

**DAVID Y. IGE**  
Governor

**DOUG 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  
**Senate Committee on Ways and Means**  
Wednesday February 28, 2018  
10:30 AM  
State Capitol, Conference Room 211

In consideration of  
**SB 481 SD2 Proposed**  
**RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee on Ways and Means:

The Land Use Commission has the following comments on the current proposed amendments to SB 481:

If the purpose of the proposed SD2 is to provide an expanded definition of "landowner" to include any tenant of private or public lands, we believe current statutory language and administrative rules already allow for tenants to submit petitions for Important Agricultural Land (IAL) designations with the authorization of the landowner.

Thank you for the opportunity to testify on this matter.

**DAVID Y. IGE**  
Governor

**DOUGLAS S. CHIN**  
Lt. Governor



**JAMES J. NAKATANI**  
Executive Director

STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

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**TESTIMONY OF JAMES J. NAKATANI**  
**EXECUTIVE DIRECTOR**  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

**BEFORE THE COMMITTEE ON WAYS AND MEANS**  
Wednesday, February 28, 2018  
10:30 a.m.

**SENATE BILL NO. 481 S.D. 2 PROPOSED**  
**RELATING TO AGRICULTURE**

Chairperson Dela Cruz and Members of the Committee:

My name is James Nakatani, Executive Director of the Agribusiness Development Corporation (“ADC”). The ADC supports the proposed Senate Bill No. 481 S.D. 2 which adds the definition of “landowner” to the provisions relating to the identification and dedication of important agricultural lands (IAL).

We recently learned that there was ambiguity regarding whether tenants on state lands were eligible to receive benefits from designating their fields as IAL pursuant to Chapter 205, Part III, HRS. The ADC believes by adding a definition which clarifies that tenants on state lands are eligible will encourage more farmers and agricultural operation to participate and strengthen the IAL program.

Thank you for the opportunity to testify, and for your consideration of this bill.

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

**BEFORE THE SENATE COMMITTEE ON WAYS & MEANS**

**FEBRUARY 28, 2018  
10:30 A.M.  
CONFERENCE ROOM 211**

**SENATE BILL NO. 481 PROPOSED SD 2  
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 481 Proposed SD2 that adds the definition of "landowner" to the provisions relating to the identification and designation of Important Agricultural Lands. The Department of Agriculture offers comments.

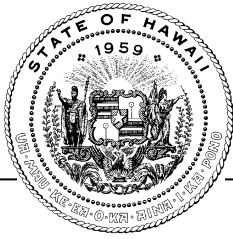
The proposed amendments are to Section 204-42 which defines IAL and the objective for the identification of IAL. Specifically, HD2 amends the definition of IAL to include a definition of landowner which includes a private landowner, owner of Section 171-2 public lands, and tenants of an owner of public lands or an owner of private lands. The construction of this amendment makes it apply uniformly throughout the IAL Law, otherwise referred to as Part III of Chapter 205.

An owner of public lands as defined in Section 171-2 refers to land under the management, administration, and control of the Department of Land and Natural Resources and the Department of Agriculture. The Department is concerned about assigning tenants of public land the same status as the landowner with respect to the IAL law. This may result in adverse unintended consequences for our land management program as there are permissible uses and activities within Part I of



Chapter 205 (the State Land Use Law) that may be sought by tenants for our public lands that are designated as IAL but are inconsistent with the purpose and intent of our land management program.

Thank you for the opportunity to submit our testimony.



# OFFICE OF PLANNING STATE OF HAWAII

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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 WAYS AND MEANS**  
Wednesday, February 28, 2018  
10:30 AM  
State Capitol, Conference Room 211

in consideration of  
**SB 481, SD 1 AND SB 481, PROPOSED SD 2**  
**RELATING TO IMPORTANT AGRICULTURAL LANDS.**

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means.

The Office of Planning (OP) supports the original intent of SB 481, SD 1, which would provide funds to the counties for mapping of lands for designation as important agricultural lands (IAL) by the State Land Use Commission.

OP provides comments on SB 481, Proposed SD2, which would amend Hawaii Revised Statutes (HRS) Chapter 205, Part III, Important Agricultural Lands, to: (1) change the meaning of “important agricultural lands;” and (2) add a new definition for “landowner” to include tenants of private or public owners of land.

The definitions of IAL and landowner in Part III are critical to accessing land use regulatory and business incentives in Part III, IAL and HRS Chapter 235 that are intended to benefit and reward bona fide agricultural operators on IAL, including the creation of farm dwellings and employee housing on IAL lands. The broad term, “tenant”—without qualification as to a tenant’s agricultural purpose or long-term tenure—could lead to unintended consequences contrary to the intent of Part III. With the exception of the farm dwellings incentive, the statutory language for the existing incentives enable a tenant with an agricultural operation or agricultural business to access these incentives without the need for the expanded landowner definition. In addition, under State Land Use Commission (LUC) rules, a tenant with authorization from the landowner may petition the LUC for designation of land as IAL.

OP also comments that the proposed deletion of the phrase, “identified pursuant to this part” in the amended definition of IAL could be interpreted as removing the requirement for designation by the LUC to be deemed IAL under Part III. The designation process was specifically established to allow for technical and public vetting and mapping of those lands

meeting threshold criteria to guide and direct where State and county agricultural support and incentives should be focused. The amended definition of IAL could impair the ability of the State and counties to ensure that IAL incentives contribute to the long-term agricultural use of Hawaii's best agricultural lands.

Thank you for the opportunity to testify on this measure.

Harry Kim  
Mayor



Michael Yee  
Director

Daryn Arai  
Deputy Director

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## County of Hawai'i PLANNING DEPARTMENT

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Senator Donovan M. Dela Cruz, Chair  
Committee on Ways and Means

Re: SB 481, Proposed SD2 Relating to Important Agricultural Lands

### COMMITTEE ON WAYS AND MEANS HEARING

DATE: Wednesday, February 28, 2018  
TIME: 10:30 a.m.  
PLACE: Conference Room 211  
State Capitol  
415 South Beretania Street

Thank you for the opportunity to comment on SB 481 dealing with Important Agricultural Lands (IAL).

The proposed new definition for "Landowner" includes "any tenant of a private landowner or owner of public lands." [underlined emphasis added]

HRS §205-45(c)(1) states that the petition shall include... "verification and authorization from the applicable landowners." If "tenant" is included in the definition of landowner, then the actual landowner's rights could be usurped by the tenant. Although some landowners may transfer many rights via legal instruments (ie. lease) to their tenants, the state statute should not allow tenants to petition the State Land Use Commission without formal authorization from the landowner.

The County respectfully opposes the definition of "landowner" as proposed and with reference to tenancy. Alternatively, if the definition is to remain, we would request that "tenants of a private landowner or owner of public lands" be replaced with "tenants of state lands."

Respectfully submitted,

Michael Yee  
PLANNING DIRECTOR

**SB-481-SD-1**

Submitted on: 2/26/2018 2:09:12 PM

Testimony for WAM on 2/28/2018 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dale Sandlin	Testifying for Hawaii Cattlemens Council	Support	No

Comments: