

**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. Orodenker**  
**Executive Officer**  
Land Use Commission  
Before the  
**House Committee on Agriculture**  
Wednesday February 14, 2018  
9:00 AM  
State Capitol, Conference Room 312

In consideration of  
**HB 2632 HD1**  
**RELATING TO HOUSING ON AGRICULTURAL LANDS**

Chair Creagan, Vice Chair DeCoite, and members of the Committee on Agriculture:

The Land Use Commission supports the intent of HB 2632 HD1 in that it seeks to clarify what constitutes housing for farmers, their families, and agricultural workers. We suggest the addition of explicit language restricting the use of any such dwelling units for short-term vacation rentals.

Thank you for the opportunity to testify on this matter.

DAVID Y. IGE  
Governor

DOUGLAS S. CHIN  
Lt. Governor



SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson

State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
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 HOUSE COMMITTEE ON AGRICULTURE**

**FEBRUARY 14, 2018  
9:00 A.M.  
CONFERENCE ROOM 312**

**HOUSE BILL NO. 2632, HOUSE DRAFT 1  
RELATING TO HOUSING ON AGRICULTURAL LAND**

Chairperson Creagan and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2632 HD1 that amends Sections 205-2 and 205-4.5, HRS to further define the permitted uses of “farm dwellings” and “employee housing” with various requirements and specifications, all of which are required to be present. The Department of Agriculture offers comments.

This bill offers a definition of farm dwelling and employee housing that is worthy of continued discussion. All eight criteria need to be met to qualify as farm dwellings and employee housing. We strongly encourage the counties to submit testimony on this measure as they are likely responsible for implementing its provisions by amendments to their respective zoning ordinance and rules. The counties are most familiar with what is happening on the agricultural lands under their control.

Section 1 of the bill (page 1, lines 9-16) implies that the amending language applies only to prospective farm dwellings and employee housing units. If the amending language is to also apply to existing dwellings and units, it should be stated as such.

Subsection (D) (page 9, line 16 to page 10, line 14) needs clarification. We offer the following thoughts for consideration:

The first sentence (page 9, lines 16-17) “No dwelling or employee housing unit shall exceed one dwelling per five acres” should be in its own subsection.



The following sentence (page 9, lines 17-19 “The owner or lessee of the lot shall meet two of the following three criteria:”) appears to be addressing only new or proposed employee housing units and not new or proposed farm dwellings. If the intent is to include new or proposed farm dwellings, the sentence could be amended as follows: “The owner or lessee of the lot proposing a new farm dwelling and/or employee housing unit shall meet two of the following three criteria:”

An additional amendment would be needed from page 9, line 20 to page 10, line 14. (deletions are bracketed and overstruck, new text is bold)

- "(i) Provide proof of at least \$35,000 of gross sales of agricultural product(s) per year, for the preceding two consecutive years, for each [farm labor dwelling]  
**farm dwelling and/or employee housing unit proposed** on the lot, as shown by state general excise tax forms and federal form 1040 Schedule F filings;
- (ii) Provide certification by the department of water supply that agricultural water rates are being paid if the subject lot is served by the county water system;  
or
- (iii) Provide a five-year farm plan, approved by the department of agriculture, demonstrating the feasibility of commercial agricultural production, after which the \$35,000 of gross sales of agricultural product(s) per year requirement **for each farm dwelling and/or employee housing unit** must be met; "

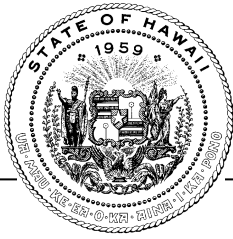
We note that paragraph (i) requires “at least \$35,000 of gross sales...per year, for the preceding two consecutive years, **for each** farm labor dwelling on the lot...” This

seems to require that an owner or lessee of a lot must have gross sales of at least \$70,000 if a new farm dwelling and one employee housing unit are proposed.

Paragraph (iii) (page 10, lines 9-14), is prospective as the “five-year farm plan” must conclude and the Department of Agriculture must agree that the agricultural activity on the lot for which a farm dwelling and/or employee housing unit is proposed will result in \$35,000 of gross sales of agricultural products by the end of the fifth year of the farm plan. If the lot owner or lessee selects this and one of the other two criteria, it appears this would negate the need to meet the very similar criterion (H) on page 11, lines 5-11 that requires a five-year farm plan that demonstrates the feasibility of commercial agricultural production of no less than \$35,000 of gross sales per year and is approved by the Department of Agriculture.

