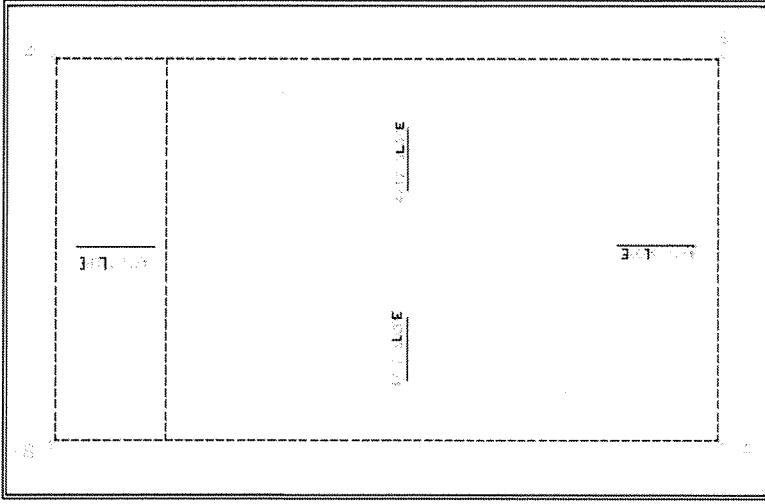
We oppose Senate Bill 586 SD1 because exempting certain agricultural structures from building codes would jeopardize health and safety. Building codes provide the minimum regulatory safety standards, and exempting structures from the minimum standards creates a safety issue. If there are specific code provisions that are not appropriate farm structures they can be amended either as part of the State Building Code or at county code level.

This bill does not consider Kaua'i County agriculture land ownership and use conditions as exemplified by the first plumbing permit request for an "agricultural structure" that is being built without a building permit in compliance with Act 114. As you can see by the attached plan there is a high possibility of residential use of the "agricultural structure". This structure is on an approximately 19 acre parcel that recently sold for \$6.5 million.

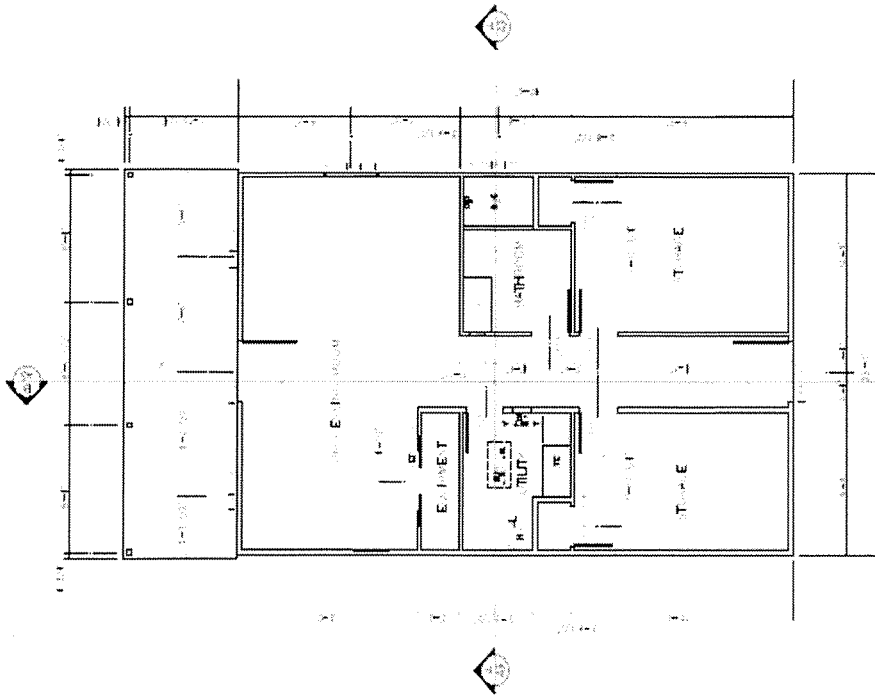
Thank you for the opportunity to submit this testimony in opposition to SB 586 SD1.

