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March 23, 2022

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
SENATE COMMITTEE ON WATER AND LAND

TESTIMONY ON HB 2084, HD3
RELATING TO IMPORTANT AGRICULTURAL LANDS

Conference Room 224 & Videoconference
1:50 PM

Aloha Chairs Gabbard and Inouye, Vice-Chairs Nishihara and Keith-Agaran, and Members of the Committees:

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 HB 2084, HD3, which allows landowners and lessees of important agricultural lands to apply to the counties to develop, construct, and maintain farm cluster housing on the lands for rent to farmers and farm employees who actively and currently farm on the land, subject to certain exemptions and removes restrictions on farm dwellings on important agricultural lands that are stricter than that for farm dwellings within the agricultural land use district.

The identification and designation of Important Agricultural Lands (IAL) was first proposed at the 1978 Constitutional Convention and subsequently approved by voters in the same year. Enacted as Article XI, Section 3, of the Constitution of the State of Hawai'i, the State is required to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

Several attempts to establish IAL in statute were attempted over the years, but it was only in 2005 that Act 183 was enacted. In 2008, Act 233 was enacted to establish incentives, such as tax credits, loan guarantees, and expedited regulatory processing to encourage landowners to designate their lands as IAL.

Another incentive allows landowners to develop farm dwellings and employee housing for their immediate family members and their employees. It limits the farm dwelling to 5% of the total IAL or 50 acres, whichever is less. It also requires that plans for farm dwellings and employee housing be supported by agricultural plans approved by HDOA.

Many small landowners are unaware of how IAL designation will impact their land use and rights. Agricultural landowners are justifiably concerned about the occupancy limits on farm dwellings, especially those who plan to retire on their farm, as they believe IAL law restricts occupation to those who are actively farming. They worry that they may be forced to leave their homes once they are no longer physically able to do the work required to farm. Additionally, some of the long-time small farmers had intended to pass on their property to each of their adult children through subdividing. Because of the limitations and uncertainty associated with approvals of that process under an IAL designation, they are understandably uneasy about their future and their succession planning. Unfortunately, they have not been able to get clarification about this and other issues associated with IAL designation.

HB 2084, HD3 seeks to clarify the Legislative Intent of Act 233 SLH regarding the Farm Dwellings and Employee Housing Incentive for lands designated as IAL.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
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 PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT
AND WATER AND LAND**

**WEDNESDAY, MARCH 23, 2022
1:50 P.M.
VIA VIDEOCONFERENCE**

**HOUSE BILL NO. 2084, HD 3
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chairpersons Gabbard and Inouye and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 2084, HD3 that has the following features:

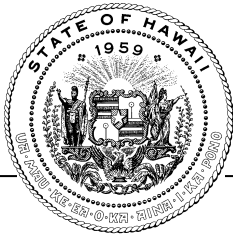
- Landowners and lessees of Important Agricultural Lands are allowed to apply to the counties to develop, construct, and maintain farm cluster housing on the lands for rent to farmers and farm employees who actively and currently farm on the land but also exempts counties with existing farm cluster housing ordinances that imposes less restrictive requirements.
- Restrictions on farm dwellings on Important Agricultural Lands that are stricter than that for farm dwellings as provided in Chapter 205 are removed.
- Agricultural plans or agricultural business plans submitted in support of farm cluster housing proposals may be submitted by the counties to the Department of Agriculture ("Department") for review and comment before county action.

This measure provides for critically needed bona fide farm dwellings for farmers and farm employees on designated Important Agricultural Lands.



The Department supports this measure but defers to the Office of Planning and Sustainable Development regarding the county exemption provision on page 7, lines 13-18.

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



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

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

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Statement of
MARY ALICE EVANS
Director, Office of Planning and Sustainable Development
before the
**SENATE COMMITTEE ON WATER AND LAND
AND
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT**

Wednesday, March 23, 2022
1:50 PM
State Capitol, Conference Room 224
Via Videoconference

in consideration of
HB 2084, HD3
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chairs Inouye and Gabbard, Vice Chairs Keith-Agaran and Nishihara, and Members of the Senate Committees on Water and Land and Agriculture and Environment.