The Department of Agriculture is very concerned about the requirements in Subsection (D) paragraph (iii) (page 10, lines 9-14) and Subsection (H) (page 11, lines 5-11) that we approve “five-year farm plans” in support of the farm dwellings/employee housing that demonstrate the feasibility of commercial agricultural production to meet the \$35,000 per year requirements. The Department does not have an existing program with the expertise and capacity to undertake this function. The Department would need additional resources to create and carry out such a program.

Thank you for the opportunity to testify on this measure.



# OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE  
GOVERNOR

LEO R. ASUNCION  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**HOUSE COMMITTEE ON AGRICULTURE**  
Wednesday, February 14, 2018  
9:00 AM  
State Capitol, Conference Room 312  
in consideration of  
**HB 2632, HD1**  
**RELATING TO HOUSING ON AGRICULTURAL LAND.**

Chair Creagan, Vice Chair DeCoite and members of the House Committee on Agriculture.

The Office of Planning (OP) supports the intent of House Bill 2632, HD 1 which establishes standards for farm dwellings and farm employee housing on agricultural land and limits farm dwellings and farm employee housing on agricultural land to farmers and immediate family members.

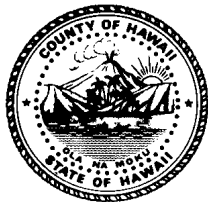
OP supports providing for the housing needs of agricultural working families on agricultural land which helps support farm employees. The legislation effectively limits who may inhabit the housing units, and sets good bases for ascertaining that bona fide farming is taking place with respect to farm income and farm plan approval requirements. OP has comments and concerns relative to the proposed amendments to Hawaii Revised Statutes (HRS) §205-4.5(a)(4):

1. The definition of “farm labor dwelling” in subsection (D)(i) is unclear.
2. Consideration should be given for ongoing monitoring and enforcement to ensure the lands are being used for active agricultural uses upon approval of the farm plan, and who would be responsible for monitoring and enforcement.
3. We note the Department of Agriculture’s concerns regarding their lack of available capacity to be responsible for approving the farm plans.

Finally, the measure should emphasize that the farm dwellings and farm employee housing are accessory to the primary agricultural use as defined in HRS § 205-4.5(a)(1)-(3) and the lands must continue to be in active agricultural production to enable their continued use as dwellings.

Thank you for the opportunity to testify on this measure.

Harry Kim  
Mayor



Michael Yee  
Director

Daryn Arai  
Deputy Director

West Hawai'i Office  
74-5044 Ane Keohokālole Hwy  
Kailua-Kona, Hawai'i 96740  
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**County of Hawai'i**  
**PLANNING DEPARTMENT**

East Hawai'i Office  
101 Pauahi Street, Suite 3  
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February 13, 2018

**LATE**

Testimony by  
**MICHAEL YEE**  
Director, County of Hawai'i Planning Department  
before the  
**COMMITTEE ON AGRICULTURE**  
**Wednesday, February 14, 2018, 9:00 AM**  
**State Capitol, Conference Room 312**  
in consideration of  
**HB 2632 HD1**  
**Relating to Housing on Agricultural Lands**

HB 2632 HD1 seeks to establish standards for farm and employee housing on agricultural lands. My proposed testimony, is as follows:

We support the general intent behind this bill that seeks to establish standards for both farm and employee housing on Agricultural-designated lands, but is VERY CONCERNED that the specific standards expressed within the bill are generally unenforceable since the County of Hawai'i currently has tens of thousands of lots situated within the Agricultural District. Proving familial relationships is always difficult and the lack of provisions for residents no longer able to cultivate their lands is worrisome. We would not wish to see elderly, retired residents on Agricultural lands being forced to vacate their properties simply because they are no longer active farmers.

Finally, has this bill been assessed against Section 205-4.5(b) regarding the permissibility of single family dwellings on lots existing prior to June 4, 1976?

Thank you for the opportunity to comment on this bill.

