

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**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

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committees on  
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS  
and  
AGRICULTURE AND ENVIRONMENT**

**Wednesday, February 8, 2017  
1:16 P.M.  
State Capitol, Conference Room 224**

**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 15<sup>th</sup> 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)

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 testify 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



DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

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

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

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Fax Number: 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

TO THE SENATE COMMITTEES ON  
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS  
AND  
AGRICULTURE AND ENVIRONMENT

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Wednesday, February 8, 2017  
1:16 p.m.

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

TO THE HONORABLE MIKE GABBARD AND THE HONORABLE CLARENCE K.  
NISHIHARA, 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)] and whose companion bill is H.B. 1122.

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 Hawai`i’s citizens.

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

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 PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY  
AFFAIRS AND AGRICULTURE AND ENVIRONMENT

BY

VERN T. MIYAGI  
Administrator, Hawaii Emergency Management Agency

Aloha Chairs Nishihara and Gabbard, Vice-Chairs Wakai and Riviere and Members of the Senate Committees.

I am Vern T. Miyagi, Administrator, Hawaii Emergency Management Agency. I am testifying in **STRONG SUPPORT** 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 **STRONG SUPPORT** of SB 988.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**

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  
**Craig K. Hirai**  
Hawaii Housing Finance and Development Corporation  
Before the

**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL,  
AND MILITARY AFFAIRS**

**SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT**

February 8, 2017 at 1:16 p.m.  
State Capitol, Room 224

In consideration of  
**S.B. 988**  
**RELATING TO EXEMPTION FOR AGRICULTURAL BUILDINGS AND  
STRUCTURES.**

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 testify.



Harry Kim  
Mayor

Wil Okabe  
Managing Director



Frank J. De Marco, P.E.  
Director

Allan G. Simeon, P.E.  
Deputy Director

**County of Hawai'i**  
**DEPARTMENT OF PUBLIC WORKS**  
**Aupuni Center**  
101 Pauahi Street, Suite 7 · Hilo, Hawai'i 96720-4224  
(808) 961-8321 · Fax (808) 961-8630  
public\_works@hawaiicounty.gov

February 03, 2017

COMMITTEE ON AGRICULTURE & ENVIRONMENT  
Senator Mike Gabbard, Chair  
Senator Gil Riviere, Vice Chair

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS  
Senator, Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, February 8, 2017  
TIME: 1:16 p.m.  
PLACE: Conference Room 224  
State Capitol  
415 South Beretania Street

Re: Testimony in Support of Senate Bill 988, RELATING TO EXEMPTION FOR  
AGRICULTURAL BUILDINGS AND STRUCTURES

Dear Chairs Gabbard and Nishihara, Vice Chairs Riviere and Wakai and committee members:

The County of Hawaii Department of Public Works is in support of Bill 988 which 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.

Thank you for allowing us to provide testimony.

Aloha,

Frank J. De Marco, P.E.  
DIRECTOR

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 6, 2017

The Honorable Mike Gabbard, Chair  
and Members of the Committee on  
Agriculture and Environment  
The Honorable Clarence K. Nishihara, Chair  
and Members of the Committee on Public  
Safety, Intergovernmental, and Military Affairs  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Gabbard and Nishihara and Committee Members:

**SUBJECT: SUPPORT OF S.B. 988 RELATING TO THE 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 clarifies procedures for an exemption from building permit and building 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, appearing to read "Melvin N. Kaku".

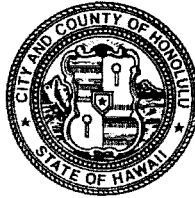
Melvin N. Kaku  
Director

cc: Roy K. Amemiya, Jr., Managing Director

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.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR  
  
TIMOTHY F. T. HIU  
ACTING DEPUTY DIRECTOR

February 6, 2017

The Honorable Mike Gabbard, Chair  
and Members of the Committee on Agriculture  
and Environment

The Honorable Clarence K. Nishihara, Chair  
and Members of the Committee on Public Safety,  
Intergovernmental, and Military Affairs

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

Dear Chairs Gabbard and Nishihara 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 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.