Sincerely,

LARRY DILL, P.E.  
County Engineer



ROOF PLAN  
1/2" = 1'-0"



FLOOR PLAN  
1/8" = 1'-0"

**COUNTY COUNCIL**

Jay Furfaro, Chair  
Nadine K. Nakamura, Vice Chair  
Tim Bynum  
Gary L. Hooser  
Ross Kagawa  
Mel Rapozo  
JoAnn A. Yukimura



**OFFICE OF THE COUNTY CLERK**

Ricky Watanabe, County Clerk  
Jade K. Fountain-Tanigawa, Deputy County Clerk

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**Council Services Division**  
4396 Rice Street, Suite 209  
Līhu'e, Kaua'i, Hawai'i 96766

March 25, 2013

**TESTIMONY OF GARY L. HOOSER  
COUNCILMEMBER, KAUAI COUNTY COUNCIL**

**ON**

**S.B. 586, S.D. 1, H.D. 1, RELATING TO AGRICULTURAL BUILDING PERMITS**

**Committee on Consumer Protection & Commerce**

**Wednesday, March 27, 2013**

**4:00 p.m.**

**Conference Room 325**

Dear Chair McKelvey and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. 586, S.D. 1, H.D. 1, relating to Agricultural Building Permits. My testimony is submitted in my individual capacity as a Councilmember of the Kaua'i County Council.

S.B. 586, S.D. 1, H.D. 1 was amended to allow the Counties the latitude to manage the building permit and building code exemptions for agricultural structures specific to each County.

It is important to support agriculture and small farmers by getting rid of unnecessary requirements. However, since the Counties are the entities that enforce and manage the building permit process, it is appropriate for the Counties to guide the implementation of the agricultural exemption process. Additionally, this measure addresses the situation of a County failing to provide an exemption list as specified. The suggested list from the State shall then go into effect pending the County taking action. This ensures that farmers are given relief and support promptly and without delay.

For the reasons stated above, I respectfully request the Committee to approve this measure. Again, thank you for this opportunity to submit testimony.

Sincerely,

GARY L. HOOSER  
Councilmember, Kaua'i County Council



**COUNTY COUNCIL**

Jay Furfaro, Chair  
Nadine K. Nakamura, Vice Chair  
Tim Bynum  
Gary L. Hooser  
Ross Kagawa  
Mel Rapozo  
JoAnn A. Yukimura



**OFFICE OF THE COUNTY CLERK**

Ricky Watanabe, County Clerk  
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Telephone (808) 241-4188  
Fax (808) 241-6349  
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**Council Services Division**  
4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawai'i 96766

March 25, 2013

**TESTIMONY OF TIM BYNUM  
COUNCILMEMBER, KAUAI COUNTY COUNCIL  
ON**

**S.B. 586, S.D. 1, H.D. 1, RELATING TO AGRICULTURAL BUILDING PERMITS**  
Committee on Consumer Protection & Commerce  
Wednesday, March 27, 2013  
4:00 p.m.  
Conference Room 325

Dear Chair McKelvey and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. 586, S.D. 1, H.D. 1, relating to Agricultural Building Permits. My testimony is submitted in my individual capacity as a Councilmember of the Kaua'i County Council.

S.B. 586, S.D. 1, H.D. 1 was amended by allowing the Counties to manage the building permit and building code exemptions for agricultural structures in each respective County. This is appropriate as the Counties are tasked with enforcing and managing the building permit process.

I appreciate the efforts of Councilmember Gary L. Hooser who proposed the amendments, which allows the Counties to issue exemptions based on the building code and zoning requirements of each County. This legislation supports agriculture and small farmers by providing relief from unnecessary requirements, but takes into consideration the requirements set forth by each County.

For the reasons stated above, I respectfully request the Committee to approve this measure. Again, thank you for this opportunity to submit testimony.