**HB-2632-HD-1**

Submitted on: 2/11/2018 12:59:27 PM

Testimony for AGR on 2/14/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jacqui Hoover	Hawaii Island Economic Development Board	Support	Yes

Comments:

**HB-2632-HD-1**

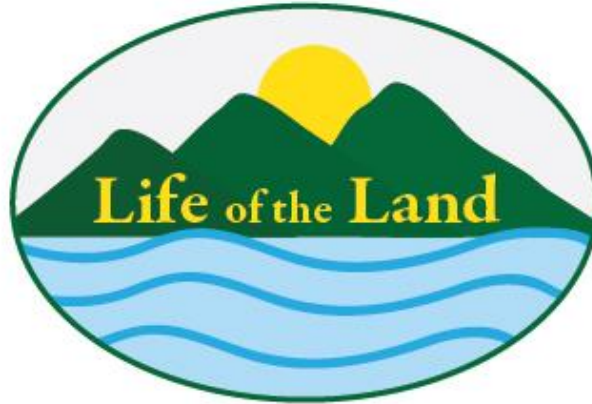
Submitted on: 2/11/2018 1:00:53 PM

Testimony for AGR on 2/14/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jacqui Hoover	Hawaii Leeward Planning Conference	Support	No

Comments:





P.O. Box 37158, Honolulu, Hawai`i 96837-0158  
Phone: 927-0709 [henry.lifeoftheland@gmail.com](mailto:henry.lifeoftheland@gmail.com)

COMMITTEE ON AGRICULTURE  
Rep. Richard P. Creagan, Chair  
Rep. Lynn DeCoite, Vice Chair

Wednesday, February 14, 2018  
9:00 AM  
Conference Room 312

HB 2632, HD1 RELATING TO HOUSING ON AGRICULTURAL LAND.

**Comments**

Aloha Chair Creagan, Vice Chair Decoite, and Members of the Committee

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 47 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

**If the bill moves forward, there should be additional safeguards against carving up agricultural lands for residential use and for gentleman estates.**

No farm dwelling or employee housing unit shall exceed one thousand square feet.  
No farm dwelling or employee housing unit shall exceed 15 feet in height.  
No farm dwelling or employee housing unit shall be designed to maximize its panorama.

Mahalo,

Henry Curtis  
Executive Director



**Hawaii Cattlemen's Council, Inc.**

**COMMITTEE ON AGRICULTURE**  
**Rep. Richard P. Creagan, Chair**  
**Rep. Lynn DeCoite, Vice Chair**

DATE: Wednesday, February 14, 2018

TIME: 9:00 AM

PLACE: Conference Room 312

**HB 2632, HD1 – RELATING TO HOUSING ON AGRICULTURAL LAND.**

Establishes standards for dwellings and employee housing on agricultural land. Limits dwellings and employee housing on agricultural land to farmers and immediate family members.

Chair Creagan, Vice Chair DeCoite, and Members of the Respective Committee:

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** HB 2632, HD1 as this measure could prove to be the difference in our ability to meet the Governor's target of doubling local food production.

One of the biggest hurdles for our industry in doubling food production is the issue of labor, specifically in the processing segment. While we are experiencing higher demand for locally raised beef, our plants cannot keep up with the demand for processing services and skilled labor shortages have been identified as its main cause.

As the plants have tried many ways, for many years, to close this labor gap, they have found that a lack of housing at or near the plants to be an issue in recruiting this skilled labor. By allowing employee housing on agricultural land, the plants would be able to construct housing and thus recruit the skilled labor needed.

This measure would provide much needed relief for the processing segment of our industry and would surely assist other agricultural operators with similar labor issues. We respectfully ask this committee to pass this measure and we appreciate the opportunity to testify on this important matter.



**HB-2632-HD-1**

Submitted on: 2/13/2018 4:56:05 AM

Testimony for AGR on 2/14/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	OCC Legislative Priorities Committee	Support	No

Comments:

**PRESENTATION OF THE  
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

**DEMOCRATIC PARTY OF HAWAII**

TO THE COMMITTEE ON AGRICULTURE

THE HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Wednesday, February 14, 2018

9:00 a.m.

Hawaii State Capitol, Conference Room 312

**RE: Testimony in Support of HB 2632 HD1 RELATING TO NUTRIENT CYCLING**

To the Honorable Richard P. Creagan, Chair; the Honorable Lynn DeCoite, Vice-Chair and the Members of the Committee on Agriculture:

Good morning. 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 House Bill No 2632 HD1 regarding dwellings and employee housing on agricultural land.

The OCC Legislative Priorities Committee is in favor of House Bill No.2632 HD1 and supports its passage.

House Bill No.2632 HD1 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it establishes standards for dwellings and employee housing on agricultural land.

The DPH Platform states that "[h]ousing is a basic human need and we believe that adequate, accessible, affordable, and safe housing should be available to all residents of Hawai'i. Affordable housing that is fair in proportion to individual income is the basis of prosperity for our citizens and stability in our economy. Recent and past real estate bubbles have fueled disproportionate rent increases, a key contributor to homelessness. (Platform of the DPH, P. 7, Lines 340-344 (2016)).

