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**OFFICE OF THE COUNTY CLERK**

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

March 8, 2013

**TESTIMONY OF TIM BYNUM  
COUNCILMEMBER, KAUA'I COUNTY COUNCIL  
ON**

**S.B. NO. 586, SD1, RELATING TO AGRICULTURAL BUILDING PERMITS**

House Committee on Agriculture/House Committee on Water & Land

March 11, 2013

8:40 a.m.

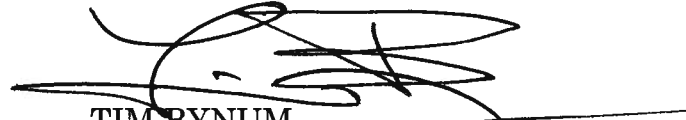
Conference Room 312

Dear Chairpersons Wooley and Evans, and Members of the House Committee on Agriculture and House Committee on Water & Land:

I am testifying in opposition to S.B. No. 586, SD1, Relating to Agricultural Building Permits, 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 for farm structures, those amendments can be addressed either as part of the State Building Code or at the County Code level.

Thank you for the opportunity to testify in opposition to S.B. No. 586, SD1.

Sincerely,



TIM BYNUM  
Councilmember, Kaua'i County Council

AO:lc

**NEIL ABERCROMBIE**  
Governor



**RUSSELL S. KOKUBUN**  
Chairperson, Board of Agriculture

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 COMMITTEES ON AGRICULTURE AND WATER AND LAND**

**MARCH 11, 2013  
8:40 A.M.  
ROOM 312**

**SENATE BILL NO. 586 SD1  
RELATING TO AGRICULTURAL BUILDING PERMITS**

Chairpersons Wooley and Evans, and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 586 SD1. The purpose of this bill is to provide, under certain circumstances, an exemption from the county building code and permit requirements for nonresidential building or structures on commercial farms and ranches located outside the urban district. The department has reservations.

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. Maintaining these standards ensures that future employees and visitors can expect a safe environment when performing their duties.



TESTIMONY OF RUSSELL S. KOKUBUN  
SENATE BILL NO. 586  
PAGE 2

As requirements of the bill will be implemented by the counties, their input is most critical and we would defer to them.

Thank you for the opportunity to present testimony.



**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: [dllr.director@hawaii.gov](mailto:dllr.director@hawaii.gov)

March 8, 2012

The Honorable Jessica Wooley, Chair  
Committee on Agriculture  
House of Representatives  
State Capitol, Room 441  
Honolulu, Hawaii 96813

The Honorable Cindy Evans, Chair  
Committee on Water and Land  
House of Representatives  
State Capitol, Room 425  
Honolulu, Hawaii 96813

Dear Chairs Wooley and Evans:

Subject: S.B. 586, S.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, 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 Jessica Wooley and Cindy Evans, Chairs

Page 2

March 8, 2012

3. Would an 8,000 square foot structure storing and using pesticides, fertilizers or other hazardous substances be considered low-risk to its occupants and responding emergency personnel?

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.

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

Sincerely,



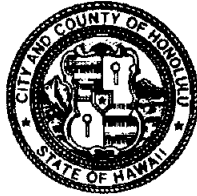
ROBERT WESTERMAN  
Chair

RW/LR

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

JIRO A. SUMADA  
DEPUTY DIRECTOR

March 11, 2013

The Honorable Jessica Wooley, Chair  
and Members of the Committee on Agriculture  
The Honorable Cindy Evans, Chair  
and Members of the Committee on Water & Land  
Hawaii State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Wooley, Evans and Members:

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

The Department of Planning and Permitting **opposes** Senate Bill No. 586, SD 1, which amends Chapter 46, HRS, to exempt certain agricultural structures from Building Codes.

While the Department supports the agricultural industry, it cannot support the proposed amendments, which would jeopardize health and safety. Since existing Building Codes already provide the minimum regulatory safety standards, the proposal to exempt these codes from permitting certain agricultural structures would create a safety issue.

