

HB1418 SD1

Measure Title: RELATING TO LAND.

Report Title: Land Use; National Flood Insurance Program; Counties

Description: Amends the county exemptions from building permit and building code requirements to ensure that Hawaii's communities are not suspended from participation in the National Flood Insurance Program. (SD1)

Companion:

Package: None

Current Referral: PSM/AEN, CPH

Introducer(s): YAMANE, AQUINO, BELATTI, BROWER, CHOY, CREAGAN, CULLEN, DECOITE, EVANS, GATES, HAR, HASHEM, HOLT, ICHIYAMA, ING, ITO, JOHANSON, KEOHOKALOLE, KOBAYASHI, KONG, C. LEE, LOPRESTI, LOWEN, LUKE, MIZUNO, MORIKAWA, NAKAMURA, NAKASHIMA, OHNO, ONISHI, QUINLAN, SAIKI, SAN BUENAVENTURA, SAY, SOUKI, TAKAYAMA, TAKUMI, TODD, TOKIOKA, WOODSON, YAMASHITA, Cachola, McKelvey, Nishimoto, Oshiro

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
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SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

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

**BEFORE THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,
& HEALTH**

**APRIL 4, 2017
9:30 A.M.
CONFERENCE ROOM 229**

**HOUSE BILL NO. 1418 SD1
RELATING TO LAND**

Chairperson Baker and Members of the Committee:

Thank you for the opportunity to testify on House Bill No.1418 SD1 that amends Section 46-88, (agricultural buildings and structures exempt for building permit and code requirements) to make it in compliance with Federal flood insurance program requirements. The Department of Agriculture supports this measure and otherwise defers to the Department of Land and Natural Resources.

Thank you for the opportunity to comment on this measure.





DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Tuesday, April 4, 2017
9:30 p.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 1418, S. D. 1 – RELATING TO LAND.

TO THE HONORABLE ROSALYN H. BAKER AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports the intent of this bill and offers a comment.

The purpose of this bill is to update State building permit and code requirements so that they are in compliance with the National Flood Insurance Program (“NFIP”). The Federal Emergency Management Agency has notified the State that without these necessary statutory amendments, new and renewed NFIP policies will be suspended, and NFIP flood insurance will be unavailable to Hawaii’s citizens.

We thank this Committee for the opportunity to present testimony on this matter.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**Tuesday, April 4, 2017
9:30 A.M.
State Capitol, Conference Room 229**

**In consideration of
HOUSE BILL 1418, SENATE DRAFT 1
RELATING TO LAND**

House Bill 1418, Senate Draft 1 proposes to amend the county exemptions from building permit and building code requirements to ensure that Hawaii's communities are not suspended from participation in the National Flood Insurance Program (NFIP). **The Department of Land and Natural Resources (Department) strongly supports this measure.**

A technical review of the proposed amendments in administrative bills House Bill 1122 and Senate Bill 988, and House Bill 1418 was conducted by the Federal Emergency Management Agency (FEMA) and have been found to meet the eligibility requirements for continued participation in the NFIP. The Department notes that the Senate Draft of this measure correctly identifies one word that was added in the proposed changes to Section 46-88(c)(7), Hawaii Revised Statutes (HRS). As such, the Department recommends that this measure be passed as is.

The Department serves as the state coordinating agency for the NFIP and acts as a liaison between the FEMA and the four major counties to ensure proper administration and enforcement of floodplain management regulations. An April 15, 2016 letter from FEMA (attached), identified specific deficiencies with Section 46-88, HRS, which prohibits the counties from enforcing their floodplain management regulations as required for participation in the NFIP.

House Bill 1418 Senate Draft 1 satisfies the eligibility requirements as identified in the April 15th FEMA letter. Specifically:

- [Page 8 Lines 6-18] proposed language in Section 46-88(c)(5), HRS, meets the intent to ensure permit requirements consistent with Title 44 of the Code of Federal Regulations (44CFR) Section 60.3(a)(1), HRS, and Section 60.3(b)(1), HRS, whereby NFIP participating

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFERY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

communities (counties) must require permits for all proposed construction or other development in flood prone and special flood hazard areas (SFHA).