Sincerely,

TIM BYNUM  
Councilmember, Kaua'i County Council



THE HOUSE  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair  
Rep. Derek S.K. Kawakami, Vice Chair

DATE: Wednesday, March 27, 2013  
TIME: 4:00 p.m.  
PLACE: Conference Room 325  
State Capitol  
415 South Beretania Street

**RE: Testimony in conceptual support of SB 586 SD1 HD1 RELATING TO AGRICULTURAL BUILDING PERMITS as written, with urgently requested amendments to enable our strong support**

Aloha Chair McKelvey, Vice Chair Kawakami, Committee Members:

I am Ron Weidenbach, President of the Hawaii Aquaculture and Aquaponics Association representing aquaculture and aquaponic producers, researchers, and supporters statewide.

This legislation is extremely important to the efforts of Hawaii's farmers and ranchers to increase local food production at affordable prices. As presented in the preamble of this bill, the costs and excessive time requirements of building permit and code compliance in Hawaii are prohibitive and unnecessary for low risk, non-residential agricultural buildings and structures located on commercial farms outside the urban zone.

Thirty-two (32) other states already have such an agricultural building exemptions in place, including hurricane-prone Florida and Massachusetts, in many cases going back 100 years or more.

However, the HD1 version of this bill introduced a number of important changes, some of which largely negate the intent of this bill and the efforts of three years of collaborative work by the Hawaii farming and ranching community with the Legislature, the Office of the Attorney General, and the Counties to develop this important legislation.

While we support the inclusion of nonresidential indigenous Hawaiian hale as an additional agricultural building or structure, and limiting the State and the counties' liability for claims that arise from agricultural buildings, structures, and appurtenances so exempted, if determined to be Constitutional by subsequent Office of Attorney General review, we strongly disagree with the widespread substitution of “may” for “shall” in HD1 and other substantive change which essentially nullify the intent of this measure and also of Act 114 supported and approved by the Legislature last session.

We believe the concerns regarding situations where bones or other items of archeological or cultural significance are found during the construction process are adequately addressed by other sections of law and would be similar to when such items may be found during agricultural activities such as plowing fields for planting.

We note that AGR and WAL previously passed the almost identical HB 489 HD1 without any of the changes they placed in SB 586 SD1 HD1.

Following last session’s passage of SB 2646 and the Governor’s signing of Act 114, the Office of the Attorney General held a series of meetings with representatives of the farming community and Counties, resulting in a report to the Governor that recommended that this matter be further discussed in a public forum. The proposed legislation addresses the agricultural communities need for code exemptions for specific forms of agricultural building and structures under certain conditions, limited according to lot size, in an attempt to address the Counties expressed concerns about structures on small lots posing risks to structures on adjoining lots. With this accommodation, we feel the requested code exemption in SB586 SD1 was reasonable and low risk.

**We therefore respectfully request that the following changes be made to SB586 SD1 HD1 (requested deletions in [brackets] and requested additions underlined) :**

1. Section 2. (a) [~~Each~~] Notwithstanding any law to the contrary, each county [~~shall establish~~] [~~may adopt or amend~~] shall establish an agricultural buildings and structures exemption list of buildings and structures that are exempt from existing building permit requirements.
2. Section 2. (b) For purposes of subsection (a), the following buildings [~~and~~], structures, and appurtenances thereto [~~shall~~] [~~may~~] shall be included in each county's agricultural [~~building~~] buildings and structures exemption list[~~;~~] and [~~may~~] shall be exempt from county building permit and code requirements:
3. Section 2. (c) [~~In the event that~~] If a county fails to establish [~~the~~] an agricultural buildings and structures exemption list [~~within the time period as required under subsection (a),~~] before July 1, 2014, the buildings and structures specified in subsection (b) shall constitute that county's agricultural [~~building~~] buildings and structures exemption list[~~;~~] [until such a time as the county establishes an exemption list specific to that particular county].
4. Section 2. (d) For purposes of subsection (a), and notwithstanding the one thousand square foot floor area restriction in subsection (a), the following buildings, structures, and appurtenances thereto [~~may~~] shall be exempt from building permit requirements when

compliant with relevant building codes or county, national, or international prescriptive construction standards:

Thank you for the opportunity to testify in conceptual support of this measure, and with the respectfully requested changes adopted in an HD2 version of this bill, the HAAA would be in strong support of this measure.

