

DAVID Y. IGE  
Governor

DOUGLAS S. CHIN  
Lt. Governor



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
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SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson

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

**BEFORE THE SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT**

**MARCH 12, 2018  
1:15 P.M.  
CONFERENCE ROOM 224**

**HOUSE BILL NO. 1884 HD1  
RELATING TO AGRICULTURE**

Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 1884 HD1 that amends:

1. The Hawaii Right-to-Farm Law (Chapter 165, HRS) to define “subsistence farming” as a “farming operation” for personal or family consumption and not commercial purposes; and
2. Sections 205-2 and -4.5 by appending the phrase “for economic or personal use” to the fundamental permitted agricultural activities on agricultural land.

The Department of Agriculture has strong concerns on this measure.

The Right-to-Farm Law (Chapter 165) is meant to limit the circumstances under which farming operations may be deemed to be a nuisance. “Farming operation” is defined as commercial agricultural, silvicultural, or aquacultural facility or pursuit. As written, House Bill 1884 HD1 conflates personal agriculture with commercial agricultural operations. This will diffuse the current focus on commercial agriculture and its important role in Hawaii becoming more food self-sufficient.

The amendments to Section 205-2(d) and Section 205-4.5(a) by appending the phrase “...for economic or personal use” has the effect of lowering expectations as to what amount of activity is sufficient on agricultural land. These amendments may



adversely affect the counties administration of their primary incentives for agriculture – the agricultural dedication programs that reduce the property tax burden of commercial agricultural operations, and discounted agricultural water rates.

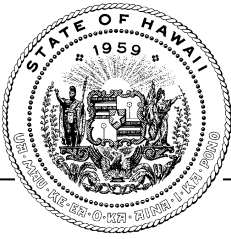
The present legislature and those in the past have struggled with the problem of “fake farm” agricultural subdivisions. Amending Chapter 205 to equate personal and subsistence agriculture to commercial agriculture may result in a substantial increase of “fake farms”.

The amendments in HD1 may also adversely affect the Important Agricultural Lands Law and Incentives (Chapter 205, Part III) as the permitted uses on designated Important Agricultural Land are, by default, the same as described in Section 205-2 and Section 205-4.5.

The term “farming operations” in Section 205-4.5(a)(13 and 14) are permitted to have agricultural tourism operations and possibly overnight accommodations. There are probably other unintended consequences of conflating subsistence or personal farming with commercial agriculture.

The Department of Agriculture recognizes subsistence and personal farming in helping to meet an individual’s or family’s food requirements. We do not recommend that this level of activity merits inclusion into Chapter 165 or Chapter 205.

Thank you for the opportunity to submit our concerns on this measure.



# OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE  
GOVERNOR

LEO R. ASUNCION  
DIRECTOR  
OFFICE OF PLANNING

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Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT**  
Monday, March 12, 2018  
1:15 PM  
State Capitol, Conference Room 224

in consideration of  
**HB 1884, HD 1**  
**RELATING TO AGRICULTURE.**

Chair Gabbard, Vice Chair Riviere, and Members of the Senate Committee on Agriculture and Environment.

The Office of Planning (OP) respectfully opposes HB 1884, HD 1 which would amend Hawaii Revised Statutes (HRS) Chapter 165 to define subsistence farming as agricultural activity for economic or personal use, and amend HRS Chapter 205 to incorporate agricultural activity for personal use as permissible uses in the State Agricultural Land Use Districts.

The effect of HB 1884, HD 1 would be to enable non-agricultural, higher-valued uses, like transient vacation rentals, as permissible uses in the State Agricultural District. This dramatic relaxation of the threshold of agricultural activity required for the range of permissible uses currently allowed in the State Agricultural District would essentially eliminate the State's and counties' ability to keep non-agricultural uses from encroaching on Hawaii's agricultural lands and facilitate the conversion of agricultural lands to higher-valued non-agricultural use. This would make it more difficult for bona fide farmers to access affordable agricultural lands, and severely compromise the efforts of the State and counties to promote agriculture and conserve agricultural land for current and future agricultural use pursuant to the Hawaii State Constitution.

