



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

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Statement of
MARY ALICE EVANS, Interim Director

before the
HOUSE COMMITTEE ON WATER AND LAND

Thursday, February 8, 2024

9:00 AM

State Capitol, Conference Room 430

in consideration of
BILL HB 1542
RELATING TO LAND USE.

Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land:

The Office of Planning and Sustainable Development (OPSD) **supports** HB 1542, which allows the counties a temporary opportunity from July 1, 2024 through December 31, 2026 to petition for the redistricting of land from the Agricultural District to the Rural District through the Land Use Commission's (LUC) declaratory ruling process provided certain conditions are met.

HB 1542 would allow counties to efficiently address non-conforming Agricultural District lands, such as in the Puna District of Hawaii County, which has large scale residential subdivisions that should be reclassified to the Rural District. The measure also provides for a Chapter 343, HRS, review if applicable, notice of the proposed action to all affected landowners, and an opportunity for public comment.

OPSD's State Land Use Review of Districts (January 2022) found that reclassification of established rural subdivisions and rural centers from the Agricultural to the Rural District accommodate lower density rural settlement patterns and subsistence farming lifestyles. Such rural reclassifications could also consider lands with lower quality soils not conducive to commercial agriculture.

Reclassification, consistent with the county general plan and community development plan, is the most effective means to align State and county land use policy that seeks to separate non-farm residential uses from bona fide farming,

Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

State of Hawai'i
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**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON WATER AND LAND

**THURSDAY, FEBRUARY 8, 2024
9:00 AM
CONFERENCE ROOM 430**

**HOUSE BILL NO. 1542
RELATING TO LAND USE**

Chair Ichiyama, Vice Chair Poepoe and Members of the Committee:

Thank you for the opportunity to testify on House Bill 1542 that authorizes each county planning commission, between July 1, 2024, and December 31, 2026, to petition for the redistricting of land from the Agricultural to the Rural district through the Land Use Commission's declaratory ruling process. The Department of Agriculture (Department) offers comments.

There are six requirements to merit a petition to redistrict lands in the Agricultural District to the Rural District (page 2, line 4 to page 3, line 6). Generally, the lands must be existing agricultural subdivisions of more than twenty lots and individual lot sizes not exceeding two acres, be with or without dwellings, having met the requirements of Chapter 343 (Hawaii Environmental Policy Act), the reclassification will not adversely



affect the use of adjacent lands for agricultural purposes, and the county planning commissions will have notified affected landowners and have public hearings.

The Department is concerned about the total acreage and location of areas likely to be redistricted and the absence of a requirement that the area petitioned for redistricting be supported by applicable county plan(s). There may be other factors that should be considered to avoid unintended adverse impact upon agricultural land values and access to agricultural lands for agricultural activities.

Thank you for the opportunity to present our testimony.



LAND USE COMMISSION

Komikina Ho'ohana 'Āina

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

Ka 'Oihana Ho'omōhala Pā'oihana, 'Imi Wai wai a Ho'omāka'ika'i

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Statement of
Daniel E. Orodenker
Executive Officer
State Land Use Commission

Before the
House Committee on Water and Land

Thursday February 8, 2024
9:00 AM
State Capitol, Room 430 and Video Conference

In consideration of
HB1542

RELATING TO LAND USE

Chair Ichiyama; Vice Chair Poepoe; and members of the House Committee on Water and Land:

The Land Use Commission ("LUC") has the following comments on this measure that would provide the counties a two-year window to petition to reclassify lands from the State Agricultural District into the State Rural District through the LUC's declaratory ruling process. The LUC would be required to promulgate rules to implement this measure.

The process of reclassification affects property rights. The State Supreme Court in the Town case required that the LUC process of reclassification be done using a contested case process. We are unclear as to how this will impact the proposed measure. We are willing to work with counties on this issue.

Thank you for the opportunity to testify on this matter.



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February 8, 2024

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER AND LAND

TESTIMONY ON HB 1542
RELATING TO LAND USE

Conference Room 430 & Videoconference
9:00 AM

Aloha Chair Ichiyama, Vice-Chair Poepoe, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports the intent of HB 1542, which temporarily authorizes each county planning commission to petition for the redistricting of land from the agricultural to the rural district through the land use commission's declaratory ruling process.

The rural land use classification district was developed to serve as the interface between agriculture and urban land uses. In rural, agriculture is a choice, not a requirement and those who live in the area are expected to accept the nuisance aspects of agriculture while having the advantages of lower taxes. In most areas of the country, rural classification also translates to reduced infrastructure e.g. sidewalks or street lights. After all, you are in a rural area ...not a residential city.

Hawai'i's use of rural is limited across the state and frowned upon by some. This leads to difficulties as it forces agriculture to directly interface with the urban district resulting in conflicts. It also results in people creatively farming to ensure that they can retain their reduced property tax rates and counties needing to spend time inspecting properties to check if legitimate farming is being conducted.

We should not forget agriculture was a default land use classification. It did not intentionally classify lands as agriculture that were suitable for production. Hence, wide expanses of lava lands or hilly and rocky lands are classified as agriculture. To address this problem, a reclassification of some agricultural lands to rural seems reasonable. On

these lands, agriculture is a choice, not a requirement. Lands can be dedicated to agricultural use for agricultural benefits. However, agriculture is not a requirement and residents can have larger lots without going through the effort of pretending to farm.

Thank you for the opportunity to provide testimony on this measure.