

A I Y I E
Governor

S A N S T S U T S U I
Lt. Governor



S O T T E E N R I G H T
Chairperson, Board of Agriculture

Y L L I S S I M A B U K U O E I S E
Deputy to the Chairperson

State of Hawaii
D E P A R T M E N T O F A G R I C U L T U R E
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEES ON JUDICIARY & LABOR & WAYS & MEANS

**FEBRUARY 28, 2017
9:50 A.M.
CONFERENCE ROOM 211**

**SENATE BILL NO. 988
RELATING TO EXEMPTION FOR AGRICULTURAL BUILDINGS AND STRUCTURES**

Chairpersons Keith-Agaran and Tokuda and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 988 that amends Section 46-88, (agricultural buildings and structures exempt for building permit and code requirements) to make it in compliance with Federal flood insurance program requirements. The Department of Agriculture supports this measure and defers to the Department of Land and Natural Resources.

Thank you for the opportunity to testify on this important measure.



A I Y I E
GOVERNOR



A I K I A I
EXECUTIVE DIRECTOR

STATE OF A A I

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
r K r
Hawaii Housing Finance and Development Corporation
Before the

SENATE OMMITTEE ON AYS AN MEANS

February 28, 2017 at 9:50 a.m.
State Capitol, Room 211

In consideration of

S B 988

**ELATIN TO E EM TION FO A I ULTU AL BUIL IN SAN
ST U TU ES**

The HHFDC supports S.B. 988, an Administration bill. S.B. 988 makes clarifying amendments to section 46-88, HRS, relating to exempting agricultural buildings, or other development thereto not used as dwellings or lodging units from building permit and building code requirements. These amendments are needed to ensure compliance with National Flood Insurance Program requirements.

Thank you for the opportunity to provide written comments in support of this measure.



A I Y I E
GOVERNOR
S AN S TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310

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AT E I N E A AKUNI O L N
DIRECTOR

O ANN M U I A TAKEU I
DEPUTY DIRECTOR

TO THE SENATE COMMITTEES ON
JUDICIARY AND LABOR
AND
WAYS AND MEANS

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Tuesday, February 28, 2017
9:50 a.m.

TESTIMONY ON SENATE BILL NO 988 RELATING TO THE EMERGENCY
ADMINISTRATIVE BUILDING STANDARDS

TO THE HONORABLE GILBERT S.C. KEITH-AGARAN AND THE HONORABLE JILL
N. TOKUDA, CHAIRS, AND MEMBERS OF THE COMMITTEES:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department strongly supports S.B. 988, which is an Administration bill [LNR-03(17)].

The purpose of this bill is to update State building permit and code requirements so that they are in compliance with the National Flood Insurance Program ("NFIP"). The Federal Emergency Management Agency has notified the State that without these necessary statutory amendments, new and renewed NFIP policies will be suspended, and NFIP flood insurance will be unavailable to Hawaii's citizens.

We thank the Committees for the opportunity to present testimony on this matter.

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committees on
JUDICIARY AND LABOR
and
WAYS AND MEANS

Tuesday, February 28, 2017
9:50 A.M.
State Capitol, Conference Room 211

In consideration of
SENATE BILL 988
RELATING TO EXEMPTION FOR
AGRICULTURAL BUILDINGS AND STRUCTURES

Senate Bill (SB) 988 proposes to clarify procedures for an exemption from building permit and building code requirements pursuant to Hawaii Revised Statutes (HRS) §46-88, and clarifies that §46-88 does not exempt any new or existing agricultural buildings, structures, related appurtenances, or other development from local, state, or federal floodplain management development standards, ordinances, codes, statutes, rules, or regulations pursuant to National Flood Insurance Program (NFIP) requirements. **The Department of Land and Natural Resources (Department) strongly supports this Administration measure. A technical review of the proposed amendments made by SB 988 and its companion measure, House Bill 1122, was conducted by the Federal Emergency Management Agency (FEMA) and has been found to meet the eligibility requirements for continued participation in the NFIP. As such, the Department recommends that this measure be passed unamended.**

The Department serves as the state coordinating agency for the NFIP and acts as a liaison between FEMA and the four major counties to ensure proper administration and enforcement of floodplain management regulations. An April 15, 2016 letter from FEMA (attached), identified specific deficiencies with HRS §46-88 which prohibits the counties from enforcing their floodplain management regulations as required for participation in the NFIP.

