

Honolulu, Hawaii

February 6, 2019

RE: H.B. No. 1117
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Agriculture, to which was referred H.B. No. 1117 entitled:

"A BILL FOR AN ACT RELATING TO STATE LANDS,"

begs leave to report as follows:

The purpose of this measure is to ensure the financial sustainability of the Board of Agriculture (BOA) agricultural park leases, Agribusiness Development Corporation (ADC) controlled agricultural lands, and public lands under the jurisdiction of the Board of Land and Natural Resources (BLNR) by:

- (1) Clarifying that BOA, ADC, and BLNR, in the event a lessee is in arrears of lease payments, must attempt to enter into a payment plan, in addition to other existing procedures, before terminating the lease;
- (2) Prohibiting the transfer, assignment, and subletting of ADC-controlled agricultural lands without the prior approval of ADC; authorizing ADC to review, approve, and impose requirements with respect to the consideration paid for the transfer or assignment by the assignee and the sublease rent paid by the sublessee; and in the case of a transfer or assignment, authorizing ADC to charge an assignment premium based on specified conditions; and



- (3) Requiring BOA and BLNR to adopt rules that ensure the timely collection of lease payments and track lessees who are in arrears of lease payments.

The Hawaii Cattlemen's Council, Hawaii Farm Bureau, Maui Chamber of Commerce, and a few concerned individuals supported this measure. The Department of Land and Natural Resources (DLNR) opposed this measure. The Department of Agriculture (DOA) and ADC provided comments.

Your Committee has amended this measure by:

- (1) Changing its effective date to July 1, 2150, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee respectfully requests your Committees on Judiciary and Finance to consider the concerns of DOA and DLNR.

DOA has concerns regarding its loss of discretion to consider extenuating circumstances when a lessee becomes delinquent and is in default under the lease.

With respect to the mandate to adopt rules to ensure timely collection of lease payments and to track defaulting lessees, DLNR's position is that the mandate is not necessary or helpful. Presently, DLNR has the capability and procedures to and does enforce and track the rent default provisions in its leases.

DLNR is also concerned with the provision relating to establishing a payment plan. DLNR is not in the lending business, although it has approved payment plans in exceptional cases. The defaulting lessee could probably obtain a more favorable loan from a bona fide lending institution to bring any delinquency current. Further, DLNR is concerned that the payment plan language may be construed to mandate the payment plan.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1117, as amended herein, and recommends that it pass Second



Reading in the form attached hereto as H.B. No. 1117, H.D. 1, and
be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Agriculture,



RICHARD P. CREAGAN, Chair