The attempt to correlate low risk structures to structures which do not meet the minimum life safety standards is a misnomer and incorrect since structures constructed below the minimum standard would actually be considered a high risk structure. In such a situation, the short term cost savings would be lost if poor construction contributes to personal injuries or unsafe conditions.

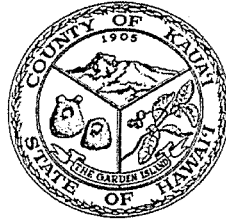
Please hold Senate Bill No. 586, SD 1. Thank you for the opportunity to testify.

Very truly yours,

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

GIA:jmf  
sb586sd1-AgBdgPrmts-t

**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 8, 2013

The Honorable Jessica Wooley, Chair  
And Members of the Committee on Agriculture  
The Honorable Cindy Evans, Chair  
And Members of the Committee on Water & Land  
Hawai'i State Senate  
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 Nishihara, Chair Espero, and Members:

We oppose Senate Bill No. 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 create 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.

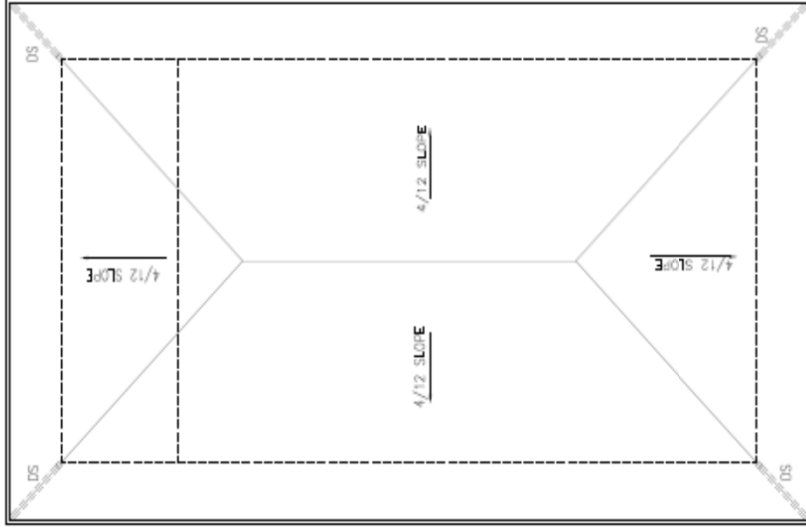
This bill does not consider Kaua'i County agriculture land ownership and use conditions as exemplified by the first plumbing permit request for an "agricultural structure" that is being built without a building permit in compliance with Act 114. As you can see by the attached plan there is a high possibility 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 Senate Bill No. 586 SD1.

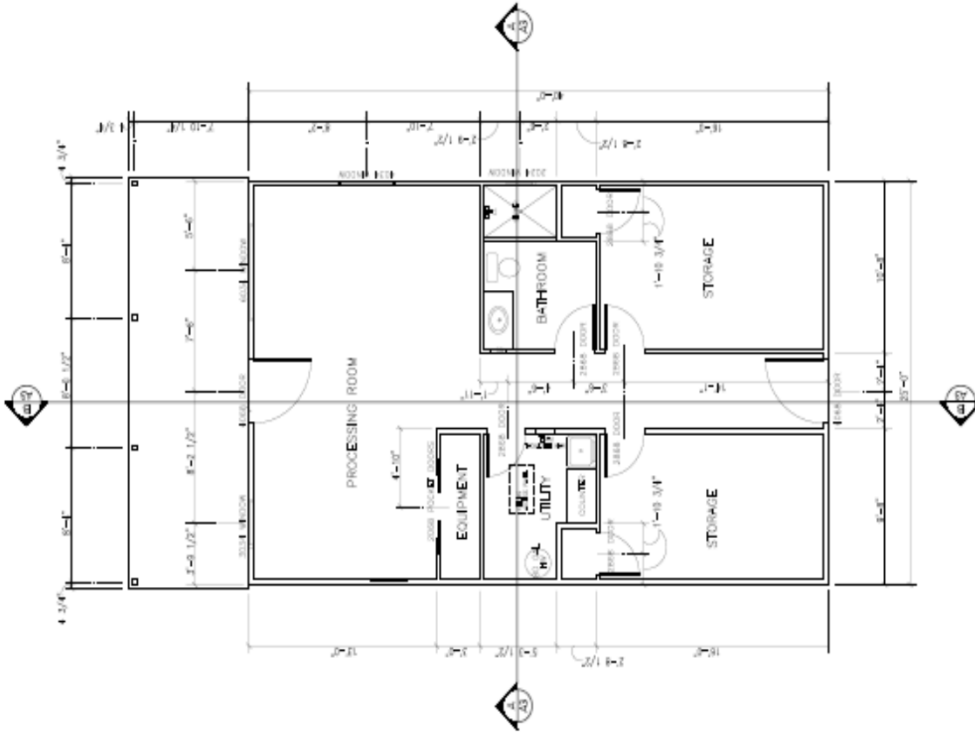
Sincerely,

  
Larry Dill, P.E.  
County Engineer

Attachment



**ROOF PLAN**  
 1/4" = 1'-0"  
 PLAN NORTH



**FLOOR PLAN**  
 1/4" = 1'-0"  
 PLAN NORTH





THE HOUSE  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

COMMITTEE ON WATER AND LAND

COMMITTEE ON AGRICULTURE

DATE: Monday, March 11, 2013  
TIME: 8:40 a.m.  
PLACE: Conference Room 312  
State Capitol  
415 South Beretania Street

**RE: Testimony in strong support of SB 586 SD1 RELATING TO AGRICULTURAL BUILDING PERMITS**

Chairs Wooley and Evans, Vice Chairs Onishi and Lowen, 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 so eloquently presented in the Hawaii Farm Bureau Federation's written testimony and in the preamble of this bill, the costs of 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 exemption in place, including hurricane-prone Florida and Massachusetts, in many cases going back 100 years or more, and often being much less restrictive than the proposed legislation, extending this exemption to farm and employee residences and multi-story buildings. In a recent report to the Governor of Minnesota, it was noted that there has never been a loss of human life as a result of such an agricultural building exemption in Minnesota despite the widespread presence of huge agricultural buildings for overwintering large dairy herds under high snow load conditions.

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 is reasonable and low risk.

Thank you for the opportunity to testify in strong support of this measure.

Ron Weidenbach  
HAAA President



## PRIMAVERA AQUAPONICS

P.O. Box 342052, Kailua, HI 96734 - (808) 489-1204 - [www.GetAquaponics.com](http://www.GetAquaponics.com)

March 8, 2013

Rep. Jessica Wooley, Chair, and Rep. Richard Onishi, Vice Chair  
House Committee on Agriculture  
Rep. Cindy Evans, Chair, and Rep. Nicole Lowen, Vice Chair  
House Committee on Water and Land  
State Capitol, 415 S. Beretania St.  
Honolulu, Hawaii 96813

Dear Chairs Wooley and Evans, Vice Chairs Onishi and Lowen, and Members of the Committees:

Please allow me to express my **strong support for SB 586**, "Relating to Agricultural Building Permits." This bill would help remove a major impediment to the establishment of aquaponic farming in Hawaii.

Aquaponics is a sustainable food production system that combines raising fish in tanks with cultivating plants in water. The effluent of the fish culture system provides nutrients for rapid plant growth, and the plants in turn help to clean the water, which is recycled back to the fish. Aquaponics is highly efficient in its use of water, nutrients, and growing space, making it ideal for producing food in Hawaii, where land and water are limited and expensive. During the last few years, aquaponics has become popular locally with backyard gardeners, and commercial farms in Hawaii are beginning to establish larger-scale facilities. In order to contain the fish, plants, and water, aquaponics requires infrastructure such as tanks, troughs, raceways, net covers, pumps, and pipes. These items do not pose much of a risk to the public, but are treated the same as residential and commercial buildings under existing county building codes. This requirement adds greatly to the time and cost needed to build agricultural and aquaponic facilities legally, and is liable to discourage farmers from installing aquaponic systems on their farms.

I therefore urge you to pass SB 586, which would exempt most agricultural structures from county building permit and code requirements, and would clear the way for this new and efficient food production technology to help meet Hawaii's goal of greater food self-sufficiency.