Thank you for the opportunity to testify on this measure.

**DAVID Y. IGE**  
Governor

**DOUGLAS CHIN**  
Acting Lieutenant Governor

**LUIS P. SALAVERIA**  
Director

**MARY ALICE EVANS**  
Deputy Director



**LAND USE COMMISSION**  
Department of Business, Economic Development & Tourism  
State of Hawai'i

**DANIEL ORODENKER**  
Executive Officer

**Bert K. Saruwatari**  
Planner  
**SCOTT A.K. DERRICKSON AICP**  
Planner

**RILEY K. HAKODA**  
Chief Clerk/Planner

**FRED A. TALON**  
Drafting Technician

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Statement of  
**Daniel E. Orodener**  
**Executive Officer**  
Land Use Commission  
Before the  
**Senate Committee on Agriculture and Environment**  
Monday March 12, 2018  
1:15 PM  
State Capitol, Conference Room 224

In consideration of  
**HB 1884 HD1**  
**RELATING TO AGRICULTURE**

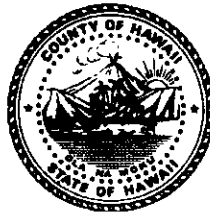
Chair Gabbard, Vice Riviere, and members of the Committee on Agriculture and Environment:

The Land Use Commission is opposed to HB 1884 HD1 in that it seeks to provide a definition for subsistence farming to Section 165-2, Hawai'i Revised Statutes (HRS). The intent of this statutory section is to protect farming operations from being deemed a nuisance to adjacent land uses.

We believe that inclusion of subsistence farming under the broader definition of "farming operation" in that same section of the law will create greater difficulties for the counties in enforcing sections of Chapter 205, HRS, with respect to what would qualify as allowable, bona fide farm dwellings and farm worker housing. The proposed changes to Sections 205-2 and 205-4.5, HRS, would create additional uncertainty for the counties' ability to enforce these statutory provisions.

Thank you for the opportunity to testify on this matter.

**Harry Kim**  
*Mayor*



**Wil Okabe**  
*Managing Director*

**Barbara J. Kossow**  
*Deputy Managing Director*

**County of Hawai'i**  
**Office of the Mayor**

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March 9, 2018

Senator Mike Gabbard, Chair  
Committee on Agriculture and Environment  
Hawai'i State Capitol, Room 224  
Honolulu, HI 96813

Dear Chair Gabbard and Committee Members:

**Re: HB 1884, HD 1 Relating to Subsistence and Right to Farm**  
**Hearing Date: 03-12-18 – 1:15 pm; Conference Room 224**

Although HB 1884, HD 1 is well meaning, and subsistence farming is generally to be encouraged, I must oppose it. As stated in the testimony of the Department of Agriculture, the unintended consequences of this bill may be substantial.

We can anticipate that elevating subsistence farming to the same level as commercial agriculture will cause problems that have already been flagged by several State departments and agencies. I would add that there are numerous residential subdivisions on agricultural land (particularly on the Big Island but elsewhere as well) which are made up of relatively small lots and where we must recognize that some agricultural activities can constitute a nuisance, such as the raising of pigs or chickens. Protecting against neighborhood conflict is important, and HB1884, HD 1 could make the situation very difficult to control.

The potential unintended consequences of this bill are too great, and I must urge that HB 1884, HD 1 be deferred.

Thank you for your consideration.

Respectfully submitted,

Harry Kim  
Mayor, County of Hawai'i



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March 12, 2018

HEARING BEFORE THE  
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

**TESTIMONY ON HB1884, HD 1**  
RELATING TO AGRICULTURE

Room 224  
1:15 PM

Aloha Chair Gabbard, Vice Chair Riviere, and Members of the Committee:

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.

**HFB is in opposition of HB1884, HD 1**, which includes subsistence farming as a protected activity under the Hawaii Right to Farm Act.