SB 988 satisfies the eligibility requirements as identified in the April 15th FEMA letter. Specifically:

- [Page 6 Line 16] proposed language in §46-88(c)(5) meets the intent to ensure permit requirements consistent with Title 44 of the Code of Federal Regulations (44CFR) §60.3(a)(1)

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFERY T. PEARSON, P.E.
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

and §60.3(b)(1), whereby NFIP participating communities (counties) must require permits for all proposed construction or other development in flood prone and special flood hazard areas (SFHA).

- [Page 6 Line 16] proposed language in §46-88(c)(5) enables the administration and enforcement of higher regulatory standards adopted by the counties, whereby new construction or other development in non-SFHA may also be subject to compliance with floodplain management regulations. Honolulu, Maui, Kauai and Hawaii Counties all have provisions in their ordinances that require NFIP building regulations on structures or development in areas that are deemed to be a potential flood risk by the County, although may have not been identified or studied by FEMA. In accordance with 44CFR§60.1, when a county adopts more restrictive floodplain development standards, that standard shall take precedence and must be legally-enforceable and applied uniformly throughout the county.
- [Page 10 Line 7] proposed language in §46-88(d) adds the definition of “development” consistent with 44CFR§59.1.
- [Page 11 Line 18] proposed language in §46-88(j) satisfies FEMA’s expectation that the counties will bring any agricultural structure or development which were exempt from building permits pursuant to HRS §46-88 and are in violation of the county’s flood plain management regulations into compliance to the maximum extent possible.

The State of Hawaii has been participating in the NFIP for over 35 years which has enabled homeowners, business owners, and renters the ability to purchase federally backed and subsidized flood insurance optionally or as required by their mortgage lending institution pursuant to the National Flood Insurance Act of 1968. The Flood Disaster Protection Act of 1973, requires mortgage lending institutions to mandate the purchase of flood insurance for properties located in the SFHA for federally backed mortgages underwritten by their institution. If the NFIP flood policies were not available to Hawaii, all properties located in areas designated by FEMA as high risk for flooding would be required to find another mechanism to satisfy the mandatory flood insurance purchase requirement. Private flood insurance would not be eligible for the current government subsidies provided by the NFIP and are anticipated to be substantially higher than the current NFIP rates. Since HRS §46-88 was originally enacted in 2012, the amount of paid losses from flood insurance claims in Hawaii has increased by \$11,607,940 according to statistics from FEMA’s Community Information System database.

Another advantage of participation in the NFIP is the availability of Federal disaster assistance in the event of a Presidential declaration. If the State of Hawaii is no longer participating in the NFIP, certain forms of Federal disaster assistance may not be available to government, businesses, and individuals to aid in recovery. It is estimated that the amount of disaster aid made available to the State of Hawaii since (1980) joining the NFIP, has totaled over \$400 million dollars.

While flood insurance and disaster aid are beneficial for recovering from floods, mitigation to reduce losses is the goal of the NFIP. Mitigation is achieved through sound floodplain management. Unregulated development within floodplains increases the risk to life and property from flooding.

Thank you for the opportunity to comment on this measure.



FEMA

April 15, 2016

The Honorable David Y. Ige
Governor of the State of Hawaii
Executive Chambers
State Capitol
Honolulu, Hawaii 96813

Dear Governor Ige:

The purpose of this letter is to bring to your attention a serious matter concerning the State and four (4) Hawaii counties participating in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA). FEMA has learned that the State of Hawaii amended Hawaii Revised Statute § 46-88 through Hawaii State Bill 586 enacted as Act No. 2013-203 (“HRS § 46-88” or the “Act”) exempting certain agricultural structures from building code and permit requirements, and as a result failing to maintain state floodplain management requirements consistent with the NFIP, impairing the State and its political subdivisions’ eligibility under the NFIP and preventing participating NFIP communities’ ability to enforce their floodplain management requirements. In order for federal flood insurance to be sold within a State, as prerequisites, the State is required to ensure that their political subdivisions with delegated land use authority are enabled to regulate development within flood-prone areas, and to establish minimum State flood plain management regulatory standards consistent with the NFIP’s minimum requirements. See 44 CFR § 59.21, § 59.22 and § 60.25 (b) (1) and (9).