Sincerely,

Louis Primavera, Ph.D.  
President, Primavera Aquaponics LLC



Email: [communications@uluponoinitiative.com](mailto:communications@uluponoinitiative.com)

HOUSE COMMITTEES ON AGRICULTURE/WATER & LAND  
Monday, March 11, 2013 — 8:40 a.m. — Room 312

**Ulupono Initiative Supports SB 586 SD1, Relating to Agricultural Building Permits**

Chairs Wooley and Evans, Vice Chairs Onishi and Lowen, and Members of the Committees:

My name is Kyle Datta and I am General Partner of the Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally grown food, increase renewable energy, and reduce/recycle waste. Ulupono invests in projects that have the potential to create large-scale, innovative change.

**Ulupono strongly supports SB 586 SD1**, which exempts specified non-residential buildings and structures from building code requirements when they are used for agriculture and aquaculture on commercial farms and ranches.

Farmers and ranchers have found that forced compliance with building codes geared toward health and safety issues for residential and commercial buildings can greatly increase installation costs without providing any clear benefit. This proposal would cover such buildings as greenhouses, shade houses, storage, which are low-risk agricultural structures. Requiring code requirements for these types of agricultural structures also can significantly delay work, adding to cost and creating a burden on local food operations struggling to succeed. Last year, the Legislature worked to reduce the cost and time involved in applying for building permits (Act 114 of 2012) but did not offer relief from the code requirements. This bill would.

Ulupono has joined with a diverse group of organizations who have come together for the first time as the Local Food Coalition to support proposals designed to help grow more local food. The coalition brings together farmers, ranchers, livestock producers, investors and other organizations. The idea is that putting more local food on local plates can best be accomplished by bringing people and organizations together who can work on the entire food value chain in a systematic way. We believe that working together we can help produce more local food, support an economically strong homegrown agriculture industry, which strengthens our community with fresh, healthy food. Thank you for this opportunity to testify.

Respectfully,  
Kyle Datta  
General Partner



# HISTORIC HAWAII FOUNDATION

**To:** Rep. Jessica Wooley, Chair  
Rep. Richard H.K. Onishi, Vice Chair  
Committee on Agriculture  
  
Rep. Cindy Evans, Chair  
Rep. Nicole E. Lowen, Vice Chair  
Committee on Water & Land

**From:** Kiersten Faulkner  
Executive Director, Historic Hawai'i Foundation

**Committee Date:** Monday, March 11, 2013  
8:40 a.m.  
Conference Room 312

**Subject:** **SB 586 SD1, Relating to Agricultural Building Permits**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in opposition to SB 586 SD1, Relating to Agricultural Building Permits, which provides an exemption from building code and permit requirements for nonresidential buildings or structures on commercial farms and ranches located outside the urban district.

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation. HHF's 850 members and numerous additional supporters work to preserve Hawaii's unique architectural and cultural heritage and believe that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

HHF believes that the exemptions proposed in SB 586 are unnecessary and could put significant historic properties at risk. To help ensure that effects on historic properties are identified and taken into account during development proposals, state law includes a provision (HRS §6E-42) that prior to approval of any project involving a permit that may affect historic property, the State Historic Preservation Division is to be advised by the local jurisdiction of the project and allowed an opportunity for review and comment on the effect of the proposed project on historic properties.

This provision helps to ensure that historic and cultural properties are not inadvertently (or deliberately) destroyed during grubbing, grading, digging, construction or other permitted development activities. Many agricultural properties include historic resources, either from the agricultural history itself (including those significant to the histories related to ranching, farming, plantations and aquaculture), or from Native Hawaiian cultural sites and uses that predate the current era.

If agricultural construction activities are exempted from permitting, there would no longer be a nexus that would trigger the review of potential effects on historic sites. HHF recommends that instead of exempting agricultural construction from permitting altogether, it would be appropriate to address the issues of the building code rigidly applying the same standards regardless of use. By addressing the concerns within the code itself, both agricultural activities and cultural resource protection could continue to coexist and provide mutual benefit to Hawaii's communities.

