

JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



DEAN MINAKAMI  
EXECUTIVE DIRECTOR

## STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
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Statement of  
**DEAN MINAKAMI**  
Hawaii Housing Finance and Development Corporation  
Before the

### HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

February 26, 2025 at 2:00 p.m.  
State Capitol, Room 325

In consideration of  
**H.B. 826 HD1**  
**RELATING TO HOUSING.**

Chair Tarnas, Vice Chair Poepoe, and members of the Committee.

HHFDC supports HB 826 HD1, which authorizes a county planning commission, by special permit, to permit land uses exclusively providing residential housing for agricultural workforce housing, long-term rental, or workforce fee simple ownership in an agricultural district, under certain conditions. Repeals 6/30/2035.

This bill allows residential projects on lands already designated for residential use, up to 100 acres in the agricultural district, without having to go through the redistricting process. Since the bill applies only to land study bureau C, D, E, or U rated lands which often have marginal agricultural productivity, this would make the best use of those lands and expedite the delivery of more affordable housing.

Thank you for the opportunity to testify on this bill.

**JOSH GREEN, M.D.**  
Governor

**SYLVIA LUKE**  
Lt. Governor



State of Hawai'i  
**DEPARTMENT OF AGRICULTURE**  
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**SHARON HURD**  
Chairperson, Board of Agriculture

**DEAN M. MATSUKAWA**  
Deputy to the Chairperson

**TESTIMONY OF SHARON HURD**  
**CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**

**WEDNESDAY, FEBRUARY 26, 2025**  
**2:00 PM**  
**CONFERENCE ROOM 325**

**HOUSE BILL NO. 826, HOUSE DRAFT 1**  
**RELATING TO HOUSING.**

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

Thank you for the opportunity to provide testimony on House Bill No. 826, House Draft 1 that authorizes the county planning commissions, by Special Permit, to permit residential housing for agricultural workforce housing, long-term rental, or workforce fee simple ownership in the Agricultural District, under certain conditions. The Department of Agriculture offers comments.

The Department does not dispute the need for housing in Hawaii, however we have strong concerns about the potential adverse impact on the State's agricultural land resources should this measure be adopted. The Department concurs with the testimony of the Office of Planning and Sustainable Development that the Special Permit is inappropriate for permitting permanent uses that are not consistent with the purpose and objectives of the Agricultural District. Passage of this bill will cause uncertainty for farmers with respect to their current land tenure situations and increase costs and reduce access to agricultural land for new farm start-ups or existing farm expansion. These outcomes are consistent with the State's efforts to increase local food self-sufficiency.

Finally, this measure does not address the potential displacement of active agricultural production and does not exclude designated Important Agricultural Lands.

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*

**JOSH GREEN, MD**  
GOVERNOR

**DANIEL E. ORODENKER**  
EXECUTIVE OFFICER

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Statement of  
**Daniel E. Orodener**  
**Executive Officer**  
State Land Use Commission

Before the  
**House Committee on Judiciary and Hawaiian Affairs**

Wednesday February 26, 2025  
2:00 PM  
State Capitol, Room 325 and Video Conference

In consideration of  
**HB826 HD1**

## **RELATING TO HOUSING**

Chair Tarnas; Vice Chair Poepoe; and members of the House Committee on Judiciary and Hawaiian Affairs:

The proposed measure amends Hawai'i Revised Statutes ("HRS") 201-H and authorizes a county planning commission to permit residential housing development in the State Agricultural District under certain conditions. Those conditions include: a project is 100 acres or less; a project is immediately adjacent to the State Urban District and does not include State Conservation District lands; the lands are classified C, D, E, or U by Land Study Bureau if in the State Agricultural District; and, the area needs to have been identified for only residential in a county General Plan ("GP") adopted no earlier than 2005. In addition, written concurrence from the Executive Director of the Hawai'i Housing Finance and Development Corporation ("HHFDC") is required attesting that the project is solely inclusive of residential housing for long-term rental or workforce fee simple ownership.

The Land Use Commission ("LUC") supports the legislature's attempts to expedite the development of workforce housing. However, the measure is unclear on its face and raises some concerns with regard to due process.