The Office of Planning and Sustainable Development (OPSD) **strongly supports HB 2084, HD3, but requests the deletion or further amendment of the exemption in proposed subsection (f) on page 7 of HD3.** HB 2084, HD3 would: (1) repeal Hawai'i Revised Statutes (HRS) § 205-45.5, an incentive for the provision of multiple farm dwellings on lands designated as important agricultural lands (IAL) by the State Land Use Commission (LUC), and (2) preserve the intent of the original incentive by providing a new incentive that facilitates affordable farm cluster housing development on lands designated as IAL.

This Administration bill was drafted and introduced to remedy concerns about HRS § 205-45.5 brought up in LUC hearings on the City and County of Honolulu's petition for the designation of IAL on O'ahu. HRS § 205-45.5 was interpreted as a requirement that all residents of farm dwellings on IAL lands, including family members, must farm the land, which is more restrictive than current provisions for farm dwellings in the State Agricultural District. This provision had a chilling effect on the City petition, which was remanded by the LUC to the City for further action.

Furthermore, the existing incentive does not provide any relief from county land use, subdivision, and development standards and processes that would reduce the cost of constructing farm housing on lands designated as IAL. Thus, it is not an effective incentive for farmers or landowners.

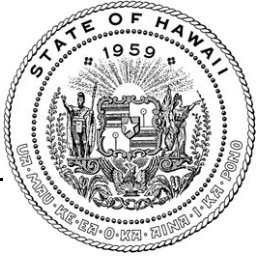
OPSD would like to clarify aspects of the new incentive.

1. The bill provides an additional and optional tool that a landowner may use to provide affordable farmer or farm worker housing. It **does not** supplant or prohibit use of existing county ordinances and regulations for the permitting of farm dwellings and agricultural cluster subdivisions—those ordinances will remain in place for landowners to use.
2. The new incentive **is not** intended to facilitate the permitting of farm dwellings on all lands designated as IAL, particularly on small parcels where additional units would limit the land area available for farming and increased densities would be undesirable. Thus, this incentive is not available for parcels less than ten acres.
3. The standards imposed are intended to provide essential guardrails to the proliferation of dwelling units—large or small—that are not incidental and secondary to agricultural use of the land. This is in recognition of the well-established and long-standing problems the counties have faced in regulating non-agricultural residential use in the State Agricultural District on O‘ahu and statewide.
4. The provision of substantial relief from subdivision and urban/suburban infrastructure requirements and priority processing are critical to ensuring this incentive is meaningful for farmers and landowners who accept the limitations imposed on housing under this measure. Urban-like infrastructure and subdivision irreparably fragments productive agricultural land and increases the cost of access to farm land for farmers.

In essence, the bill is intended to streamline permitting and development standards and procedures for applications for farm cluster development that is more restrictive in terms of the use and type of housing developed. Any conditions on the housing adopted in the county ordinance should be as restrictive or more restrictive, not less restrictive as proposed in subsection (f).

For the above reasons, OPSD recommends and requests the deletion of subsection (f) to ensure that each county establishes a county IAL incentive that provides real relief from permitting and infrastructure improvements that are not needed for and fragment working farm lands, and does not accelerate the loss of agricultural land to gentleman estates or non-agricultural residential use over time. The bill attempts to strike a balance between providing the counties with flexibility while ensuring incorporation of necessary safeguards to protect the State’s productive agricultural lands from non-farm residential use, fragmentation, and sprawl.