The Honorable Mike Gabbard, Chair  
and Members of the Committee on Agriculture  
and Environment

The Honorable Clarence K. Nishihara, Chair  
and Members of the Committee on Public Safety,  
Intergovernmental, and Military Affairs

Senate Bill No. 988

February 6, 2017

Page 2

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

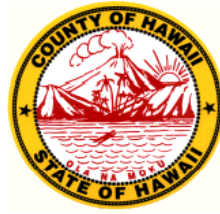
Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Sokugawa", with a long, sweeping flourish extending to the right.

Kathy Sokugawa  
Acting Director

**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

Dear Chairs Nishihara and Gabbard, and members:

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

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  
County of Hawaii



February 7, 2017

Senator Mike Gabbard, Chair and Senator Gil Riviere, Vice Chair  
Senate Committee on Agriculture and Environment  
Senator Clarence K. Nishihara, Chair and Senator Glenn Wakai, Vice Chair  
Committee on Public Safety, Intergovernmental and Military Affairs  
Hawaii State Capitol, 415 S. Beretania St.  
Honolulu, Hawaii 96813

Dear Chairs Gabbard and Nishihara, Vice Chairs Riviere and Wakai, and Members of the Committees:

The Hawaii Aquaculture and Aquaponics Association (HAAA) is sending this testimony to express **concerns with SB 988**, "Relating to Exemption for Agricultural Buildings and Structures." HAAA strongly supported the passage of Act 203 (2013), which provided exemptions under HRS Section 46-88 from building codes and permits for certain agricultural structures. We believe that these exemptions are essential if agriculture and aquaculture are to thrive in Hawaii, and we thank the Legislature for supporting Hawaii's farmers and ranchers by providing them.

We recognize that the purpose of SB 988 is to preserve Hawaii's eligibility for flood insurance under the National Flood Insurance Program, and we accept the need to make Section 46-88 compatible with Federal floodplain regulations. We hope, however, that the Legislature will see the need to preserve the benefits of Section 46-88's exemptions for farms in locations that are not in FEMA-designated floodplain areas. We are concerned that SB 988 requires farmers to notify the appropriate County agency of plans to build exempt structures, but does not set any deadline for the County agency to determine whether or not the proposed construction actually falls within a designated floodplain. Without such a deadline, construction could be delayed indefinitely, even if the proposed structures truly qualify as exempt.



If SB 988 passes into law, there may be farmers who have already initiated construction on exempt structures, but who have not completed construction at the time the new law takes effect. These farmers may be in violation of the new law even though they are not in a floodplain and were in compliance with the old law at the time they started construction. We encourage you to amend SB 988 to allow a grace period of one year during which farmers who have already started building can complete construction.


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

Sincerely,

Frederick M. Mencher  
for Ronald Weidenbach, President  
Hawaii Aquaculture and Aquaponics Association



 | 808-733-7060  
 | 808-737-4977

 | 1259 A'ala Street, Suite 300  
Honolulu, HI 96817

February 8, 2017

**The Honorable Clarence K. Nishihara, Chair**

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

**The Honorable Mike Gabbard, Chair**

Senate Committee on Agriculture and Environment

State Capitol, Room 224

Honolulu, Hawaii 96813

**RE: S.B. 988, Relating to Exemption for Agricultural Buildings and Structures**

**HEARING: Wednesday, February 8, 2017, at 1:16 p.m.**

Aloha Chair Nishihara, Chair Gabbard, and Members of the Committees,

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,000 members. HAR **strongly supports** on S.B. 988 which 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.


The National Flood Insurance Program (NFIP) of 1968, overseen by the Federal Emergency Management Agency (FEMA) enables homeowners, business owners, and renters in participating communities, such as Hawaii, to purchase federally backed flood insurance. All properties are at some risk for flooding and consumers don't realize that most homeowner's policies do not cover flooding.