Ron Weidenbach  
HAAA President



## **EAST OAHU COUNTY FARM BUREAU**

**45-260 WAIKALUA ROAD S 101 KANEHOE, HI 96744**

March 25, 2013

Rep. Angus L.K. McKelvey, Chair  
Rep. Derek S.K. Kawakami, Vice Chair  
House Committee on Consumer Protection and Commerce  
State Capitol, 415 S. Beretania St.  
Honolulu, Hawaii 96813

Dear Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

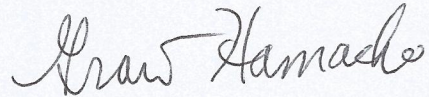
I am sending this testimony to express the East Oahu County Farm Bureau's **strong support for the original intent of SB 586 SD1, "Relating to Agricultural Building Permits."** The East Oahu County Farm Bureau, with approximately 300 members, represents the area of northeast Oahu from Waimanalo to Kahuku.

The cost and time involved in code compliance for even minor farm structures is a significant impediment to agriculture in Hawaii. If the law is not changed, this will become an even greater problem in the future, as new food safety standards will require upgrades to farm buildings and infrastructure. A 2011 report by Honolulu's 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. **Unfortunately, the current version of the bill (SB 586 SD1 HD1) has been amended in such a way that it is unlikely to create meaningful code exemptions.** The original intent of SB 586 SD1 was to create a mandatory minimum list of low-risk agricultural structures that would be exempt from building codes. By changing the bill's wording from "shall" to "may" in the bill's subsections, the current version allows county building departments to ignore the bill's list of low-risk structures and instead create minimal lists that may be of little benefit to farmers and ranchers. **We therefore ask that the bill's language be restored in such a way that its list of low-risk structures is truly exempt from building codes.**

SB 586 SD1, if passed as it crossed over from the Senate, would remove a major impediment to the expansion of agriculture, and would contribute to the State's goal of greater food self-sufficiency. Its intent was consistent with the laws of more than 30 other states that exempt farm buildings and structures from county building permit and/or code regulations. Hawaii's farmers must compete with agricultural products imported from these states, whose farmers now have an advantage because of Hawaii's high cost of doing business. It was also consistent with the recently published proposed revision of Honolulu's General Plan, which includes the objective "Foster a healthy business climate by removing unnecessary regulatory barriers." We urge you to help Hawaii's farmers and ranchers by passing the bill in a form that restores its original intent.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in cursive script that reads "Grant Hamachi". The signature is written in black ink and is positioned above the printed name and title.

Grant Hamachi  
President, East Oahu County Farm Bureau



LAND USE RESEARCH  
FOUNDATION OF HAWAII

1100 Alakea Street, 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813  
(808) 521-4717  
[www.lurf.org](http://www.lurf.org)

March 22, 2013

Representative Angus L.K. McKelvey, Chair  
Representative Derek S.K. Kawakami, Vice Chair  
House Committee on Consumer Protection & Commerce

**Testimony in Support of SB 586, SD1, HD1, Relating to Agricultural Building Permits (Provides, under certain circumstances, an exemption from building code and permit requirements for nonresidential buildings or structures, including indigenous Hawaiian hale, on commercial farms and ranches located outside the urban district).**

**Wednesday, March 27, 2013, 4:00 p.m., in CR 325**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

**SB 586, SD1, HD1.** This bill proposes to provide, under certain circumstances, exemptions from building code and permit requirements for nonresidential buildings and structures, including indigenous Hawaiian hale, on commercial farms and ranches located outside the urban district. This measure also proposes to ensure that Hawaii Revised Statutes, Section 46-88(a) would supersede any conflicting state laws.