Thank you for the opportunity to testify on this measure.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

CHUNG I. CHANG
DEPUTY DIRECTOR

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Statement of
MIKE MCCARTNEY
Director
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT
AND WATER AND LAND**

Wednesday, March 23, 2022
1:50 PM
State Capitol, Conference Room 224
VIA VIDEOCONFERENCE

In consideration of
HB 2084, HD3
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chairs Gabbard and Inouye, Vice Chairs Nishihara and Keith-Agaran and members of the Committees. The Department of Business, Economic Development and Tourism (DBEDT) **strongly supports HB 2084, HD3**. This measure repeals an existing incentive in Hawaii Revised Statutes (HRS) § 204-45.5 and adopts an improved incentive for the construction of farmer and farm employee housing on lands designated as Important Agricultural Land (IAL) by the State Land Use Commission.

The new incentive makes it easier to provide needed agricultural housing for farmers of IAL lands, but under conditions that guard against the creation of gentleman estates and non-farm residential use that encroaches on the State's limited productive agricultural lands. We defer to the Office of Planning and Sustainable Development (OPSD) for specific comments and recommendations on HD3.

Thank you for the opportunity to testify.

HB-2084-HD-3

Submitted on: 3/22/2022 12:40:32 PM

Testimony for AEN on 3/23/2022 1:50:00 PM

Submitted By	Organization	Testifier Position	Testify
jaerick medeiros-garcia	Testifying for makahanaloa fishing association	Oppose	Remotely Via Zoom

Comments:

On behalf of the 150 plus members of Makahanaloa Fishing Association we are in opposition to this bill. We don't want to make it any leaner than the way it is because it's to lenient already. It's working fine the way it is. The only people that want to change it, is the people who are only thinking of profit. The people that are thinking of profit. The politicians that are thinking of profit and those of the illegal occupations, Lorraine Inouye.

HB-2084-HD-3

Submitted on: 3/22/2022 3:56:23 PM

Testimony for AEN on 3/23/2022 1:50:00 PM

Submitted By	Organization	Testifier Position	Testify
Dante Carpenter	Individual	Support	Written Testimony Only

Comments:

Sen. Gabbard, Chair; Sen. Nishihara, V-C; Member of AEN; Sen. Inouye, Chair; Sen. Keith-Agaran. V-C; Members of the Comm. WTL:

I am Dante Carpenter, Consultatnt to "Waiialua Egg Farm," a Farm-Fresh, and Cage-Free Egg Production Facility in Waiialua, O'ahu. Be advised that this Egg-Production facility is a State-of-the-Art Egg Production Operation. Its eggs are marketed exclusively for Hawai'i residents only. Presently over 200,000 hens are beginning to produce marketable eggs at this facility,

It is anticipated that there will be a rquirement for "On-Site" living facilities for certain employees and their families. Therefore, the Owners, Villa-Rose, Inc., of Waiialua Egg Farm, stands in support of this measure as the Farm is situated on designated Important Agriculatural Land.

Respectfully submitted,

Dante Carpenter, Pres., C & C, Inc. (808)358-7104 cellular



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE SENATE COMMITTEES ON
WATER AND LAND and
AGRICULTURE AND ENVIRONMENT
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 224
WEDNESDAY, MARCH 23, 2022 AT 1:30 P.M.

To The Honorable Senator Lorraine R. Inouye, Chair
The Honorable Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Committee on Water and Land
To The Honorable Senator Mike Gabbard, Chair
The Honorable Senator Clarence K. Nishihara, Vice Chair
Members of the Committee on Agriculture and Environment

SUPPORT FOR HB2084 HD3 RELATING TO IMPORTANT AGRICULTURAL LANDS

The Maui Chamber of Commerce would like testify in **support for HB2084 HD3** which adopts a new provision for farm cluster housing as an incentive for the designation of lands as Important Agricultural Lands. We strongly support options that provide more housing alternatives for farm workers.

When it comes to farm dwellings and farm worker housing, the Chamber supports increasing flexibility and not removal of existing options. We support as much land as possible to be designated as Important Agricultural Land.