Currently a law in Hawaii Revised Statutes §46-88 jeopardizes Hawaii's continued eligibility in NFIP. This law provides broad exemptions from building permit and building code requirements for certain types of agricultural buildings, structures, and appurtenances. The building permit exemptions, in accordance with HRS §46-88, is in conflict with the State and Local participating community's agreement with FEMA to maintain floodplain management regulations. Consequently, HRS §46-88 impedes participating communities from properly administering and enforcing their floodplain management regulations.


FEMA warns the State of Hawaii that they will suspend Hawaii's participation from the NFIP if HRS §46-88 is not amended to restore building permit requirements and other areas as regulated through local floodplain management regulations by July 31, 2017.





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 | 1259 A'ala Street, Suite 300  
Honolulu, HI 96817

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This suspension will negatively impact over 60,000 current flood insurance policies in Hawaii. The only alternatives would be forced place insurance or extremely high insurance premiums. Additionally, new federally backed mortgages may not be issued in Hawaii if flood insurance is not available.

Hawai'i REALTORS® believe amendments are needed to ensure that the NFIP continues in Hawaii and inaction will negatively impact property owners and will jeopardize the availability of affordable flood insurance in Hawaii as well as the future of federally backed mortgages.

There have been discussions between State Department of Land and Natural Resources and FEMA to develop the appropriate language to address the specific concerns raised by FEMA.

**Those amendments are compiled in S.B. 988 and the State of Hawaii is in receipt of written confirmation from FEMA that the language will address the concerns raised on meeting NFIP's requirements.**

HAR respectfully request the passage of this measure.

Mahalo for the opportunity to testify.



Presentation To  
Senate Committee on Agriculture and Environment  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
February 8, 2017 at 1:16 PM  
State Capitol Conference Room 224

**Testimony in Support of Senate Bill 988**

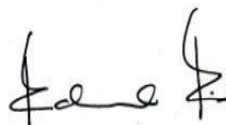
TO: The Honorable Mike Gabbard, Chair of Senate Committee on Agriculture & Environment  
The Honorable Gil Riviere, Vice Chair  
Members of the Committee

The Honorable Clarence K. Nishihara, Chair of Senate Committee on Public Safety,  
Intergovernmental, and Military Affairs  
The Honorable Glenn Wakai, Vice Chair  
Members of the Committee

My name is Edward Pei and I am the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing eleven FDIC insured depository institutions with branch offices in the State of Hawaii.

The Hawaii Bankers Association strongly supports the intent of Senate Bill 988, which will hopefully remedy issues raised by the Federal Emergency Management Agency (FEMA). In a letter to Governor David Ige dated April 15, 2016, FEMA cited that the actions of Act 203, enacted in 2013, violate compliance with floodplain management requirements. Failure to meet their requirements would result in the suspension of the State of Hawaii from the National Flood Insurance Program (NFIP). If corrective action to the existing State Statute is not taken by July 31, 2017, the State of Hawaii would be suspended from NFIP, which would mean Hawaii homeowners would no longer be eligible for federally-backed flood insurance. The approximate 60,000 Hawaii homeowners who have NFIP coverage today would have to find and purchase private flood insurance, which is considerably more expensive than the NFIP coverage. Suspension from NFIP would also render Hawaii ineligible for certain federal disaster assistance. It is therefore imperative that the Hawaii State Legislature amend the Hawaii Revised Statute, Section 46-88, in this legislative session to ensure compliance with FEMA requirements for NFIP.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.



Edward Y. W. Pei  
(808) 524-5161

# 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 8, 2017

Senator Clarence K. Nishihara, Chair; Senator Glenn Wakai, Vice Chair; and members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Senator Mike Gabbard, Chair; Senator Gil Riviere, Vice Chair; and members of the Senate Committee on Agriculture and Environment  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **S.B. 988 (Exemption for Agricultural Buildings and Structures)**  
**Hearing Date/Time: Wednesday, February 8, 2017, 1:16 p.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 major 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. Certain types of federal disaster assistance would be available to government, businesses, and individuals to assist with the recovery.

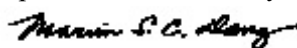
HRS Sec. 46-88 was amended by Act 203 in 2013 to allow exemptions from building permit and building code requirements for certain types of agricultural buildings, structures, and appurtenances.