As discussed below, the State of Hawaii’s action places the State and its political subdivisions: the City and County of Honolulu, and the Counties of Hawaii, Maui and Kauai at risk of suspension from the NFIP. If remedial action is not taken to amend the statute and to restore the State and its political subdivisions’ eligibility and enable the State’s political subdivisions with land use authority to meet the minimum floodplain management requirements of the NFIP by July 31, 2017, FEMA will begin the process of suspending the sale of Federal flood insurance in the State and all of Hawaii’s communities currently participating in the NFIP. When communities are suspended from the NFIP, they lose their eligibility for federally-backed flood insurance and eligibility for certain federal disaster assistance.

In amending HRS § 46-88, the Act states, “Notwithstanding any law to the contrary, the following agricultural buildings, structures, and appurtenances thereto that are not used as dwellings or lodging units are exempt from building permit and building code requirements where they are no more than one thousand square feet in floor area.” The Act also states, “Notwithstanding the one thousand square foot floor area restriction in subsection (a), the

following buildings, structures, and appurtenances thereto shall be exempt from building permit requirements when compliant with relevant building codes or county, national, or international prescriptive construction standards...Upon completion of construction or installation, the owner or occupier shall provide written notice to the appropriate county fire department and county building permitting agency of the size, type, and location of the building, structure, or appurtenance thereto. Such written notification shall be provided to the county agencies within thirty days of the completion of the building, structure, or appurtenance thereto.”

According to 44 CFR § 60.3(a)(1), an NFIP participating community must, “Require permits for all proposed construction or other *development* in the community, including the placement of manufactured homes, so that it may determine whether such construction or development is proposed within flood prone areas.” Additionally, development is defined at 44 CFR § 59.1, as “any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment and materials.” The Act provides exemptions to the requirements in 44 CFR § 60.3(a)(1) for activities defined in 44 CFR § 59.1 which are not compliant with the minimum criteria of the NFIP.

FEMA is the Federal Agency responsible for administering the NFIP, as authorized by the National Flood Insurance Act, 42 U.S.C. § 4001 *et seq.* The NFIP is a voluntary program whereby the Federal Government makes affordable flood insurance available in exchange for community adoption of a local floodplain management ordinance consistent with the Federal standards that are designed to minimize the risk of flood and ensures that new and substantially improved buildings are constructed to minimize flood risk. The land use and control measures must be legally enforceable and uniformly applied in a NFIP participating community. See 42 U.S.C. §§ 4012(c), 4022; 44 CFR §§ 60.1(a), 60.2, 59.21 and 59.22. According to Federal statute, FEMA is prohibited from making flood insurance available in a community unless that community adopts floodplain management measures that meet or exceed the minimum program requirement at 44 CFR § 60.3 with effective enforcement provisions that meet FEMA’s minimum floodplain management regulations. See 42 U.S.C. §§ 4012(c), 4022.

Consequently, if a community lacks the ability to legally enforce its floodplain management ordinance uniformly throughout the community within the Special Flood Hazard Area (SFHA), then it is not in compliance with the NFIP. The Act revised the statute creating a legal impediment to community compliance with the NFIP requirements which places the State of Hawaii and its communities’ continued participation in jeopardy. The State is responsible for enacting legislation that enables communities and municipalities to adopt and uniformly enforce floodplain management regulations consistent with FEMA’s minimum floodplain management regulations (44 CFR § 60.25(b)(1)).

FEMA trusts that the State will take the necessary action to repeal these provisions and preserve the availability of federally flood insurance and other federal disaster assistance for the State of Hawaii and its communities. Failure to address this compliance problem by July 31, 2017, will force FEMA to initiate suspension procedures for the State and all Hawaii communities that participate in the NFIP, as allowed under 44 CFR § 59.24(d). Under this provision, FEMA will provide Hawaii communities with 30 days prior written notice and

notice by publication in the *Federal Register*. If the Act is repealed after the Hawaii communities are suspended, communities will be reinstated in the program once they are compliant with NFIP regulations, and flood insurance and other forms of federal disaster assistance will be available.