We believe in the concept of "Housing First" to develop affordable, stable housing and support services to break the cycle of homelessness for people with the fewest housing options. (Platform of the DPH, P. 7, Lines 352-356 (2016)).

We promote solid waste policies that divert green waste and food scraps for making invasive species free compost and enhanced mulch available to our farmers, landscapers, and residents.(Platform of the DPH, P. 3, Lines 115-116 (2016)).

Given that House Bill No. 2632 HD1, establishes standards for dwellings and employee housing on agricultural land, 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](mailto:legislativepriorities@gmail.com), Tel.: (808) 258-8889

**HB-2632-HD-1**

Submitted on: 2/11/2018 5:02:37 PM

Testimony for AGR on 2/14/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dawn Bruns	Individual	Support	No

Comments:

I'm writing to suggest an edit that would be needed for the proposed measure to be a meaningful deterrent to gentleman farms (which would be necessary for any agricultural subdivision to be approved in areas of the State, such as the North Shore, where Sustainable Communities Plans call for conservation of ag):

As written, the bill would allow an agricultural landowner to gross \$35,000/year for two tax years, then build their mansion, and thereafter have no requirement to continue to gross \$35,000/year. The bill should include a requirement that the house be decommissioned/removed if the land goes a period of [some number] of years without grossing \$35,000 in agricultural business.

I also noticed that as-written, the bill appears to require that children of the farmer be actively engaged in agriculture in order to occupy the residence (probably not the intended meaning of the sentences).

Thank you

**HB-2632-HD-1**

Submitted on: 2/10/2018 6:09:07 AM

Testimony for AGR on 2/14/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kat Culina		Oppose	No

Comments:

**HB-2632-HD-1**

Submitted on: 2/12/2018 11:09:01 AM

Testimony for AGR on 2/14/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Milholen	Individual	Support	No

Comments:

**HB-2632-HD-1**

Submitted on: 2/12/2018 6:43:14 PM

Testimony for AGR on 2/14/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mari Green	Individual	Support	No

Comments:



**LATE**

**HB-2632-HD-1**

Submitted on: 2/14/2018 8:15:54 AM

Testimony for AGR on 2/14/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Planning	County of Maui-Dept. of Planning	Oppose	No

Comments:

Aloha,

Thank you for the opportunity to testify in STRONG OPPOSITION to HB2632, HD1.

We support the intent of ensuring agricultural workers have affordable housing. But this bill is unrealistic, considering how land has been lawfully developed under State law and considering what is currently happening in the Agricultural District.

In addition, the bill arguably appears to change the minimum size of an agricultural lot to five acres, as seen in proposed Section 205-4.5(a)(4)(D). It is unclear whether this is intentional or advisable.

The proposed regulations in the bill would be difficult, if not impossible, to fairly and comprehensively enforce, including the restrictions based on familial status.

The Planning Department's zoning division is already excessively burdened with enforcing existing land use regulations. This bill effectively establishes unfunded mandates by creating new enforcement responsibilities without providing new resources.

Mahalo,

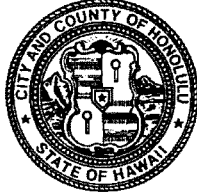
WILLIAM R. SPENCE

Planning Director, County of Maui

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

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KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR

TIMOTHY F. T. HIU  
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

February 14, 2018

**LATE**

The Honorable Richard P. Creagan, Chair  
and Members of the Committee Agriculture  
Hawaii House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Brower, and Committee Members:

**Subject:** House Bill No. 2632, HD 1  
Relating to Farm Dwellings

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 2632, which significantly adds to the requirements for farm dwellings and employee housing for farm workers.

We recognize the need for conveniently located farm dwellings, as this reduces commute times, may provide lower cost housing, and adds to the security of farm lands and crops. We appreciate the Bill's provisions that dwellings must still comply with county building codes, and clustered housing is permitted. We appreciate that much of the Bill relies on the Department of Agriculture (DOA) for compliance.

However, although the stated intent of the Bill is to support farm housing, it appears to do the opposite: creating more requirements and reducing flexibility. Much of the administrative enforcement responsibility will still lie with the counties, particularly with respect to the make-up of each household. We ask if this is the best use of limited enforcement resources. In addition, our zoning code allows group quarters and townhouses as farm dwellings, which helps to save on construction costs, but this Bill would disallow them.

We respectfully request that House Bill No. 2632 HD 1 be deferred.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy K. Sokugawa".

Kathy K. Sokugawa  
Acting Director