**LURF's Position.** LURF supports the underlying intent of SB 586, SD1, HD1, which is to support agriculture and aid agriculture-related businesses, and also believes that the bill is consistent with the purpose and intent of the Important Agricultural Lands (IAL) laws which focuses on promoting agricultural viability by providing incentives for farmers and landowners to designate lands as IAL, **and to build necessary infrastructure.**

Despite the need for agricultural structures on farms and ranches (storage sheds, equipment houses, greenhouses, etc.), farmers, ranchers and other agricultural stakeholders have encountered difficulties obtaining building permits since standards applied to such structures are the same as those applied to commercial and residential buildings. Such standards are thus inappropriate, excessive and burdensome for agricultural structures and have posed financial and practical obstacles for farmers and ranchers wanting to improve or expand operations.

House Committee on Consumer Protection & Commerce  
March 22, 2013

By recognizing the use of farm and ranch structures as agriculture-related, **SB 586, SD1, HD1** would remove a significant impediment to economically viable agriculture, aquaculture and ranching in Hawaii.

Based on the above, LURF **supports SB 586, SD1, HD1**, and respectfully urges your favorable consideration of this bill.

Thank you for the opportunity to present testimony in support of this measure.



**kawakami2 - Rise**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 25, 2013 5:58 PM  
**To:** CPCtestimony  
**Cc:** louie@primavera-aquaponics.biz  
**Subject:** Submitted testimony for SB586 on Mar 27, 2013 16:00PM

**SB586**

Submitted on: 3/25/2013

Testimony for CPC on Mar 27, 2013 16:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dr. Louis Primavera	Primavera Aquaponics LLC	Support	No

Comments: Please amend to restore required code exemptions instead of exemption by county option.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**kawakami2 - Rise**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 24, 2013 8:11 AM  
**To:** CPCtestimony  
**Cc:** DAMAGICJUICE@GMAIL.COM  
**Subject:** Submitted testimony for SB586 on Mar 27, 2013 16:00PM

**SB586**

Submitted on: 3/24/2013

Testimony for CPC on Mar 27, 2013 16:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
STANLEY RUIDAS	Individual	Support	No

Comments: I support this bill as written, no amendments...Mahalo

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

# **HAWAII C'S AQUACULTURE CONSULTANT SERVICES**

MARCH 27, 2013

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

## TESTIMONY ON SB 586 SD1 HD1 RELATING TO AGRICULTURAL BUILDING PERMITS

Conference Room 325  
4:00 PM

Chair McKelvey, Vice Chair Kawakami, and Members of the Committees:

My Name is Clyde Tamaru and I am an aquaculture consultant with Hawaii C's Aquaculture Consultant Services and an aquaculture specialist with the University of Hawaii College of Tropical Agriculture and Human Resources. I am submitting testimony as a private citizen and business and not representing the University of Hawaii.

Hawaii C's Aquaculture Consultant Services strongly supports SB 586 SD1, which would remove an unnecessary impediment to the construction of agricultural infrastructure, as it was originally transmitted to the House. I DO NOT support the latest version of the building code exemption bill, SB 586 SD1 HD1 that is currently being heard in this committee for the following reasons:

- The previous version of the bill would have exempted many agricultural and aquacultural buildings and structures from building permit and building code requirements, and would have saved many farms a lot of time and money when building needed infrastructure. Current county building code 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.
- The amended bill would no longer require the counties to accept a minimum list of buildings and structures that would be exempted from building codes and permits, and a list of other structures that would be exempt from permits only. Instead, the counties would be allowed, but not required, to establish such a list. This is not acceptable as agribusinesses need to know before-hand what building requirements are needed for their operations
- Newer and more intensive culture methods such as hydroponics, aquaculture, and aquaponics are emerging technologies that are particularly appropriate for Hawaii, where land and water are limited and expensive. However, they also require structures such as shade houses, prefabricated greenhouses, tanks, raceways, storage buildings that are obviously not the same as a commercial building or residential home. 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. To make Hawaii's farmers

## **HAWAII C'S AQUACULTURE CONSULTANT SERVICES**

competitive will require the kind of political leadership that recognizes these disadvantages and enact legislation that helps rather than harms agribusinesses to operate in Hawaii.