First, the measure appears to limit the extent of HHFDC review to only attesting that a proposed project is intended for long-term rental or fee-simple residential housing. It is unclear whether this measure authorizes a county planning commission to review applications using the State Special Permit

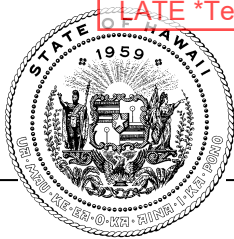
(HRS section 205-6) process or whether the county is bound by the requirement to hold a contested case hearing. There is no requirement that the county develop rules to ensure due process is adhered to. There are due process issues if HRS 205-4 is not adhered to. LUC staff believes that constitutional due process requires that applications be reviewed by the counties pursuant to the process set forth in HRS section 205-4(h) in order to address these issues.

It also is unclear whether compliance with State Plan objectives and policies pursuant to HRS 226 or impacts to areas of State concern and the Public Trust pursuant to HRS section 205-17(3) are to be taken into account. It also does not set forth how the State's interests are to be protected and if the Office of Planning and Sustainable Development is named as a party to the county proceedings as they are in State proceedings. This could result in significant expenditures on the part of the Departments of Education, Transportation, Health and others.

The measure provides for approval of projects up to 100 acres in size. This would allow large-scale projects to move forward without a full review. This is a large area for workforce housing development, likely more than necessary. In order to prevent abuse, LUC staff suggests reducing the acreage to a maximum of 40 acres. That acreage was also previously identified as being more acceptable to a broad spectrum of stakeholders.

The measure proposes to allow urban residential development within the State Agricultural District through bypassing a district boundary reclassification. This could result in spot zoning of non-conforming developments in the State Agricultural District and create physical and financial strain on State and county infrastructure systems. In addition, this can create permissible agricultural uses that counties would be limited in restricting that are not compatible with urban residential development, i.e. raising of livestock (see HRS section 205-4.5(a)(3)).

Thank you for the opportunity to testify on this matter.



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

**JOSH GREEN, M.D.**  
GOVERNOR

**SYLVIA LUKE**  
LT. GOVERNOR

**MARY ALICE EVANS**  
INTERIM DIRECTOR

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Statement of  
**MARY ALICE EVANS, Director**

before the  
**HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**

Wednesday, February 26, 2025  
2:00 PM  
State Capitol, Conference Room 325

in consideration of  
**HB 826, HD1**  
**RELATING TO HOUSING.**

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee.

The Office of Planning and Sustainable Development (OPSD) offers **comments with concerns** related to HB 826, HD1, which authorizes the county planning commissions, by special permit pursuant to Hawai'i Revised Statutes (HRS) § 205-6, to allow residential housing for long-term rental or workforce fee simple ownership in the State Agricultural District, under certain conditions.

OPSD believes that **the special permit process is not the appropriate mechanism** for the establishment of permanent residential subdivisions in the State Agricultural or Rural Districts.

OPSD notes the following issues raised by the special permit provisions in the bill.

- It is unclear how essential services, such as public facilities and road and utility infrastructure – key elements needed to support urban and suburban populations, would be addressed. This is particularly troublesome when under Hawai'i Administrative Rules § 15-15-95, special permit rules, a proposed special permit use must not “unreasonably burden public agencies to provide roads and streets, sewers, water drainage, and school improvements, and police and fire protection.”
- Under a special permit, the developer and/or future property owners would be indefinitely bound by the conditions of the special permit. Future land use changes or development within the permit area would require an amendment of the special permit – a process that could become impractical and difficult to manage, especially for a land area as large as 100 acres with possibly hundreds of individual homeowners.

- It is unclear how this measure would be implemented with respect to existing requirements and processes established in HRS Chapter 205. Special permits with land areas greater than fifteen acres or for lands designated as important agricultural lands are subject to approval by the Land Use Commission pursuant to HRS § 205-6. The language in the bill does not resolve this conflict in authority.