Suspension from the NFIP will result in the loss of NFIP flood insurance coverage for Hawaii communities. Hawaii currently has four (4) communities participating in the NFIP with nearly 60,000 flood insurance policies in force and over \$13.2 billion in flood risk covered by NFIP insurance policies. Since 1978, Hawaii has benefited from nearly 4,600 claims paid, totaling over \$87 million. Furthermore, all Federal agencies are prohibited by statute from making grants, loans, or guarantees for the acquisition or construction of structures located in the SFHA in suspended communities (42 U.S.C. § 4106). This restriction applies to assistance from the Federal Housing Administration, Veterans Administration, and the Small Business Administration, among others. Lending institutions insured or regulated by a federal agency may, however, continue to make conventional loans in these areas at their discretion. (42 U.S.C. § 4012a(b)). If a flood disaster occurs in a suspended community, most types of federal disaster assistance are not available for acquisition, construction, or repair of insurable structures within the SFHA, including federal assistance to individuals and households for housing and personal property (42 U.S.C. § 4106).

In the meantime, FEMA expects Hawaii communities to continue to enforce their adopted floodplain management ordinances. Local communities that have exempted agricultural structures or any other development as outlined above from their floodplain management regulations will be required to bring the structures into compliance to the maximum extent possible.

If you or your staff have any questions or need additional information or assistance please contact Jeffery D. Lusk, Mitigation Division Director, FEMA Region IX, at (510) 627-7116.

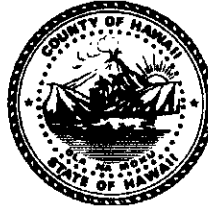
Sincerely,



Roy E. Wright
Deputy Associate Administrator
for Insurance and Mitigation

- Cc: Robert Fenton, Regional Administrator, FEMA Region IX
Colby Stanton, Director, FEMA Pacific Area Office
Shan S. Tsutsui, Lt. Governor, State of Hawaii
Douglas Chin, Attorney General, State of Hawaii
Carty Chang, State Engineer, State of Hawaii Dept. of Land & Natural Resources
Carol Tyau-Beam, State NFIP Coordinator, Dept. of Land & Natural Resources

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i
Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA 74-5044 Ane Keohokalole Hwy, Bldg C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

February 27, 2017

Senator Jill Tokuda
Ways and Means
Senator Gilbert Keith-Agaran
Judiciary and Labor
Hawai'i State Capitol
Honolulu, HI 96813

Dear Chair Tokuda, Chair Keith-Agaran and members:

RE: **SB 988**
Relating to Exemption for Agricultural Buildings and Structures

Thank you for this opportunity to testify in support of SB 988 related to flood insurance.

We are informed by the State National Flood Insurance Program Coordinator that her agency has been working closely with FEMA to prevent the State from being suspended from the National Flood Insurance Program (NFIP). That program provides flood maps used to identify flood risk areas; flood insurance; disaster relief assistance/funds; and much more. Participation in the NFIP is essential for the State and counties of Hawai'i in terms of federal assistance for damage sustained during natural disasters.

It is my understanding that administration bills HB 1122 and SB 988 would bring the State into compliance with FEMA's regulations, while SB 873 and SB1118 could jeopardize our continued participation.

Therefore, we respectfully request your approval of SB 988.

Respectfully submitted,

Harry Kim
Mayor

DEPARTMENT OF EMERGENCY MANAGEMENT
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET • HONOLULU, HAWAII 96813
PHONE: (808) 723-8960 • FAX: (808) 524-3439



KIRK CALDWELL
MAYOR

MELVIN N. KAKU
DIRECTOR

PETER J.S. HIRAI
DEPUTY DIRECTOR

February 27, 2017

The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Karl Rhoads, Vice Chair
Committee on Judiciary and Labor

The Honorable Jill N. Tokuda, Chair
The Honorable Donovan M. Dela Cruz, Vice Chair
Committee on Ways and Means

Hawaii State Senate
State Capitol
415 South Beretania Street, Room 211
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran, Vice Chair Rhoads, Chair Tokuda, Vice Chair Dela Cruz, and Members:

**SUBJECT: SUPPORT OF S.B. 988 RELATING TO EXEMPTION FOR
AGRICULTURAL BUILDINGS AND STRUCTURES**

I am Melvin Kaku, Director of the Department of Emergency Management (DEM), City and County of Honolulu (City). DEM strongly supports S.B. 988 which clarifies procedures for an exemption from building permit and code requirements.