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

## TESTIMONY OF ALISON UEOKA

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### COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair  
Senator Gil Riviere, Vice Chair

### COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

Wednesday, February 8, 2017  
1:16 p.m.

### **SB 988**

Chair Gabbard, Vice Chair Riviere, and members of the Committee on Agriculture and Environment, and Chair Nishihara, Vice Chair Wakai, and members of the Committee on Public Safety, Intergovernmental, and Military Affairs, 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.



# *Hawaii Independent Insurance Agents*

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## ASSOCIATION

February 6, 2017

To: Senator Clarence Nishihara, Chair  
Senator Glenn Wakai, Vice-Chair  
And Members of the Committee on Public Safety, Intergovernmental  
and Military Affairs

Senator Mike Gabbard, Chair  
Senator Gil Riviere, Vice Chair  
And Members of the Committee on Agriculture and Environment

Re: SB988 Relating to Exemption for Agricultural Buildings and Structures  
Hearing: Wednesday, February 8, 2017 1:16 pm Conference Room 224

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The Hawaii Independent Insurance Agents Association (HIIA) is submitting testimony in **support** of SB 988 which clarifies procedures for an exemption from building permit and building code requirements pursuant to section 46-88. This clarification is necessary to be in compliance with the Federal Floodplain Management development standards, ordinance, codes, statutes, rules or regulations pursuant to the National Flood Insurance Program requirements.

The Governor has been put on notice that Hawaii will be in jeopardy of suspension from NFIP and FEMA and deadline for compliance is July 31, 2017.

This is a serious matter and could jeopardize the entire Flood Insurance Program in the State of Hawaii and will jeopardize eligibility for certain federal disaster assistance if this clarification language is not inserted in 46-88. This will affect existing flood insurance policies currently in place and will affect new real estate transactions that require flood insurance. The standard homeowner's insurance policy excludes flood coverage and if you recall when we had our recent heavy rains there were many affected flood prone areas.

Thank you for the opportunity to submit testimony.



*Mortgage Bankers Association of Hawaii*  
*P.O. Box 4129, Honolulu, Hawaii 96812*

February 6, 2017

The Honorable Mike Gabbard, Chair,  
The Honorable Gil Riviere, Vice Chair, and  
Members of the Senate Committee on Agriculture and Environment  
The Honorable Clarence K. Nishihara, Chair  
The Honorable Glenn Wakai, Vice Chair and  
Members of the Senate Committee on Public Safety, Intergovernmental and  
Military Affairs

Re: Senate Bill 988, Relating to Exemption for Agricultural Buildings and  
Structures  
Hearing Date/Time: Wednesday, February 8, 2017, 1:16pm

**Chairs Gabbard and Nishihara, Vice Chairs Riviere and Wakai, and Members of  
the Committees:**

I am Linda Nakamura, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service or support the origination and servicing of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation, it is related only to mortgage lending and servicing.

The MBAH supports the intent of Senate Bill 988.

This Bill clarifies the procedures for an exemption from building permit and building code requirements pursuant to section 46-88 of the Hawaii Revised Statutes. It also clarifies that this section 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 the National Flood Insurance Program (NFIP) requirements.

This Bill will revise section 46-88 of the Hawaii Revised Statutes so that it will meet the Federal Emergency Management Agency (FEMA) guidelines. It is imperative that the Hawaii State Legislature passes legislation to amend section 46-88 of the Hawaii

Revised Statutes by July 31, 2017. If legislation is not passed to meet the FEMA guidelines, FEMA will suspend the participating communities in the State of Hawaii from the NFIP. This means that homeowners whose homes are located in a flood zone will not be able to purchase federally-backed flood insurance. They will be required to purchase private flood insurance which may result in higher premiums for these homeowners. This may also have an impact on lending. As mortgage applicants may not be able to procure flood insurance or affordable flood insurance. Suspension from the NFIP will also mean that Federal Disaster Assistance may not be available to the State and County governments, businesses and individuals who may be impacted by a disaster and is requiring aid. As you can see, these consequences are quite dire as this does not only affect homeowners whose homes are currently or in the future will be in a flood zone. This has far reaching consequences as it may impact the entire State of Hawaii in the event of a disaster.