- [Page 8 Lines 6-18] proposed language in Section 46-88(c)(5), HRS, enables the administration and enforcement of higher regulatory standards adopted by the counties, whereby new construction or other development in non-SFHA may also be subject to compliance with floodplain management regulations. Honolulu, Maui, Kauai and Hawaii Counties all have provisions in their ordinances that require NFIP building regulations on structures or development in areas that are deemed to be a potential flood risk by the County, although may have not been identified or studied by FEMA. In accordance with 44CFR§60.1, when a county adopts more restrictive floodplain development standards, that standard shall take precedence and must be legally-enforceable and applied uniformly throughout the county.
- [Page 12 Lines 4-8] proposed language in Section 46-88(d), HRS, adds the definition of “development” consistent with 44CFR§59.1.
- [Page 13 Line 19 - Page 14 Line 4] proposed language in Section 46-88(j), HRS, satisfies FEMA’s expectation that the counties will bring any agricultural structure or development which were exempt from building permits pursuant to Section 46-88, HRS, and are in violation of the county’s flood plain management regulations into compliance to the maximum extent possible.

The State of Hawaii has been participating in the NFIP for over 35 years which has enabled homeowners, business owners, and renters the ability to purchase federally backed and subsidized flood insurance optionally or as required by their mortgage lending institution pursuant to the National Flood Insurance Act of 1968. The Flood Disaster Protection Act of 1973, requires mortgage lending institutions to mandate the purchase of flood insurance for properties located in the SFHA for federally backed mortgages underwritten by their institution. If the NFIP flood policies were not available to Hawaii, all properties located in areas designated by FEMA as high risk for flooding would be required to find another mechanism to satisfy the mandatory flood insurance purchase requirement. Private flood insurance would not be eligible for the current government subsidies provided by the NFIP and are anticipated to be substantially higher than the current NFIP rates. Since HRS §46-88 was originally enacted in 2012, the amount of paid losses from flood insurance claims in Hawaii has increased by \$12,234,279 according to statistics from FEMA’s Community Information System database as of January 31, 2017.

Another advantage of participation in the NFIP is the availability of Federal disaster assistance in the event of a Presidential declaration. If the State of Hawaii is no longer participating in the NFIP, certain forms of Federal disaster assistance may not be available to government, businesses, and individuals to aid in recovery. It is estimated that the amount of disaster aid made available to the State of Hawaii since (1980) joining the NFIP, has totaled over \$400 million dollars.

While flood insurance and disaster aid are beneficial for recovering from floods, mitigation to reduce losses is the goal of the NFIP. Mitigation is achieved through sound floodplain management. Unregulated development within floodplains increases the risk to life and property from flooding.

Thank you for the opportunity to comment on this measure.



FEMA

April 15, 2016

The Honorable David Y. Ige
Governor of the State of Hawaii
Executive Chambers
State Capitol
Honolulu, Hawaii 96813

Dear Governor Ige:

The purpose of this letter is to bring to your attention a serious matter concerning the State and four (4) Hawaii counties participating in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA). FEMA has learned that the State of Hawaii amended Hawaii Revised Statute § 46-88 through Hawaii State Bill 586 enacted as Act No. 2013-203 (“HRS § 46-88” or the “Act”) exempting certain agricultural structures from building code and permit requirements, and as a result failing to maintain state floodplain management requirements consistent with the NFIP, impairing the State and its political subdivisions’ eligibility under the NFIP and preventing participating NFIP communities’ ability to enforce their floodplain management requirements. In order for federal flood insurance to be sold within a State, as prerequisites, the State is required to ensure that their political subdivisions with delegated land use authority are enabled to regulate development within flood-prone areas, and to establish minimum State flood plain management regulatory standards consistent with the NFIP’s minimum requirements. See 44 CFR § 59.21, § 59.22 and § 60.25 (b) (1) and (9).

As discussed below, the State of Hawaii’s action places the State and its political subdivisions: the City and County of Honolulu, and the Counties of Hawaii, Maui and Kauai at risk of suspension from the NFIP. If remedial action is not taken to amend the statute and to restore the State and its political subdivisions’ eligibility and enable the State’s political subdivisions with land use authority to meet the minimum floodplain management requirements of the NFIP by July 31, 2017, FEMA will begin the process of suspending the sale of Federal flood insurance in the State and all of Hawaii’s communities currently participating in the NFIP. When communities are suspended from the NFIP, they lose their eligibility for federally-backed flood insurance and eligibility for certain federal disaster assistance.

In amending HRS § 46-88, the Act states, “Notwithstanding any law to the contrary, the following agricultural buildings, structures, and appurtenances thereto that are not used as dwellings or lodging units are exempt from building permit and building code requirements where they are no more than one thousand square feet in floor area.” The Act also states, “Notwithstanding the one thousand square foot floor area restriction in subsection (a), the

following buildings, structures, and appurtenances thereto shall be exempt from building permit requirements when compliant with relevant building codes or county, national, or international prescriptive construction standards...Upon completion of construction or installation, the owner or occupier shall provide written notice to the appropriate county fire department and county building permitting agency of the size, type, and location of the building, structure, or appurtenance thereto. Such written notification shall be provided to the county agencies within thirty days of the completion of the building, structure, or appurtenance thereto.”