The purpose of this bill is to address an inadvertent failure to maintain State floodplain management requirements consistent with the National Flood Insurance Program (NFIP). The language in this Bill has been reviewed and found acceptable by the Federal Emergency Management Agency for the purpose of bringing Section 48-66, Hawaii Revised Statutes, into compliance with minimum standards of the NFIP.

I urge your committee to pass SB 988. Thank you for the opportunity to testify.

Sincerely,

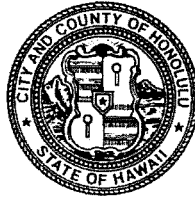
A handwritten signature in blue ink that reads "Melvin N. Kaku".

Melvin N. Kaku
Director

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIJ
ACTING DEPUTY DIRECTOR

February 28, 2017

The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members of the Committee on Judiciary
and Labor

The Honorable Jill Tokuda, Chair
and Members of the Committee on Ways
and Means

Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Keith-Agaran and Tokuda and Committee Members:

Subject: Senate Bill No. 988
Relating to Exemption for Agricultural
Buildings and Structures

The Department of Planning and Permitting (DPP) **strongly supports** Senate Bill No. 988, which clarifies procedures for an exemption from building permit and building code requirements.

This Bill is intended to address an inadvertent failure to maintain State floodplain management requirements consistent with the National Flood Insurance Program (NFIP). The language in this Bill has been reviewed and found acceptable by the Federal Emergency Management Agency for the purpose of bringing Section 46-88, Hawaii Revised Statutes, into compliance with minimum standards of the NFIP.

The City and County of Honolulu has been notified of the risk of suspension from the NFIP. Remedial action must be taken before the July 31, 2017, deadline to amend the statute and restore to the State and counties the authority to regulate agricultural buildings in special flood hazard areas, including the requirement to obtain a building permit, regardless of whether the buildings are used as dwellings.

Suspension from the NFIP will jeopardize more than 38,000 flood insurance policies and \$8.7 billion of flood insurance coverage in-force within the City and County of Honolulu. If these policies are not in effect or renewed, federally insured mortgage loans for properties within flood zones will be prohibited, with potentially disastrous

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the Committee on Judiciary
and Labor

The Honorable Jill Tokuda, Chair
and Members of the Committee on Ways
and Means

Hawaii State Senate

Senate Bill No. 988

February 28, 2017

Page 2

economic consequences for homeowners and businesses. Additionally, if a major flooding event occurs while the community is suspended, property owners would not have access to a variety of federal disaster assistance programs.

Accordingly, we urge that this Bill be passed by your committees.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathy Sokugawa', written in a cursive style.

Kathy Sokugawa
Acting Director

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 988
A BILL RELATING TO EXEMPTION FOR AGRICULTURAL BUILDINGS AND STRUCTURES

PRESENTATION TO
THE SENATE COMMITTEES ON JUDICIARY AND LABOR (JDL) AND WAYS AND MEANS
(WAM)

BY

VERN T. MIYAGI
Administrator, Hawaii Emergency Management Agency

Aloha Chairs Keith-Agaran and Tokuda, Vice-Chairs Rhoads and Dela Cruz and Members of the Senate Committees.

I am Vern T. Miyagi, Administrator, Hawaii Emergency Management Agency. I am testifying in **ST ON SU OT** of Senate Bill 988.

This bill proposes critical amendments to HRS 46-88 that are necessary to ensure the state of Hawaii's continued eligibility in the National Flood Insurance Program (NFIP). HRS 46-88 currently provides broad exemptions from building permit and building code requirements for certain types of agricultural buildings, structures, and appurtenances. These broad exemptions inadvertently conflict with Federal Emergency Management Agency (FEMA)'s floodplain management regulations and as a result the state would no longer be eligible for coverage under the National Flood Insurance Program (NFIP) implemented by FEMA. In addition, certain forms of Federal Disaster Assistance under a Federal Presidential Disaster Declaration would not be available to the state and counties in the event of a declared disaster.