Thank you for the opportunity to comment.

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## Historic Hawai'i Foundation

680 Iwilei Road, Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • FAX: 808-523-0800 • [www.historichawaii.org](http://www.historichawaii.org)

Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability, and economic viability of the state.

HOUSE OF REPRESENTATIVES  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013  
[COMMITTEE ON AGRICULTURE](#)  
Rep. Jessica Wooley, Chair  
Rep. Richard H.K. Onishi, Vice Chair  
[COMMITTEE ON WATER & LAND](#)  
Rep. Cindy Evans, Chair  
Rep. Nicole E. Lowen, Vice Chair

DATE: Monday, March 11, 2013  
TIME: 8:40 A.M.  
PLACE: Conference Room 312  
State Capitol  
415 South Beretania Street

RE: Testimony in strong support of HB 586 S.D. 1 RELATING TO AGRICULTURAL BUILDING PERMITS

Chairs Wooley and Evans , Vice Chairs Onishi and Lowen , Committee Members:

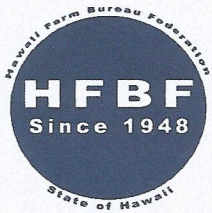
My name is John Corbin. I was formally Manager of the State Aquaculture Development Program from 1979 to 2006. During that time I worked with many small-scale to large corporate farms to help establish their businesses. As you know, our regulatory regime is very challenging to agri- and aqua- businesses. I strongly support SB 586 S.D. 1 and its desired impact of creating a significantly more supportive business environment for agriculture, aquaculture, and aquaponics (Triple A) industries.

In short, the bill is a follow up to Act 114 from last session, which exempted many "Triple A" farming structures from County building permit requirements. It completes the request from last year by the three industries and would also exempt under certain circumstances certain low-risk structures (non-residential buildings or structures on commercial farms and ranches) from building code and permit requirements, when located outside the urban district. This change would make it significantly easier and less expensive to build and cost-effectively operate a farm in Hawaii. Passage of SB 586 S.D. 1 would clearly show that the Legislature and the Administration have confidence in Triple A farmers to be responsible stewards of the land and strongly want to encourage Hawaii to become more food self sufficient and food secure, in the near future.

Many mainland states have passed similar exemptions to support their primary food production industries. Hawaii needs to do the same. Please give SB 586 S.D. 1 your favorable consideration. Thank you for the opportunity to testify. Aloha.

**John S. Corbin MS, CFP, AICP**  
47-215 Iuiu Street  
Kaneohe, Hawaii 96744

808-239-8316  
jscorbin@aol.com



## EAST OAHU COUNTY FARM BUREAU

45-260 WAIKALUA ROAD S 101 KANEOHE, HI 96744

March 9, 2013

Rep. Jessica Wooley, Chair  
Rep. Richard H.K. Onishi, Vice Chair  
House Committee on Agriculture, and  
Rep. Cindy Evans, Chair  
Rep. Nicole E. Lowen, Vice Chair  
House Committee on Water and Land  
State Capitol, 415 S. Beretania St.  
Honolulu, Hawaii 96813

Dear Chairs Wooley and Evans, Vice Chairs Onishi and Lowen, and Members of the Committee:

I am sending this testimony to express the East Oahu County Farm Bureau's **strong support for 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.

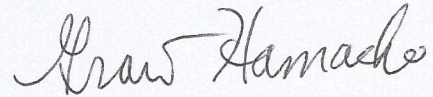
The cost and time involved in code compliance for even minor farm structures is a significant impediment to agriculture in Hawaii. If the law is not changed, this will become an even greater problem in the future, as new food safety standards will require upgrades to farm buildings and infrastructure. A report last year 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.

SB 586 SD1, if passed, would exempt certain low-risk, nonresidential farm structures from building code requirements. It would remove a major impediment to the expansion of agriculture, and would contribute to the State's goal of greater food self-sufficiency. SB 586 SD1 is 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. SB 586 SD1 is 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 therefore urge you to help Hawaii's farmers and ranchers by passing SB 586 SD1.