According to 44 CFR § 60.3(a)(1), an NFIP participating community must, “Require permits for all proposed construction or other *development* in the community, including the placement of manufactured homes, so that it may determine whether such construction or development is proposed within flood prone areas.” Additionally, development is defined at 44 CFR § 59.1, as “any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment and materials.” The Act provides exemptions to the requirements in 44 CFR § 60.3(a)(1) for activities defined in 44 CFR § 59.1 which are not compliant with the minimum criteria of the NFIP.

FEMA is the Federal Agency responsible for administering the NFIP, as authorized by the National Flood Insurance Act, 42 U.S.C. § 4001 *et seq.* The NFIP is a voluntary program whereby the Federal Government makes affordable flood insurance available in exchange for community adoption of a local floodplain management ordinance consistent with the Federal standards that are designed to minimize the risk of flood and ensures that new and substantially improved buildings are constructed to minimize flood risk. The land use and control measures must be legally enforceable and uniformly applied in a NFIP participating community. See 42 U.S.C. §§ 4012(c), 4022; 44 CFR §§ 60.1(a), 60.2, 59.21 and 59.22. According to Federal statute, FEMA is prohibited from making flood insurance available in a community unless that community adopts floodplain management measures that meet or exceed the minimum program requirement at 44 CFR § 60.3 with effective enforcement provisions that meet FEMA’s minimum floodplain management regulations. See 42 U.S.C. §§ 4012(c), 4022.

Consequently, if a community lacks the ability to legally enforce its floodplain management ordinance uniformly throughout the community within the Special Flood Hazard Area (SFHA), then it is not in compliance with the NFIP. The Act revised the statute creating a legal impediment to community compliance with the NFIP requirements which places the State of Hawaii and its communities’ continued participation in jeopardy. The State is responsible for enacting legislation that enables communities and municipalities to adopt and uniformly enforce floodplain management regulations consistent with FEMA’s minimum floodplain management regulations (44 CFR § 60.25(b)(1)).

FEMA trusts that the State will take the necessary action to repeal these provisions and preserve the availability of federally flood insurance and other federal disaster assistance for the State of Hawaii and its communities. Failure to address this compliance problem by July 31, 2017, will force FEMA to initiate suspension procedures for the State and all Hawaii communities that participate in the NFIP, as allowed under 44 CFR § 59.24(d). Under this provision, FEMA will provide Hawaii communities with 30 days prior written notice and

notice by publication in the *Federal Register*. If the Act is repealed after the Hawaii communities are suspended, communities will be reinstated in the program once they are compliant with NFIP regulations, and flood insurance and other forms of federal disaster assistance will be available.

Suspension from the NFIP will result in the loss of NFIP flood insurance coverage for Hawaii communities. Hawaii currently has four (4) communities participating in the NFIP with nearly 60,000 flood insurance policies in force and over \$13.2 billion in flood risk covered by NFIP insurance policies. Since 1978, Hawaii has benefited from nearly 4,600 claims paid, totaling over \$87 million. Furthermore, all Federal agencies are prohibited by statute from making grants, loans, or guarantees for the acquisition or construction of structures located in the SFHA in suspended communities (42 U.S.C. § 4106). This restriction applies to assistance from the Federal Housing Administration, Veterans Administration, and the Small Business Administration, among others. Lending institutions insured or regulated by a federal agency may, however, continue to make conventional loans in these areas at their discretion. (42 U.S.C. § 4012a(b)). If a flood disaster occurs in a suspended community, most types of federal disaster assistance are not available for acquisition, construction, or repair of insurable structures within the SFHA, including federal assistance to individuals and households for housing and personal property (42 U.S.C. § 4106).

In the meantime, FEMA expects Hawaii communities to continue to enforce their adopted floodplain management ordinances. Local communities that have exempted agricultural structures or any other development as outlined above from their floodplain management regulations will be required to bring the structures into compliance to the maximum extent possible.

If you or your staff have any questions or need additional information or assistance please contact Jeffery D. Lusk, Mitigation Division Director, FEMA Region IX, at (510) 627-7116.