If HRS 46-88 is not amended, FEMA will be forced to suspend the state of Hawaii and all local participating communities from the NFIP by July 31, 2017.

In order to continue our eligibility in the NFIP, I urge you to pass this legislation, unamended.

Thank you for the opportunity to provide this testimony in **ST ON SU OT** of SB 988.

Vern T. Miyagi: vern.t.miyagi@hawaii.gov; (808) 733-4300

TESTIMONY OF ALISON UEOKA

COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

COMMITTEE ON WAYS AND MEANS
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

Tuesday, February 28, 2017
9:50 a.m.

SB 988

Chair Keith-Agaran, Vice Chair Rhoads, and members of the Committee on Judiciary and Labor, and Chair Tokuda, Vice Chair Dela Cruz, and members of the Committee on Ways and Means, my name is Alison Ueoka, President of the Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council **supports** SB 988, provided that the Federal Emergency Management Agency (FEMA) confirms that, if enacted, the bill will remove the risks to the State and its political subdivisions of (a) suspension from the National Flood Insurance Program (NFIP); and (b) loss of eligibility for certain federal disaster assistance.

The Hawaii Insurers Council commends the State administration, including the Department of Land and Natural Resources, and the Legislature for working quickly to address FEMA's concerns regarding the impact of prior legislation on the State's participation in the NFIP and federal disaster assistance programs.

Thank you for the opportunity to testify.



THE SENATE
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

COMMITTEE ON JUDICIARY AND LABOR

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

COMMITTEE ON WAYS AND MEANS

Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

DATE: Tuesday, February 28, 2017
TIME: 9:50 a.m.
PLACE: Conference Room 211
State Capitol
415 South Beretania Street

Re: **SB 988**, "Relating to Exemption for Agricultural Buildings and Structures"

Aloha Chairs Gilbert S.C. Keith-Agaran and Jill N. Tokuda, Vice Chairs Karl Rhoads and Donovan M. Dela Cruz, and Committee Members,

The Hawaii Aquaculture and Aquaponics Association (HAAA) supports the intent of **SB 988**, to meet FEMA flood plain requirements while preserving the benefits of Section 46-88's exemptions for farm structures that are not in FEMA-designated floodplain areas.

However, we respectfully request the addition of the important wording from HB1418, below, that already passed technical review by FEMA, as indicated in the testimony of DLNR Chairperson Suzanne D. Case before the House Committee on Consumer Protection & Commerce of February 23, 2017, so as to ensure County agency review and certification in a timely manner.

From HB1418 – (6) The appropriate county agency shall certify the building, structure, related appurtenances, or development within thirty calendar days upon the receipt of the written notice from the owner or occupier, pursuant to paragraph (5).

Thank you for the opportunity to testify on this important matter.

Sincerely,
Ronald P. Weidenbach
HAAA President



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

COMMITTEE ON WAYS AND MEANS
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

DATE: Tuesday, February 28, 2017
TIME: 9:50 a.m.
PLACE: Conference Room 211

SB 988 – RELATING TO EXEMPTION FOR AGRICULTURAL BUILDINGS AND STRUCTURES.

Clarifies procedures for an exemption from building permit and building code requirements pursuant to section 46-88, Hawaii Revised Statutes, and clarifies that section 46-88 does not exempt any new or existing agricultural buildings, structures, related appurtenances, or other development from local, state, or federal floodplain management development standards, ordinances, codes, statutes, rules, or regulations pursuant to National Flood Insurance Program requirements.

Chairs Keith-Agaran & Tokuda, Vice Chairs Rhoads & Dela Cruz, and Members of the Respective Committees:

My name is Dale Sandlin, and I am Managing Director of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the four county level Cattlemen's Associations. Our 150+ 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 **supports** SB 988, but we respectfully request these committees add similar language to that found in HB 1418.

The language from HB 1418: (6) The appropriate county agency shall certify the building, structure, related appurtenances, or development within thirty calendar days upon the receipt of the written notice from the owner or occupier, pursuant to paragraph (5).