HFB believes that all kinds of activities growing crops and raising animals contribute to Hawaii's level of self-sufficiency. However, there is a place for everything. Hawaii's land use and zoning laws are in place to minimize land use conflicts. Recently on the Big Island, neighbors complained about noise from a rooster farm on agricultural lands. <http://www.hawaiitribune-herald.com/2018/03/04/hawaii-news/ruffling-feathers-bill-aims-to-mitigate-noise-at-rooster-farms/>. In this case, a County ordinance restricting activities may be questionable due to HRS205-4.6 prohibiting private restrictions on agricultural uses and activities on agricultural lands.

This example of conflict can easily occur given the vague addition of subsistence ag into the Hawaii Right to Farm law. Subsistence agriculture can occur in all kinds of land classifications, including urban. People live in urban areas with expectations about the surrounding environment. This measure will create confusion with conflicts between County zoning laws and State Law. **If this measure is passed, does it mean that it will take precedent over the County zoning ordinances?** Nationally concern about livestock in urban areas have raised health concerns.

Hawaii's Right to Farm Act is meant to protect farmers from spending an inordinate amount of time defending basic farming practices in an environment lacking basic

understanding of what it takes to grow a crop and raise livestock. It is meant to be in an agricultural district.

Hawaii's farmers and ranchers depend on their farms and ranches for their livelihood that not only supports their families and workers families but provides food, flowers and landscaping for the community. Their work of providing locally grown minimizes the risks to invasive species from abroad. This makes it vital to keep the intent of Hawaii's Right to Farm Act in place and not dilute its' purpose.

Thank you for this opportunity to provide our opinion on this important matter.



March 11, 2018

Senator Mike Gabbard, Chair  
Senator Gil Riviere, Vice Chair  
Senate Committee on Agriculture and Environment

**Comments, Concerns and Strong Opposition to HB 1884, HD1, Relating to Agriculture (Claims to clarify that "subsistence farming" is included as a protected activity under the Hawaii Right to Farm Act; and clarify that the cultivation of crops and activities related to game, fish, and livestock on agricultural lands may be for economic or personal use.)**

**Monday, March 12, 2018, 1:15 p.m., in Conference Room 224**

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

LURF appreciates the opportunity to provide **comments, concerns and STRONG OPPOSITION to this measure.**

**HB 1884, HD1.** There is no purpose clause for this bill, so it is impossible to determine the true purpose of this measure. Nevertheless, the "Description" attached to this bill claims that it clarifies that "subsistence farming" is included as a protected activity under the Hawaii Right to Farm Act, and further claims that it clarifies that the cultivation of crops and activities related to game, fish, and livestock on agricultural lands may be for economic or personal use.

**LURF's Position.** Under the circumstances, the proposed "clarifications" are unjustified, contrary to the "Right to Farm" principles and application, and not consistent with Hawaii's Right to Farm law. Most egregious, this bill would make it harder for the counties to enforce agricultural uses on agricultural lands, and could have the unintended consequence of legalizing "Fake Farms" and "Gentlemen Farms." On Agricultural lands.



LURF supports subsistence farming, and would like to believe that HB 1884, HD1, is a well-meaning, this measure appears to be a misguided attempt to support subsistence farming. Nevertheless, under the circumstances, LURF must **STRONGLY OPPOSE** this measure, based on, among other things, the following:

- There is NO JUSTIFICATION for these bills – there is no purpose clause or any justification or facts to support these bills.
- Adding “*subsistence farming*” to the Right to Farm law is NOT CONSISTENT WITH THE PURPOSE, INTENT AND SPECIFIC DEFINITIONS IN HAWAII’S RIGHT TO FARM LAW, which was meant to protect commercial farming operations against nuisance complaints;
- Adding “economic and personal use” is UNNECESSARY.
- Allowing non-commercial “subsistence farming” for direct personal or family consumption to be defined as a “farming operation” will have the following SUBSTANTIAL NEGATIVE CONSEQUENCES to the future of the agricultural industry and Food Sustainability in Hawaii:
  - ✓ Will make it virtually impossible for the counties to enforce agricultural uses on lands designated or zones as agriculture;
  - ✓ Would severely compromise the ability of counties to enforce laws relating to allowable, bonafide farm dwellings and farm worker housing;
  - ✓ Would legalize “Fake Farms”;
  - ✓ Would substantially increase the number of Fake Farms on agricultural lands throughout the State;
  - ✓ Would allow Fake Farms to legally operate agricultural tourism operations and possibly transient vacation rentals and overnight accommodations, pursuant to HRS §205-4.5(a) (13 and 14);
  - ✓ Would make it harder for legitimate bonafide farmers to access affordable agricultural lands; and
  - ✓ Would increase the real property taxes and increase the water rates for all other county taxpayers, because all Fake Farmers would be considered a commercial farming operation and would qualify for reduced real property taxes and water rates under the counties’ agricultural dedication programs.

Based on the above, LURF respectfully requests that HB 1884, HD1 be **DEFERRED** and **HELD** by this Committee.

Thank you for the opportunity to provide comments and concerns relating to this proposed measure.

Please feel free to contact David Arakawa, LURF Executive Director, if there are any questions.

**HB-1884-HD-1**

Submitted on: 3/9/2018 6:26:03 AM

Testimony for AEN on 3/12/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
De MONT R. D. CONNER	Testifying for Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

We continue to STRONGLY SUPPORT this bill. Mahalo.

**HB-1884-HD-1**

Submitted on: 3/10/2018 2:49:22 PM

Testimony for AEN on 3/12/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

PRESENTATION OF THE  
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES  
DEMOCRATIC PARTY OF HAWAII  
TO THE COMMITTEE OF AGRICULTURE AND ENVIRONMENT  
THE SENATE  
TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2018  
Monday, March 12, 2018  
1:15 p.m.  
Hawaii State Capitol, Conference Room 224

RE: Testimony in Support of **HB1884 HD1**: RELATING TO AGRICULTURE To the Honorable Mike Gabbard, Chair; the Honorable Gil Riviere, Vice-Chair and Members of the Committee on Agriculture and Environment:

Good afternoon. My name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **HB1884 HD1** relating to Hawaii Right to Farm Act; Subsistence Farming; and Agricultural Lands.

The OCC Legislative Priorities Committee is in favor of **HB1884 HD1** and supports its passage.

**HB1884 HD1** is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it clarifies that "subsistence farming" is included as a protected activity under the Hawaii Right to Farm Act and clarifies that the cultivation of crops and activities related to game, fish, and livestock on agricultural lands may be for economic or personal use.

The Platform of the Democratic Party of Hawai'i, 2016, provides that "[a]griculture in our state must be preserved and its future strengthened. Sufficient prime agricultural lands must be maintained for the health, economic well-being and sustenance of the people. We believe in an integrated approach to agricultural innovation and sustainability. We encourage the responsible development of ocean resources in order

to achieve sustainability of our marine resources, and ensure and improve the health of our reef and marine life.

This approach includes, but is not limited to, the adoption of the native Hawaiian concept of ahupua‘a, an integrated approach to land management. This could also include development of economic, land and ocean use policies that foster sustainable crops both for local consumption and for export, policies to foster agriculture-related infrastructure at shipping points, and increased inspection to protect against invasive species and to encourage reduced holding times. We will promote ethical and safe production of livestock, dairy products, poultry and eggs.

Recognizing the importance of the ocean as a life-sustaining resource, we must protect its ecological balance while promoting the cultivation of ocean resources as a step toward greater self-sufficiency. (Platform of DPH, P. 2, Line 76-91 (2016)).

Given that **HB1884 HD1** clarifies that “subsistence farming” is included as a protected activity under the Hawaii Right to Farm Act and clarifies that the cultivation of crops and activities related to game, fish, and livestock on agricultural lands may be for economic or personal use, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Text/Tel.: (808) 258-8889