Sincerely,



Roy E. Wright
Deputy Associate Administrator
for Insurance and Mitigation

Cc: Robert Fenton, Regional Administrator, FEMA Region IX
Colby Stanton, Director, FEMA Pacific Area Office
Shan S. Tsutsui, Lt. Governor, State of Hawaii
Douglas Chin, Attorney General, State of Hawaii
Carty Chang, State Engineer, State of Hawaii Dept. of Land & Natural Resources
Carol Tyau-Beam, State NFIP Coordinator, Dept. of Land & Natural Resources

DEPARTMENT OF EMERGENCY MANAGEMENT
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET • HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



MELVIN N. KAKU
DIRECTOR

PETER J.S. HIRAI
DEPUTY DIRECTOR

March 24, 2017

The Honorable Rosalyn H. Baker, Chair
The Honorable Clarence K. Nishihara, Vice Chair
Committee on Commerce, Consumer Protection, and Health

Hawaii State Senate
State Capitol
415 South Beretania Street, Room 229
Honolulu, Hawaii 96813

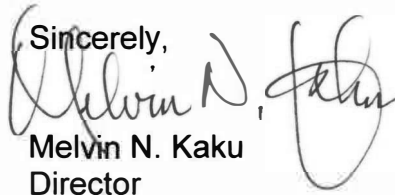
Dear Chair Baker, Vice Chair Nishihara, and Members:

SUBJECT: SUPPORT OF H.B. 1418 SD1 RELATING TO LAND

I am Melvin Kaku, Director of the Department of Emergency Management (DEM), City and County of Honolulu (City). DEM strongly supports H.B. 1418 SD1, which clarifies procedures for an exemption from building permit and code requirements.

The purpose of this bill is to address an inadvertent failure to maintain State floodplain management requirements consistent with the National Flood Insurance Program (NFIP). The language in this bill has been reviewed and found acceptable by the Federal Emergency Management Agency for the purpose of bringing section 46-88, Hawaii Revised Statutes, into compliance with minimum standards of the NFIP.

I urge your committee to pass HB 1418 SD1. Thank you for the opportunity to testify.

Sincerely,

Melvin N. Kaku
Director

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

April 4, 2017 at 9:30 a.m.
State Capitol, Room 229

In consideration of
H.B. 1418, S.D. 1
RELATING TO LAND.

The HHFDC supports H.B. 1418, S.D. 1, which makes clarifying amendments to section 46-88, HRS, relating to exempting agricultural buildings, or other development thereto not used as dwellings or lodging units from building permit and building code requirements. These amendments are needed to ensure compliance with National Flood Insurance Program requirements.

Thank you for the opportunity to provide written comments in support of this measure.

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 1418, SD1
A BILL RELATING TO LAND, EXEMPTION FOR AGRICULTURAL BUILDINGS AND
STRUCTURES

PRESENTATION TO
THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
(CPH)

BY

VERN T. MIYAGI
Administrator, Hawaii Emergency Management Agency

Aloha Chair Baker and Vice-Chair Nishihara and Committee Members.

I am Vern T. Miyagi, Administrator, Hawaii Emergency Management Agency. I am testifying in **STRONG SUPPORT** of HOUSE BILL 1418, SD1.

This bill proposes critical amendments to HRS 46-88 that are necessary to ensure the state of Hawaii's continued eligibility in the National Flood Insurance Program (NFIP). HRS 46-88 currently provides broad exemptions from building permit and building code requirements for certain types of agricultural buildings, structures, and appurtenances. These broad exemptions inadvertently conflict with Federal Emergency Management Agency (FEMA)'s floodplain management regulations and as a result the state would no longer be eligible for coverage under the National Flood Insurance Program (NFIP) implemented by FEMA. In addition, certain forms of Federal Disaster Assistance under a Federal Presidential Disaster Declaration would not be available to the state and counties in the event of a declared disaster.

If HRS 46-88 is not amended, FEMA will be forced to suspend the state of Hawaii and all local participating communities from the NFIP by July 31, 2017.

In order to continue our eligibility in the NFIP, I urge you to pass this legislation, unamended.

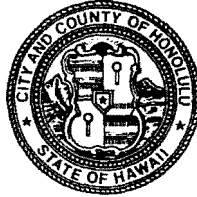
Thank you for the opportunity to provide this testimony in **STRONG SUPPORT** of HB 1418, SD1.

Vern T. Miyagi; vern.t.miyagi@hawaii.gov; 808-733-4300; 808-294-0807

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
ACTING DEPUTY DIRECTOR

April 4, 2017

The Honorable Rosalyn H. Baker, Chair
and Members of the Committee on
Consumer Protection and Health
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker and Committee Members:

Subject: House Bill No. 1418, SD 1
Relating to Land

The Department of Planning and Permitting (DPP) **strongly supports** House Bill No. 1418, SD 1, which amends county exemptions from the building permit and building code requirements to ensure that Hawaii's communities are not suspended from participation in the National Flood Insurance Program (NFIP).