We appreciate the opportunity to provide these comments on this important matter.





P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 27, 2017

HEARING BEFORE THE
SENATE COMMITTEE ON JUDICIARY AND LABOR
SENATE COMMITTEE ON WAYS AND MEANS

TESTIMONY ON SB 988
RELATING TO EXEMPTION FOR AGRICULTURAL BUILDINGS AND STRUCTURES

Room 211
9:50 AM

Aloha Chairs Keith-Agaran and Tokuda, Vice Chairs Rhoads and Dela Cruz, and Members of the Committees:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 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.

The Hawaii Farm Bureau **r s p t u o r s t o o o t s o p p o s i t o t o S B 988 s r t t** which we understand is proposed to preserve Hawaii's eligibility for flood insurance under the National Flood Insurance Program. We certainly agree that HRS Section 46-88 should be modified to meet the requirements set by FEMA; however, we are concerned that this bill may go further than what is necessary to accomplish that goal.

As you know, agriculture in Hawaii is struggling because of a myriad of reasons, not the least of which is that farming here is extremely expensive and difficult, putting local farmers at a significant disadvantage in comparison to mainland and foreign farmers. In 2013, Hawaii Farm Bureau advocated for the passage of Act 203, which allows our farmers to build certain specified non-residential, low risk agricultural structures without the burden and expense of overly stringent and inapplicable regulations.

HFB understands that several bills have been introduced to amend HRS Section 46-88 to make it compatible with federal floodplain regulations. Some of these bills appear to adequately address the issue, without unduly restricting Hawaii's farming community. We are eager to work with this body to assist in making sure that a reasonable and appropriate bill is passed this session to satisfy FEMA's request.

We respectfully request that our concerns be taken into consideration:

- That any new amendment to notify the County prior to building any structure so that it can determine whether the farmer's proposed building falls within the floodplain will not delay unreasonably or make it more difficult or expensive for farmers to use this law. For example, the new notification requirement sets NO DEADLINE for the County to make the determine and notify the farmer of the decision. This is not reasonable.
- We have no problem with the requirement that farmers provide an as built drawing of the structure, so long as it does not require it to meet professional standards or require a professional to supply it.
- With regard to "(g) This section shall not apply to [~~the construction or installation of any building or structure~~] development on land in [~~an~~] the state land use urban district." We would like assurance that the proposed terminology does not constrict the availability to farmers to use the law in fewer areas than the current law provides.
- The proposed measure does not address the situation wherein a farmer might have already started building, based on Act 203, is not in a floodplain area, but may be considered to be in violation if and when this measure is enacted because notification was not provided to the County prior to the commencement of building. For that situation, we suggest a reasonable grace period to allow the farmer to notify the County.

Thank you for your consideration of our concerns and your support of Hawaii's farmers and ranchers.

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

February 28, 2017

Senator Gilbert S.C. Keith-Agaran, Chair; Senator Karl Rhoads, Vice Chair; and members of the Senate Committee on Judiciary and Labor

Senator Jill N. Tokuda, Chair; Senator Donovan M. Dela Cruz, Vice Chair; and members of the Senate Committee on Ways and Means

Hawaii State Capitol

Honolulu, Hawaii 96813

Re: **S.B. 988 (Exemption for Agricultural Buildings and Structures)**
Decision Making Date/Time: Tuesday, February 28, 2017, 9:50 a.m.

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** (“HFSA”). The HFSA is a trade association for Hawaii’s consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA **supports the intent** of this Bill.

This Bill clarifies procedures for an exemption from building permit and building code requirements pursuant to Section 46-88, Hawaii Revised Statutes, and clarifies that Section 46-88 does not exempt any new or existing agricultural buildings, structures, related appurtenances, or other development from local, state, or federal floodplain management development standards, ordinances, codes, statutes, rules, or regulations pursuant to National Flood Insurance Program (“NFIP”) requirements.

When federally regulated lending institutions (such as banks and credit unions) make mortgage loans that are secured by improved real properties located in Special Flood Hazard Areas, the institutions are mandated by the Federal Disaster Protection Act of 1973 to require the property owners to purchase flood insurance. Because the State of Hawaii and the State’s four counties are "Participating Communities" in the NFIP, the property owners can purchase federally-backed flood insurance through the NFIP.