Thank you for the opportunity to testify.

Sincerely,

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

Grant Hamachi  
President, East Oahu County Farm Bureau

Testimony before State House Committee on Agriculture and Water Land

From: Kauai Councilmember Gary Hooser

March 11, 2013

SB586SD1 – Agriculture Building Permits; Exemptions

Bill scheduled to be heard by AGR/WAL on Monday, 03-11-13 8:40AM in House conference room 312

Position: Oppose unless Amended

Aloha Chair Wooley and Chair Evans, and members of the committee.

My name is Gary Hooser. I am an elected member of the Kauai County Council and Chair of the Council Committee on Agriculture and Sustainability. Unfortunately due to the unavailability of flights I am unable to testify on this important issue in person.

My testimony today is in opposition unless amended.

SB586SD1 proposes to exempt certain construction improvements on agricultural land from compliance with building code and permit requirements.

While well intended SB586SD1 is far too broad and thus there are serious potential unintended consequences. While most will agree that small sheds and greenhouses built to support local food production should perhaps be exempted, SB586SD1 allows those same exemptions to be utilized by large scale industrial farming operations and treats a small shed built over a compost pile the same as toxic pesticide mixing facilities.

Similarly a 20,000 sq. ft. green house being used for experimental genetically modified crops not approved for human consumption would be treated the same as a 5,000 sq. ft. green house hosting orchids or tomatoes.

This measure is applicable only to agricultural land however would impact residential areas that might be adjacent to that agriculture land. During a hurricane or other major weather event, homes down wind from the unpermitted and unregulated agricultural buildings may pay a price for improperly constructed facilities.

SB586SD1 and the underlying law that was passed into place in 2012 is far too broad and far too prescriptive, and prohibits the County who is the entity responsible for implementing the building codes and zoning requirements, from amending the suggested list making the practical decisions as to what should be exempt and not.

Therefore the following suggested amendments are proposed:

Page 2 line 15: Change the date to January 1, 2014. It is my understanding that no County has yet complied with the existing 2013 date.

Page 5 line 15: “and appurtenances there to may be...”

Page 5 line 17: “and may be exempt from County...”

Page 8 line 16: “exemption list. Until such time as the County shall establish said exemption list specific to that particular County.”

Page 8 line 20: “may be exempt...”

The above amendments are intended to allow each County to shape exemption amendments suitable for their particular County since they are the entity responsible for building codes and zoning requirements. Attempting to legislate the detail at the State level results in an overly prescriptive “one size fits all” law that fails to take into consideration a myriad of extenuating factors.

Thank you for giving these suggestions your positive consideration.

Kauai Councilmember Gary Hooser  
808-652-4279

2029 Nuuanu Ave. #1510  
Honolulu, Hawaii 96817  
March 9, 2013

Rep. Jessica Wooley, Chair and Rep. Richard H. K. Onishi, Vice Chair  
House Committee on Agriculture  
Rep. Cindy Evans, Chair and Rep. Nicole E. Lowen, Vice Chair  
House Committee on Water and Land  
415 S. Beretania St.  
Honolulu, Hawaii 96813

Dear Chairs Wooley and Evans, Vice Chairs Onishi and Lowen, and Members of the Committees:

I am sending this testimony to express my **strong support for SB 586 SD1**. This bill, if passed, would remove a major impediment to the growth of Hawaii's diversified agriculture. Hawaii's county building codes, in contrast to those in many Mainland states, unnecessarily treat agricultural buildings and structures as if they were residences or commercial buildings in congested urban areas.

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

In 2009 our farm's lease expired, and we had to leave. I seriously considered starting another farm, this time using the new and highly efficient technique of aquaponics, in some other location. I had to concede that I could not start over again. The time and costs involved in complying with building code requirements for the necessary structures – even though those structures would have posed little risk to anyone's safety – were major factors in my decision. Further, since aquaponics is relatively new and the best techniques have not been defined for all sites and crops, I would have had to start small and build incrementally as I learned what worked best for me. It would be very difficult to comply with codes in such a situation. 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.

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 should help remove these conflicts.