This Bill is intended to address an inadvertent failure to maintain State floodplain management requirements consistent with the NFIP. The language in this Bill has been reviewed and found acceptable by the Federal Emergency Management Agency for the purpose of bringing Section 46-88, Hawaii Revised Statutes, into compliance with minimum standards of the NFIP.

The City and County of Honolulu has been notified of the risk of suspension from the NFIP. Remedial action must be taken before the July 31, 2017, deadline to amend the statute and restore to the State and counties the authority to regulate agricultural buildings in special flood hazard areas, including the requirement to obtain a building permit, regardless of whether the buildings are used as dwellings.

Suspension from the NFIP will jeopardize more than 38,000 flood insurance policies and \$8.7 billion of flood insurance coverage in-force within the City and County of Honolulu. If these policies are not in effect or renewed, federally insured mortgage loans for properties within flood zones will be prohibited, with potentially disastrous economic consequences for homeowners and businesses. Additionally, if a major flooding event occurs while the community is suspended, property owners would not have access to a variety of federal disaster assistance programs.

The Honorable Rosalyn H. Baker, Chair
and Members of the Committee on
Consumer Protection and Health
Hawaii State Senate
House Bill No. 1418, SD 1
April 4, 2017
Page 2

Accordingly, we urge that this Bill be passed by your committee.

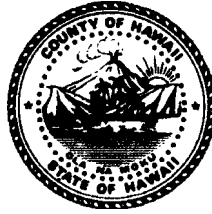
Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy K. Sokugawa", with a long, sweeping flourish extending to the right.

Kathy K. Sokugawa
Acting Director

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i

Office of the Mayor

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March 24, 2017

Senator Rosalyn H. Baker, Chair
Committee on Commerce, Consumer Protection
and Health
Hawai'i State Capitol
Honolulu, HI 96813

Dear Chair Baker and Members:

RE: HB 1418 SD 1
Relating to Land (National Flood Insurance Program)

Thank you for this opportunity to testify in support of HB 1418.

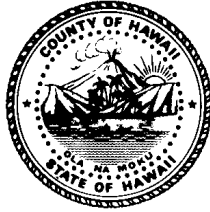
We are informed by the State National Flood Insurance Program Coordinator that her agency has been working closely with FEMA to prevent the State from being suspended from the National Flood Insurance Program (NFIP). That program provides flood maps used to identify flood risk areas; flood insurance; disaster relief assistance/funds; and much more. Participation in the NFIP is essential for the State and counties of Hawai'i in terms of federal assistance for damage sustained during natural disasters.

It is my understanding that HB 1418 and administration bills HB 1122 and SB 988 would bring the State into compliance with FEMA's regulations.

Therefore, we respectfully request your approval of HB 1418.

Respectfully submitted,

Harry Kim
Mayor



Harry Kim
Mayor

Wil Okabe
Managing Director

Frank J. De Marco, P.E.
Director

Allan G. Simeon, P.E.
Deputy Director

County of Hawai'i
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public_works@hawaiicounty.gov

February 03, 2017

Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair
Committee on Commerce, Consumer Protection and Health
State Capitol
Conf Room 229
415 South Beretania Street
Honolulu, HI

NOTICE OF DECISION MAKING

DATE: Tuesday, April 4, 2017
TIME: 9:30 a.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Re: Testimony in Support of HB 1418, SD 1, RELATING TO LAND.

Dear Chair Baker, Vice Chair Nishihara and committee members:

The County of Hawai'i Department of Public Works is in support of Bill 1418 SD 1 which amends the county exemptions from building permit and building code requirements to ensure that Hawai'i's communities are not suspended from participation in the National Flood Insurance Program.

Thank you for allowing us to provide testimony.

Aloha,

Frank J. De Marco, P.E.
DIRECTOR



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Hawaii

President

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Website: www.acechawaii.org

March 27, 2017

**Senate Committee on Commerce, Consumer Protection, and Health
Hearing Date: Tuesday, April 4, 9:30 a.m., Conference Room 229**

Subject: SUPPORT of HB 1418, SD1 Relating to Land

Dear Chair Rosalyn H. Baker, Vice Chair Clarence K. Nishihara, and Members of the Committee:

The American Council of Engineering Companies of Hawaii (ACECH) represents more than 70 engineering consulting firms with over 1,500 employees throughout Hawaii. Many of our member firms work in the area of civil engineering, which includes addressing floodplain issues.