For all of these reasons I support restoring SB 586 SD1 to its original intent and NOT SUPPORT SB 586 SD1 HD1 in its current form. I urge you to replace the word "may" with the word "shall" in subsections (a), (b), (c), and (d) to clarify that the exemptions listed in SB 586 are the minimum exemptions for the State as a whole.

If there are any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Clyde S. Tamaru". The signature is fluid and cursive, with a large initial "C" and "S".

Clyde S. Tamaru  
President

2029 Nuuanu Ave. #1510  
Honolulu, Hawaii 96817  
March 26, 2013

Rep. Angus McKelvey, Chair  
Rep. Derek Kawakami, Vice Chair  
House Committee on Consumer Protection and Commerce  
415 S. Beretania St.  
Honolulu, Hawaii 96813

Dear Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

I am sending this testimony to express my **strong support for the original intent of SB 586 SD1**. This bill, if passed as it was transmitted to the House, would have removed 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. The original intent of SB 586 was to create a list of low-risk, nonresidential agricultural buildings and structures that would be exempt from building permits and codes as well as a list of other structures that could be exempted from permits only. The version of SB 568 presently before your Committee, on the other hand, has been badly weakened by amendments added by the House Committees on Agriculture and Water and Land. SB 568 SD1 HD1 would allow county building departments to ignore the list of low-risk structures specified in the bill, and create lists that exempt few or no useful structures.

Modern agriculture, aquaculture, and aquaponics require more infrastructure than past farming methods did: greenhouses, shade houses, mandatory sanitation facilities, fish tanks, and so on – not to mention fences and locked equipment sheds to protect farms and their equipment from the threat of theft. I do not believe that many small farmers can operate profitably while complying with expensive and time-consuming code requirements for these necessary structures.

I hope my personal experience will serve as an example. Thirty 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. It would be very difficult to comply with codes in such a situation. 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.

Last year the Legislature attempted to offer relief from building permit requirements in the form of Act 114. Because of concern by the Attorney General’s office, Act 114 exempted certain structures from building permit requirements, but not from codes as was originally intended. Act 114 is a start, but it does not provide relief from the substantial costs involved in code compliance. Further, now that the counties have started to implement Act 114, it is becoming clear that there are conflicts between Act 114 and existing State laws regarding building codes and permits. SB 586 SD1 as written would have helped to remove these conflicts. SB 586 SD1 HD1 on the other hand, could actually eliminate even the permit relief offered by Act 114 by allowing the counties to create alternative, minimal exemption lists that do not include the buildings and structures exempted by Act 114.

I do not believe that this should be considered a “home rule” issue. The difficulty of expanding agricultural operations due to county building code requirements is a statewide matter, and farmers and ranchers across the State have noted these requirements as one of their most important concerns. Further, 32 states now have statewide exemptions in law or code for agricultural structures. Presumably these states see an overriding interest in preserving economically viable agriculture that trumps their counties’ authority to establish building codes. If anything, given its geographic isolation, Hawaii has an even greater need than Mainland states to maintain and promote viable agricultural activities. **Profitable farming and ranching should not be illegal. I urge you to remove the language in SB 586 SD1 HD1 that would allow the counties to circumvent the bill’s original intent, and replace it with language that ensures code exemptions for the bill’s list of low-risk buildings and structures.**

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

Sincerely,

A handwritten signature in cursive script that reads "Frederick M. Mencher". The signature is written in dark ink and is positioned above the printed name.

Frederick M. Mencher