Special permits are intended to provide landowners relief in exceptional situations for an “unusual and reasonable use” otherwise not allowed in that district and only when the use would promote the effectiveness and objectives of HRS Chapter 205. Permitting permanent residential development in the State Agricultural District through a special permit is inconsistent with the purpose and objectives of the Agricultural District to protect agricultural lands for long-term agricultural use and to avoid conversion to higher-valued non-agricultural uses. Hawai‘i case law cautions against use of the special permit to effectuate essentially what amounts to a district boundary change.

For these reasons, OPSD **strongly recommends** the establishment of a county plan-based district boundary amendment process that enables the redistricting of lands in conformance with adopted county general, development, and community plans. This would provide a clear and permanent solution to the need to accommodate development in a planned manner that could consider the infrastructure needs for planned growth and avoid the potential complications associated with use of the special permit for de facto boundary amendments in undeveloped areas.

OPSD stands ready to assist in the development of legislative measures for a county plan-based district boundary amendment that aligns and balances county and State land use policies and development interests.

Thank you for the opportunity to testify on this measure.



### Opposition for HB826

Aloha e Representatives, Chair, Vice Chair:

We are testifying on behalf of Locals In My Backyard (LIMBY) Hawai'i. LIMBY Hawai'i is a hui of concerned kama'āina and kānaka working to help develop solutions to our state's housing crisis.

We are concerned that NIMBYism has driven up costs and driven our friends and families out by opposing all development. We are equally concerned that the apparent answer to this, YIMBYism, insists that anything resembling true affordability is impossible so instead they promote building housing that gets bought by overseas investors. ***We know we won't solve our housing woes without building more, but we won't solve them by simply building more.***

The true solution is to create a housing market for locals: one that houses locals first, is tied to local wages, and is managed in trust. We detail real solutions to our housing woes on our website and through our newsletter.

The future for kama'āina and kānaka will be LIMBY or Las Vegas.

This bill does nothing to keep locals here. Instead it legitimizes the sort of gentleman farms that have caused agricultural land prices in Hawaii to skyrocket. While living near the farm is a missing piece of our agricultural landscape, this bill does not address the need of farmers to live on or near the farm.

It will only result in more "gentleman farms" priced in the millions. Exactly the sort of gated, exclusive communities we do not need. I urge all of you to vote no.

Makana Hicks-Goo,  
Organizer on behalf of LIMBY Hawaii

Feb. 26, 2025, 2 p.m.  
Hawaii State Capitol  
Conference Room 325 and Videoconference

**To: House Committee on Judiciary and Hawaiian Affairs**  
**Rep. David Tarnas, Chair**  
**Rep. Mahina Poepoe, Vice Chair**

**From: Grassroot Institute of Hawaii**  
**Ted Kefalas, Director of Strategic Campaigns**

RE: HB826 HD1 — RELATING TO HOUSING

Aloha Chair Tarnas, Vice-Chair Poepoe and other members of the Committee,

The Grassroot Institute of Hawaii **supports** [HB826 HD1](#), which would allow Hawaii's county planning commissions to approve certain agricultural workforce housing, long-term rental or for-sale workforce housing on lands in the rural or agricultural land-use districts.

County planning commissions would be allowed to use this alternate approval process as long as the project is no larger than 100 acres; on land immediately adjacent to the urban district; on land with a soil productivity ratings lower of C or lower, if the lands are in the agricultural district; and on land identified for residential use by the county general plan.

The Hawaii Department of Business, Economic Development and Tourism pointed out in a March 2024 report that Hawaii needs an average of 3,297 new housing units per year to satisfy demand between 2025 and 2035.<sup>1</sup> And as the Hawaii Housing Finance and Development Corp. pointed out in a report to the 2025 Legislature: "The availability and suitability of land for residential development is a critical factor affecting housing production and affordability in Hawaii."<sup>2</sup>

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<sup>1</sup> "[Hawai'i Housing Demand: 2025-2035](#)," Research and Economic Analysis Division of the Hawaii Department of Business, Economic Development and Tourism, March 2024, p. 2.

<sup>2</sup> "[Analysis of Systemic Barriers to Housing Production in Hawaii](#)," Hawaii Housing Finance and Development Corp., December 2024, p. 1.