It is our understanding that the Federal Emergency Management Agency (FEMA) has notified the State that the provisions of Act 203, Session Laws of Hawai'i 2013, jeopardizes Hawai'i's ability to participate in the National Flood Insurance Program (NFIP). Participation in the NFIP is also linked to certain FEMA funding in the event of a Federal declared disaster, such as we've recently seen on Maui. Without resolving this issue, Federal disaster assistance may not be available to State and local governments, businesses and individuals to aid in recovery. We understand that FEMA has reviewed the language of this bill and that it would meet their requirements for continued participation in the NFIP; therefore, we urge the Committee to address this matter by passing the measure unamended.


We appreciate the opportunity to provide testimony on this matter. Please do not hesitate to contact us if you have any questions.

Respectfully submitted,
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF HAWAII

Corey Matsuoka, PE
President



 | 808-733-7060
 | 808-737-4977

 | 1259 A'ala Street, Suite 300
Honolulu, HI 96817

April 4, 2017

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce, Consumer Protection, and Health
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: H.B. 1418, S.D.1. Relating to Land

HEARING: Tuesday, April 4, 2017, at 9:30 a.m.

Aloha Chair Baker, Vice Chair Nishihara, and Members of the Committee,

I am Myoung Oh, Director of Government Affairs, submitting written testimony on behalf of the Hawaii'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii'i, and its 9,200 members. HAR **strongly supports** on H.B. 1418, S.D.1 which amends the county exemptions from building permit and building code requirements to ensure that Hawaii's communities are not suspended from participation in the NFIP.

The National Flood Insurance Program (NFIP) of 1968, overseen by the Federal Emergency Management Agency (FEMA) enables homeowners, business owners, and renters in participating communities, such as Hawaii, to purchase federally backed flood insurance. All properties are at some risk for flooding and consumers don't realize that most homeowner's policies do not cover flooding.

Currently a law in Hawaii Revised Statutes §46-88 jeopardizes Hawaii's continued eligibility in NFIP. This law provides broad exemptions from building permit and building code requirements for certain types of agricultural buildings, structures, and appurtenances. The building permit exemptions, in accordance with HRS §46-88, is in conflict with the State and Local participating community's agreement with FEMA to maintain floodplain management regulations. Consequently, HRS §46-88 impedes participating communities from properly administering and enforcing their floodplain management regulations.

FEMA warns the State of Hawaii that they will suspend Hawaii's participation from the NFIP if HRS §46-88 is not amended to restore building permit requirements and other areas as regulated through local floodplain management regulations by July 31, 2017.

This suspension will negatively impact over 60,000 current flood insurance policies in Hawaii. The only alternatives would be forced place insurance or extremely high insurance premiums. Additionally, new federally backed mortgages may not be issued in Hawaii if flood insurance is not available.

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Association of
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Hawai'i REALTORS® believe amendments are needed to ensure that the NFIP continues in Hawaii and inaction will negatively impact property owners and will jeopardize the availability of affordable flood insurance in Hawaii as well as the future of federally backed mortgages.

Those amendments are compiled in this measure and the Legislature is in receipt of confirmation from FEMA that the language will address the concerns raised on meeting NFIP's requirements. HAR respectfully request the passage of this measure in its current form in Senate Draft 1.

Mahalo for the opportunity to submit written testimony in strong support.



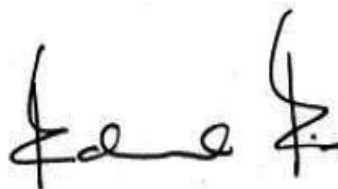
Presentation To
Senate Committee on Commerce, Consumer Protection and Health
April 4, 2017 at 9:30 PM
State Capitol Conference Room 229
Testimony in Support of House Bill 1418, SD 1

TO: The Honorable Rosalyn H. Baker, Chair
Clarence K. Nishihara, Vice Chair
Members of the Committee

My name is Edward Pei and I am the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing eleven FDIC insured depository institutions with branch offices in the State of Hawaii.

The Hawaii Bankers Association strongly supports the intent of House Bill 1418, SD 1, which will hopefully remedy issues raised by the Federal Emergency Management Agency (FEMA). In a letter to Governor David Ige dated April 15, 2016, FEMA cited that the actions of Act 203, enacted in 2013, violate compliance with floodplain management requirements. Failure to meet their requirements would result in the suspension of the State of Hawaii from the National Flood Insurance Program (NFIP). If corrective action to the existing State Statute is not taken by July 31, 2017, the State of Hawaii would be suspended from NFIP, which would mean Hawaii homeowners would no longer be eligible for federally-backed flood insurance. The approximate 60,000 Hawaii homeowners who have NFIP coverage today would have to find and purchase private flood insurance, which is considerably more expensive than the NFIP coverage. Suspension from NFIP would also render Hawaii ineligible for certain federal disaster assistance. It is therefore imperative that the Hawaii State Legislature amend the Hawaii Revised Statute, Section 46-88, in this legislative session to ensure compliance with FEMA requirements for NFIP.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.