There is, however, one item in the current version of SB 586 SD1 that should be amended. The bill presently lists January 1, 2013 as the date that the counties must establish their exemption lists. This date has already passed, and is apparently a holdover from last year's legislation. A date of January 1, 2014 would be more appropriate and would conform to the intent of the bill.

I do not believe that SB 586 SD1 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. I urge you to pass SB 586 SD1.

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".

Frederick M. Mencher

**onishi1-Jerry**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 09, 2013 11:43 AM  
**To:** AGRtestimony  
**Cc:** frankcipriani@biofarmshawaii.com  
**Subject:** Submitted testimony for SB586 on Mar 11, 2013 08:40AM

**SB586**

Submitted on: 3/9/2013

Testimony for AGR/WAL on Mar 11, 2013 08:40AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Frank Palani Cipriani	BioFarms Hawaii LLC	Support	No

Comments: I support this measure.

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**onishi1-Jerry**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 08, 2013 3:59 PM  
**To:** AGRtestimony  
**Cc:** inunyabus@gmail.com  
**Subject:** Submitted testimony for SB586 on Mar 11, 2013 08:40AM

**SB586**

Submitted on: 3/8/2013

Testimony for AGR/WAL on Mar 11, 2013 08:40AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elaine D.	Individual	Oppose	No

Comments: This bill will do nothing of what it says it's purposes are. On Kauai this is exactly the kind of thing that is being abused. Sheds and storage areas are converted into living quarters but this bill allows even more extensive buildings. You have no means to enforce this. It is a health and safety issue as well as a liability concern for the state and counties. Inconsistent and a nightmare for planning commissions to inspect and insure the buildings are what they say they are and meet all specifications other than on drawings/plans. Do you have the enforcement and rules ready to tear them down if they don't comply or the freedom to inspect without a warrant? Looks nice on paper. Please hold.

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March 11, 2013

HEARING BEFORE THE  
HOUSE COMMITTEE ON AGRICULTURE  
HOUSE COMMITTEE ON WATER & LAND

TESTIMONY ON SB 5, SD1  
RELATING TO AGRICULTURAL BUILDING PERMITS

Room 312  
8:40 AM

Chair Wooley, Chair Evans, Vice Chair Onishi, Vice Chair Lowen, and Members of the Committees:

I am Dean Okimoto, President of the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is composed of 1,950 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

**HFBF strongly supports and respectfully requests your strong support of SB 586 SD1, which would remove an unnecessary impediment to the construction of agricultural 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. Compliance with these requirements adds greatly to the time and cost needed to build even the simplest of structures. This burden falls especially heavily upon small farmers, family farmers, and beginning farmers, who often do not have the money to hire architects, engineers, and contractors in order to assure county building departments that codes are being met.

Building code requirements have become increasingly burdensome in recent years as smaller, diversified farming and ranching operations have multiplied. These diverse farms and ranches tend to have greater infrastructure needs per acre than the sugar and pineapple plantations they have replaced, and usually have fewer financial resources and less ability to qualify for large construction loans than a plantation would. This is especially true for newer, more intensive culture methods such as hydroponics, aquaculture, and aquaponics. These techniques are particularly appropriate for Hawaii,



where land and water are limited and expensive, but they require structures such as shade houses, prefabricated greenhouses, tanks, raceways, storage buildings, and the like. Even less intensive operations may require shelters to protect their crops, livestock, and equipment from thieves, vandals, wind, and weather. These structures on agricultural lands present little risk to the public.

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

In 2012, the Legislature passed Act 114, which exempted certain nonresidential agricultural buildings and structures from county building *permit* requirements. Although there was also strong legislative support for *code* exemptions for certain low-risk farm structures, the 2012 session ended before agreement could be reached on how to accomplish these limited exemptions.

Instead, Act 114 created a task force with the objectives of identifying conflicts between the Act 114 exemptions and existing State laws, and of suggesting additional exemptions that could be provided to Hawaii's farmers and ranchers. Unfortunately, the task force was unable to agree on code exemptions that would make farm infrastructure more practical to construct.