Thank you for the opportunity to present this testimony.

LINDA NAKAMURA  
Mortgage Bankers Association of Hawaii

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 12:15 PM  
**To:** PSMTestimony  
**Cc:** djf991960@hotmail.com  
**Subject:** Submitted testimony for SB988 on Feb 8, 2017 13:16PM

**SB988**

Submitted on: 2/3/2017

Testimony for PSM/AEN on Feb 8, 2017 13:16PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Fukuzawa	Individual	Oppose	No

Comments: I am not in favor of this bill with the changes that are being proposed. I believe that the original bill as it was, is fine. No changes at this time are warranted.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 5:14 PM  
**To:** PSMTestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for SB988 on Feb 8, 2017 13:16PM\*

**SB988**

Submitted on: 2/2/2017

Testimony for PSM/AEN on Feb 8, 2017 13:16PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 7, 2017 11:13 AM  
**To:** PSMTestimony  
**Cc:** alan@prloffice.com  
**Subject:** Submitted testimony for SB988 on Feb 8, 2017 13:16PM

**SB988**

Submitted on: 2/7/2017

Testimony for PSM/AEN on Feb 8, 2017 13:16PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Gottlieb	Individual	Support	No

Comments: SUPPORT WITH COMMENTS. We would like to see this bill include the following language, similar to HB 1418, requiring the County to respond in 30 days whether the proposed construction is in the flood plain: 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);

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February 6, 2017

Subject: **SB988, Relating to Exemption for Agricultural Buildings and Structures**

**TESTIMONY IN SUPPORT**

**Hearing Date: Wednesday, February 8, 2017 at 1:16 p.m., Conference Room 224  
(House Committee on Judiciary)**

Honorable Senator Ronald D Kouchi:

As a Certified Floodplain Manager, I support the bill SB988 the companion Bill HD 1122 since the State and four Counties are in jeopardy of losing eligibility in the National Flood Insurance Program (NFIP) and could be suspended from the program. This will result in tremendous loss for the State of Hawai'i as follows:

1. Federally backed flood insurance will no longer be available for the home owners,
2. Existing home owners risk recall on their current mortgages or pay higher private insurance, which may not be affordable for low income families in the State of Hawai'i,
3. New federally mortgages will not be available for homes in the State of Hawai'i because they cannot get flood insurance coverage at an affordable price, and
4. Federal Disaster Assistance in the event of a Presidential Declaration will no longer be available for the State and local participating agencies posing an additional strain on the already strained budgets of local and State governments of Hawai'i.

The housing crisis in Hawai'i does not need additional burden from the loss of NFIP for existing homeowners. The State of Hawai'i had one major disaster declaration in 2016 and two in 2014. And, with climate change, we are only one storm away from a disaster. The State of Hawai'i cannot bear the burden of loss of NFIP coverage.

So, I urge to act now to pass this bill before the deadline of July 31, 2017 imposed by the Federal Emergency Management Agency (FEMA) on the State of Hawai'i.

I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,

Vijaya Tummala  
vijaya.tummala@gmail.com

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 6, 2017 1:21 PM  
**To:** PSMTestimony  
**Cc:** shyunueno@gmail.com  
**Subject:** \*Submitted testimony for SB988 on Feb 8, 2017 13:16PM\*

**SB988**

Submitted on: 2/6/2017

Testimony for PSM/AEN on Feb 8, 2017 13:16PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shyun Ueno	Individual	Support	No

Comments:

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**Sent:** Friday, February 3, 2017 1:17 PM  
**To:** PSMTestimony  
**Cc:** prentissc001@hawaii.rr.com  
**Subject:** \*Submitted testimony for SB988 on Feb 8, 2017 13:16PM\*

**SB988**

Submitted on: 2/3/2017

Testimony for PSM/AEN on Feb 8, 2017 13:16PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles Prentiss	Individual	Support	No

Comments:

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