Edward Y. W. Pei
(808) 524-5161

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

April 4, 2017

Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair
and members of the Senate Committee on Commerce, Consumer Protection & Health
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **H.B. 1418, S.D. 1 (Land)**
Decision-Making Date/Time: Tuesday, April 4, 2017, 9:30 a.m.

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** (“HFSA”). The HFSA is a trade association for Hawaii’s consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA **supports** this Bill.

This Bill amends the county exemptions from building permit and building code requirements to ensure that Hawaii's communities are not suspended from participation in the National Flood Insurance Program (“NFIP”).

When federally regulated lending institutions (such as banks and credit unions) make mortgage loans that are secured by improved real properties located in Special Flood Hazard Areas, the institutions are mandated by the Federal Disaster Protection Act of 1973 to require the property owners to purchase flood insurance. Because the State of Hawaii and the State’s four major counties are "Participating Communities" in the NFIP, the property owners can purchase federally-backed flood insurance through the NFIP.

The State of Hawaii and the Local participating communities in the NFIP are also eligible for federal disaster assistance when there is a Presidential disaster declaration in the area. Certain types of federal disaster assistance would be available to government, businesses, and individuals to assist with the recovery.

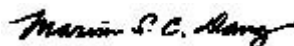
Hawaii Revised Statutes Sec. 46-88 was amended by Act 203 in 2013 to allow exemptions from building permit and building code requirements for certain types of agricultural buildings, structures, and appurtenances.

However, the Federal Emergency Management Agency (“FEMA”), which administers the NFIP, informed the State last year that those building permit exemptions conflict with the State and Local participating communities’ agreement to maintain floodplain management regulations ordinances consistent with federal rules. FEMA said it will suspend the State of Hawaii and all Local participating communities from the NFIP if the Hawaii statute is not amended to “restore the State and its political subdivisions’ eligibility and enable the State’s political subdivisions with land use authority to meet the minimum floodplain management requirements of the NFIP by July 31, 2017.”

Without the NFIP, the State of Hawaii and its Local participating communities will lose the availability and benefit of federal NFIP flood insurance and federal disaster assistance.

We understand that this Bill addresses this problem by amending HRS Sec. 46-88.

Accordingly, we ask that your Committee pass this Bill. Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 30, 2017 3:29 PM
To: CPH Testimony
Cc: wmanonsen@consultant.com
Subject: *Submitted testimony for HB1418 on Apr 4, 2017 09:30AM*

HB1418

Submitted on: 3/30/2017

Testimony for CPH on Apr 4, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
William Anonsen	The Maritime Group, LLC	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Testimony to the Senate Committee on Commerce, Consumer Protection, & Health

Tuesday, April 4, 2017

9:30 a.m.

State Capitol - Conference Room 229

RE: HB 1418 SD1 – Relating to Land.

Chair Baker, Vice-Chair Nishihara, and members of the Committee:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII is in strong support of HB 1418 SD1, which amends the county exemptions from building permit and building code requirements to ensure that Hawaii's communities are not suspended from participation in the NFIP.

Act 203, Session Laws of Hawaii 2013, inadvertently resulted in failing to maintain state floodplain management requirements consistent with the National Flood Insurance Program (NFIP). This would affect all flood insurance policies issued in the State of Hawaii. If the State is not in compliance with the NFIP requirements by July 31, 2017, the Federal Emergency Management Agency (FEMA) will initiate suspension procedures throughout the State, which will result in the loss of NFIP flood insurance coverage and will also impact eligibility for certain federal disaster assistance.

The purpose of this Act is to amend the agricultural building code and building permit requirements to bring the State back into compliance with federal flood insurance requirements. BIA is concerned that if the legislation does not appropriately address the concerns raised by FEMA the loss of flood insurance coverage and federal disaster assistance would be devastating to the State of Hawaii.

We understand that discussions have been held with the State Department of Land and Natural Resources, both the Senate and House of Representatives for the State of Hawaii and FEMA to develop the appropriate language to address the specific concerns raised by FEMA. We would strongly encourage that the Legislature obtain written confirmation from FEMA that the proposed language will address the concerns raised by FEMA on appropriate compliance with the NFIP requirements.