**Now, as the counties start to apply the provisions of Act 114, conflicts with other State statutes are beginning to become apparent that could threaten the entire usefulness of the new law.** In particular, there is a conflict with HRS 464-13, which requires a licensed engineer or architect to plan and oversee construction over certain cost estimates. This conflict, **which contradicts the intent of Act 114**, was noted in the January 24 issue of *The Garden Island* in its reporting on Kauai County's efforts to implement Act 114. Without clarification that these exemptions should supersede other laws, farmers will not be helped.

We respect and appreciate the important job that county building and fire departments do in protecting the public's health and safety. With this bill, we are seeking only minimal exemptions for those structures that pose little risk. We respectfully ask you to recognize, as more than 30 other states do, that the threat to life and property from fire and other disasters is minimal for nonresidential farm buildings and structures in agricultural areas compared to that for residential and commercial buildings in urban areas. In contrast, Hawaii's dependence on a fragile 2500-mile lifeline of ships and planes for 85-90% of our food supply presents a clear threat to the public's health and safety.

**We therefore ask that you support Hawaii's goal of greater food self-sufficiency by passing SB 586 SD1.** We do have one minor concern regarding its current draft: it sets a date of January 1, 2013 for the counties to establish their lists of exempt structures.

This date has already passed, and the counties would automatically be out of compliance if this date were included. January 1, 2014 was probably the intended deadline and would be more practical.

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



LAND USE RESEARCH  
FOUNDATION OF HAWAII

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March 8, 2013

Representative Jessica Wooley, Chair  
Representative Richard H.K. Onishi, Vice Chair  
House Committee on Agriculture

Representative Cindy Evans, Chair  
Representative Nicole E. Lowen, Vice Chair  
House Committee on Water & Land

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

**Monday, March 11, 2013, 8:40 a.m., in CR 312**

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.** This bill proposes to provide, under certain circumstances, exemptions from building code and permit requirements for nonresidential buildings and structures 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, 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

House Committee on Agriculture  
House Committee on Water & Land  
March 8, 2013

agricultural structures and have posed financial and practical obstacles for farmers and ranchers wanting to improve or expand operations.

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

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

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



## Hawaii Cattlemen's Council, Inc.

P O Box 437199 Kamuela HI 96743

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### HOUSE COMMITTEE ON AGRICULTURE HOUSE COMMITTEE ON WATER & LAND

MARCH 11, 2013 8:40 a.m. Room 312

#### **SB 586 SD1 Relating to Agricultural Building Permits**

Chair Wooley, Chair Evans, Vice Chairs and Members of the Committee:

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chairperson of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **Strongly Supports** SB 586 SD1.

Compliance with building codes can greatly increase the cost of constructing or installing greenhouses, shade houses, storage containers, and many other agriculture buildings and structures which by their nature or location pose little risk to life or property. In contrast to building codes in many other states, county building codes in Hawai'i generally do not distinguish between low-risk agriculture structures, residential, or commercial buildings. Ultimately, this results in excessive costs for code compliance. Act 114 (2012) may help by reducing the cost and time involved in applying for building permits, but does not offer relief from the code requirements themselves.

Historically, agricultural enterprises have utilized things like used Matson containers for storage. According to the building code, such a container if on the ground, must comply with the building code. The same container, on a chassis would not have to comply with any building code.

The State of Hawaii already exempts itself from Building permits and code, and a Walmart and shopping center recently built on the Big Island on Hawaiian Home Lands was exempt from building permits.

Please consider exempting the local risk structures mentioned in this bill from the building code and all of the bureaucracy that goes with that.

Thank you for giving me the opportunity to testify on this very important issue.

**onishi1-Jerry**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 09, 2013 9:45 AM  
**To:** AGRtestimony  
**Cc:** gettyaaron@gmail.com  
**Subject:** Submitted testimony for SB586 on Mar 11, 2013 08:40AM

**SB586**

Submitted on: 3/9/2013

Testimony for AGR/WAL on Mar 11, 2013 08:40AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
aaron getty	Individual	Support	No

Comments: I believe this enables a sector of food production that is important to Hawaii's food security and increase local production sources.

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