HHFDC recommended, “streamlining the State Land Use law such that areas designated as ‘urban’ in county general and development plans are automatically included in the ‘urban’ state land use district, eliminating the need for LUC approval. This would simplify the process of reclassifying land for urban use, reduce regulatory duplication, and increase the supply of land available for housing development.”<sup>3</sup>

This targeted carveout for lands adjacent to already suburban or urban areas would give the counties an important tool in reducing Hawaii’s housing shortage.

Thank you for the opportunity to testify.

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii

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<sup>3</sup> Ibid, p. 2.



# SIERRA CLUB OF HAWAI'I

## HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

February 26, 2025

2:00 AM

Conference Room 325

### In **OPPOSITION** to **HB826 HD1**: Relating to Housing

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Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

On behalf of our over 20,000 members and supporters, the Sierra Club of Hawai'i offers the following comments in **OPPOSITION to HB826 HD1**, which would authorize counties to develop and issue special permits for residential development on up to 100 acres of non-urban lands at a time.

First, this measure is unclear as to whether it will require sufficient due process under the HRS Chapter 91 contested case hearing statute for farmers, cultural practitioners, affordable housing advocates, and other stakeholders, who may be significantly impacted by the substantial contemplated land use changes. This process, normally employed by the Land Use Commission in special permit applications, ensures that expert and other testimony can be duly received and recognized, provides opportunities to develop facts including through cross-examination of witnesses and other evidence, and guarantees a level of transparency and accountability through written findings of fact, conclusions of law, and conditions intended to ensure the public interest is protected. To allow 100-acre land use changes to take place without such a process will invite violations of the public trust and Native Hawaiian traditional and customary rights, and may compromise the food security, water security, climate resilience, and even housing and job opportunities of ourselves and our future generations.

Second, even if this measure does require contested case hearings to be held by county planning commissions, the Sierra Club is deeply concerned regarding the county planning commissions' lack of capacity and experience to apply this process in balancing housing development with other critical public interests, rights, and needs. **For example, county planning commissions primarily focused on issues relating to the built environment may not have an adequate understanding of the scope and range of potentially impacted Native Hawaiian rights; traditional and sustainable agricultural practices that often use lands not classed as "A" or "B" lands (classifications based on sugar and pineapple production potential, not diversified agriculture or local food cultivation); watershed protection; job creation and job credits; state goals and planning objectives; and other primarily state-level concerns.** This lack of county familiarity and understanding, when applied to massive, 100-acre residential development proposals, will likely lead to oversights, conflicts, and irreparable impacts to our food security, water security, cultural integrity, economic and housing opportunities for those most in need, and the overall quality of life of multiple future generations.

Finally, the Sierra Club notes that the LUC has already approved tens of thousands of housing units that still have not been built.<sup>1</sup> Further investment in the LUC's ongoing work to investigate and determine how these already-approved units may finally be developed may be one of the many other alternative approaches to directly addressing our housing challenges, rather than dismantling our tried-and-true systems of careful land use and management.

As we continue to navigate an era of unprecedented uncertainty and instability, we need much greater, not less, mindfulness and prudence in protecting our environmental and cultural integrity, food and water security, and social fabric - the very foundation of our future generations' existence. This bill threatens the exact opposite. Please **HOLD** this measure.

Mahalo nui for the opportunity to testify.

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<sup>1</sup> Since 1980, more than 25% of all the housing authorized by the LUC has not yet been built, much of which was proposed to be affordable and workforce housing. For example, recent data indicates that on O'ahu alone, 23,000 units approved by the LUC have not been constructed; this includes Ho'opili (DR Horton), Koa Ridge (Castle & Cooke), Gentry Waiawa (now owned by Kamehameha Schools), and Royal Kunia Phase II. Authorizing the LUC to enforce the full implementation of approved development proposals in a timely manner; examining other downstream causes of delays and their causes; and addressing the global market dynamics and speculative industries that have resulted in a proliferation of unoccupied investment properties and short-term vacation rentals; may all provide much greater benefits to our housing needs than the current proposal.

**HB-826-HD-1**

Submitted on: 2/25/2025 8:40:12 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

Good idea to help and support local agriculture. Mahalo!