We have previously testified on language regarding the size of the unit allowed in the cluster: "*Each farm cluster housing unit shall not exceed eight hundred square feet.*" We would suggest that the 800 be amended to **1,200**. Suppose a farmworker has a spouse and two children, 800 sq. ft. is pretty tiny for 4 people. We need affordable housing and rentals almost any way we can get them and we are in a worker shortage (including farm workers.) If you give more flexibility on the dwelling size, you give them more flexibility in keeping their workers and their families on the farm for a longer term

For these reasons, we **support HB2084 HD3 with our suggested amendment.**

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

HB-2084-HD-3

Submitted on: 3/19/2022 11:28:27 AM

Testimony for AEN on 3/23/2022 1:50:00 PM

Submitted By	Organization	Testifier Position	Testify
Jennifer Azuma Chrupalyk	Individual	Oppose	Written Testimony Only

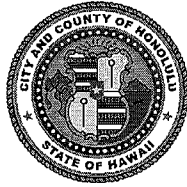
Comments:

The State of Hawai'i needs to do their homework. This bill is in direct violation of requirements from the agricultural sector in the USDA and the FDA. While it is great that you would create laws that bring in woofers from other states and house them, per USDA, farms that sell food are not allowed to be homesteads. This is why farmers like me do not report what is on our land. I refuse to attempt to be compliant in the State set of rules where they contradict the rules that govern the food that my farm produces. It is absolutely insane that none of the laws in the array of jurisdictions match. If I am in compliance with the County, chances are that I am not compliant with the State. And if I am compliant with the State and the County, I am still not compliant with the USDA or the FDA. And this bad mixture of laws generates poverty, therefore farmers like me will not report anything and rather than go through the headache of selling our foods or distributing our foods illegally, we will choose to share what we can with our neighbors and let the rest of the food sit in a compost pile. It is more beneficial because all of the lackluster laws that prohibit our financial security from becoming a reality. What you are doing is creating a system of slavery through financial struggle. I do not support any measurements that will lead to the disaster of my people.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR



DEAN UCHIDA
DIRECTOR

DAWN TAKEUCHI APUNA
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

March 23, 2022

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on Water and Land
The Honorable Mike Gabbard, Chair
and Members of the Committee on Agriculture and Environment
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

**Subject: House Bill No. 2084, HD 3
Relating to Important Agricultural Lands**

Dear Chairs Inouye and Gabbard, and Committee Members:

The Department of Planning and Permitting (DPP) is in **support** of House Bill No. 2084, HD 3, which repeals Section 205-45.5, Hawaii Revised Statutes (HRS), and establishes a new section that aims to facilitate the development of cluster housing for farmers and farm employees on Important Agricultural Lands (IAL).

The Bill's current draft was amended to address the DPP's prior testimony by adding language exempting counties that have already enacted a farm cluster or similar housing law from the farm cluster housing provisions mandated by the Bill. The exemption applies if the existing law is less restrictive than the language of the Bill.

The DPP continues to be in strong support of repealing Section 205-45.5, HRS. Section 205-45.5, HRS, was intended to be beneficial for IAL landowners by making it easier to provide farmer and farmworker housing on IAL. However, evident from the hundreds of landowners who provided written and oral testimony to DPP and the State Land Use Commission (LUC) in opposition of the City's recommendation for IAL designation, Section 205-45.5, HRS, has been misinterpreted as being a disincentive that applies greater restrictions than what is currently permitted in the State Agricultural District. Repealing Section 205-45.5, HRS, would alleviate those concerns and could be the first step towards moving ahead with the IAL efforts of the State of Hawaii. If Section 205-45.5, HRS, is not repealed, it is probable there will be no movement from

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on Water and Land
The Honorable Mike Gabbard, Chair
and Members of the Committee on Agriculture and Environment
Hawaii State Senate
House Bill No. 2084, SD 3
March 23, 2022
Page 2

the counties regarding recommending IAL designations to the LUC due to the public perception that IAL infringes on property rights.

Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Uchida", written in a cursive style.

Dean Uchida
Director