The State of Hawaii and the Local participating communities in the NFIP are also eligible for federal disaster assistance when there is a Presidential disaster declaration in the area. Various types of federal disaster assistance would be available to government, businesses, and individuals to assist with the recovery.

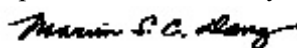
HRS Sec. 46-88 was amended by Act 203 in 2013 to allow exemptions from building permit and building code requirements for certain types of agricultural buildings, structures, and appurtenances.

However, the Federal Emergency Management Agency (“FEMA”), which administers the NFIP, informed the State last year that those building permit exemptions conflict with the State and Local participating communities’ agreement to maintain floodplain management regulations ordinances consistent with federal rules. FEMA said it will suspend the State of Hawaii and all Local participating communities from the NFIP if the Hawaii statute is not amended to “restore the State and its political subdivisions’ eligibility and enable the State’s political subdivisions with land use authority to meet the minimum floodplain management requirements of the NFIP by July 31, 2017.”

Without the NFIP, the State of Hawaii and its Local participating communities will lose the availability and benefit of federal NFIP flood insurance and federal disaster assistance.

We understand that this Bill addresses this problem by amending HRS Sec. 46-88.

Accordingly, we ask that your Committee pass this Bill. Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association



Maui County

February 28, 2017

SENATE COMMITTEE ON JUDICIARY AND LABOR
and
SENATE COMMITTEE ON WAYS AND MEANS

SB 988: RELATING TO EXEMPTION FOR AGRICULTURAL BUILDINGS AND STRUCTURES

Room 211
9:50 am

Aloha Chairs Keith-Agaran and Tokuda, Vice Chairs Rhoads and Dela Cruz, and Members of the Committees:

I am Warren Watanabe, Executive Director of the Maui County Farm Bureau (MCFB).

The Maui County Farm Bureau respectfully **supports this bill if specific clarifying language is included.**

MCFB understands that this measure is proposed to preserve Hawaii's eligibility for flood insurance under the National Flood Insurance Program and we agree that the law should be modified as necessary, to meet the conditions set by FEMA.

However, in order to meaningfully contribute to the State's goal of greater self-sufficiency, farmers and ranchers need the ability to put up certain non-residential, low risk farm structures without the delay and expense of plodding through the building permitting process.

MCFB believes that we can meet both FEMA's requirements AND the needs of Hawaii's farmers.

We respectfully request the addition of the important wording from a very similar bill, HB 1418, that has already passed FEMA technical review, as noted in the testimony of DLNR Chairperson Suzanne D. Case before the House Committee on Consumer Protection & Commerce on February 23, 2017.

This small addition would simply ensure timely County agency review and certification. Insert the following on page 7, line 8, after the new paragraph #(5) in SB 988:

(6) The appropriate county agency shall certify the building, structure, related appurtenances, or development within thirty calendar days upon the receipt of the written notice from the owner or occupier, pursuant to paragraph (5).

Thank you for your consideration of our concerns and your support of Hawaii's farmers and ranchers.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: alan@prloffice.com
Subject: Submitted testimony for SB988 on Feb 28, 2017 09:50AM
Date: Monday, February 27, 2017 11:15:00 AM

SB988

Submitted on: 2/27/2017

Testimony for JDL/WAM on Feb 28, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Ponoholo Ranch Limited	Comments Only	No

Comments: We support SB 988, however, we respectfully request the addition of the important wording from HB1418, below, to ensure County agency review and certification in a timely manner. From HB1418 – (6) The appropriate county agency shall certify the building, structure, related appurtenances, or development within thirty calendar days upon the receipt of the written notice from the owner or occupier, pursuant to paragraph (5),

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.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: lwood451@aol.com
Subject: *Submitted testimony for SB988 on Feb 28, 2017 09:50AM*
Date: Monday, February 27, 2017 12:10:00 PM

SB988

Submitted on: 2/27/2017

Testimony for JDL/WAM on Feb 28, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Wood	Individual	Support	No

Comments:

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.

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