If written confirmation is not obtained from FEMA before the close of the 2017 Hawaii Legislative Session, we strongly recommend that the legislature take appropriate steps to repeal both Act 114, SLH 2012 and Act 203, SLH 2013. This will allow the legislature and appropriate parties to work on appropriate language next session while not eliminating the NFIP flood insurance coverage and federal disaster assistance.

We appreciate the opportunity to provide our input on this important legislation.



Hawaii Credit Union League

Your Partner For Success

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Honolulu, Hawaii 96826-2097
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Email: info@hcul.org

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Testimony to the Senate Committee on Commerce, Consumer Protection, & Health
April 4, 2017

Testimony in Support of HB 1418 SD1, Relating to Land

To: The Honorable Rosalyn Baker, Chair
The Honorable Clarence Nishihara, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 61 Hawaii credit unions, representing over 800,000 credit union members across the state. We are in strong support of HB 1418 SD1.

On April 15, 2016, FEMA sent a letter to Governor David Ige, warning of the impending removal of the state of Hawaii from the National Flood Insurance Program (NFIP). This would also disqualify Hawaii from receiving federal disaster relief through the Federal Emergency Management Agency (FEMA).

Disqualification of the state of Hawaii from the NFIP and FEMA would be devastating, not only to the real estate, insurance, and mortgage industries, but to the people of Hawaii.

Thank you for the opportunity to testify.



Hawaii Independent Insurance Agents

ASSOCIATION

April 3, 2017

To: Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice chair
And Members of the Committee on Commerce, Consumer Protection
and Health

Re: HB 1418 SD1, SSCR 953 Relating to Land
Hearing: Tuesday, April 4, 2017 9:30 am Conference Room 229

The Hawaii Independent Insurance Agents Association (HIIA) is submitting testimony in **strong support** of HB 1418 SD1, SSCR953 which “amends the county exemptions from building permit and building code requirements to ensure that the Hawaii communities are not suspended from participation in NFIP.”

We want to stress the urgency in this matter. We are currently in jeopardy of suspension of the Federally backed Flood Insurance Program and the Federal Disaster Assistance unless the current statute is not amended. The state’s non-compliance with the federal requirements will affect existing flood insurance policies currently in place and will also affect new real estate transactions that require flood insurance.

It is our understanding that this current draft will meet the FEMA eligibility requirements.

Thank you for the opportunity to submit testimony in strong support of this legislation.



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair

Senator Clarence K. Nishihara, Vice Chair

DATE: Tuesday, April 4, 2017

TIME: 9:30 a.m.

PLACE: Conference Room 229

HB 1418 SD1 – RELATING TO LAND.

Amends the county exemptions from building permit and building code requirements to ensure that Hawaii's communities are not suspended from participation in the NFIP.

Chair Baker, Vice Chair Nishihara, and Members of the Committee:

My name is Dale Sandlin, and I am Managing Director of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 150+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **supports** HB 1418 SD1 as this measure addresses the concern of Hawaii being able to participate in the National Flood Insurance Program while providing an exemption for agricultural buildings.

The ability for farmers and ranchers to construct buildings and structures on their property is a must. These structures are typically designed or intended for a specific purpose to meet the needs of their operation. Reverting the language of the law back to county oversight will not address the problems the legislation in 2012 & 2013 sought to provide relief to. Prior to this critical legislation, the Counties failed to develop a list of exempted agricultural structures.

We urge the committee to support this bill and we appreciate the ability to provide this testimony.



To Whom it May Concern:

I find this measure to be of great importance. As a resident of Maui, that has lived in a flood zone this concerns me. It concerns me that the state is in jeopardy of losing their flood insurance. If FEMA no longer sells the state flood insurance, in the case of a natural disaster, what will happen to those living on in the flood zones? Many of the residents who live in Kihei are not owners but merely renters who have no guarantee that their landlord will provide flood insurance. If we are not protected by the state with flood insurance, then all of our belongings and life lost in a flood will not be protected. This is a right of the people of the state of Hawaii. We are entitled to feel confident that if a flood were to occur, our state would take care of us. We do pay taxes after all.

Thank you for your time,

Cassidy Maselli

P.O. Box 791623

Paia, HI 96779

808-250-4984

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 3, 2017 11:20 AM
To: CPH Testimony
Cc: sue.leeloy@hawaiicounty.gov
Subject: *Submitted testimony for HB1418 on Apr 4, 2017 09:30AM*

HB1418

Submitted on: 4/3/2017

Testimony for CPH on Apr 4, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Susan L.K. Lee Loy	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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