

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 House Committee on
WATER & LAND

Wednesday, February 8, 2017
9:00 A.M.
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 1418
RELATING TO LAND

House Bill (HB) 1418 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 HB 1122 and SB 988, and HB 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 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 HRS §46-88 which prohibits the counties from enforcing their floodplain management regulations as required for participation in the NFIP.

HB 1418 satisfies the eligibility requirements as identified in the April 15th FEMA letter. Specifically:

- [Page 8 Lines 6-18] proposed language in §46-88(c)(5) meets the intent to ensure permit requirements consistent with Title 44 of the Code of Federal Regulations (44CFR) §60.3(a)(1) and §60.3(b)(1), whereby NFIP participating communities (counties) must require permits for all proposed construction or other development in flood prone and special flood hazard areas (SFHA).

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

- [Page 8 Lines 6-18] proposed language in §46-88(c)(5) 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 §46-88(d) adds the definition of “development” consistent with 44CFR§59.1.
- [Page 13 Line 19 - Page 14 Line 4] proposed language in §46-88(j) satisfies FEMA’s expectation that the counties will bring any agricultural structure or development which were exempt from building permits pursuant to HRS §46-88 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 \$11,607,940 according to statistics from FEMA’s Community Information System database.

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 testify 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



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

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON
WATER AND LAND

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Wednesday, February 8, 2017
9:00 a.m.

TESTIMONY ON HOUSE BILL NO. 1418 – RELATING TO LAND.

TO THE HONORABLE RYAN I. YAMANE, CHAIR, 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 H.B. 1418, which updates the State building permit and building code requirements to comply with the National Flood Insurance Program.

This Administration has submitted a similar bill for this Committee’s consideration, H.B. 1122, which addresses this same issue. The Department defers to the Department of Land and Natural Resources on the substantive matters of both bills.

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

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

HOUSE COMMITTEE ON WATER & LAND

February 8, 2017 at 9:00 a.m.
State Capitol, Room 325

In consideration of
H.B. 1418
RELATING TO LAND.

The HHFDC supports H.B. 1418, 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 testify.

STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

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

PRESENTATION TO
THE HOUSE COMMITTEE ON WATER AND LAND

BY

VERN T. MIYAGI
Administrator, Hawaii Emergency Management Agency

Aloha Chair Yamane, Vice-Chair Kong and Members of the House Committee on Water and Land.

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

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.

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

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

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 HOUSE COMMITTEE ON WATER & LAND

FEBRUARY 8, 2017
9:00 A.M.
CONFERENCE ROOM 325

HOUSE BILL NO. 1418
RELATING TO LAND

Chairperson Yamane and Members of the Committee:

Thank you for the opportunity to testify on House Bill No.1418 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 offers a comment and otherwise defers to the Department of Land and Natural Resources as to whether this bill will bring Section 46-88 into compliance with the National Flood Insurance Program requirements.

The bill does define the term "dwelling" as a structure to be used in whole or in part as a home, residence or sleeping place (page 12, lines 9-12) This appears contrary to existing law, 46-88 (page 2, lines 15-16) states that these exempt structures are "not used as dwellings or lodging units".

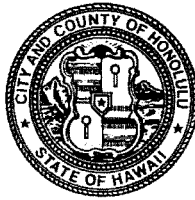
Thank you for the opportunity to comment on this measure.



DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
ACTING DEPUTY DIRECTOR

February 8, 2017

The Honorable Ryan I. Yamane, Chair
and Members of the Committee on Water & Land
Hawaii State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Yamane and Committee Members:

Subject: House Bill No. 1418
Relating to Land

The Department of Planning and Permitting (DPP) **strongly supports** House Bill No. 1418, 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 Ryan I. Yamane, Chair
and Members of the Committee on Water & Land
House Bill No. 1418
February 8, 2017
House Bill No. 1418
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". The signature is fluid and cursive, with a long, sweeping tail that extends 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

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokalole Hwy., Bldg C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

Dear Chair Yamane and members:

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
County of Hawaii



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

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

February 8, 2017

The Honorable Ryan I. Yamane, Chair
House Committee on Water & Land
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 1418, Relating to Land

HEARING: Wednesday, February 8, 2017, at 9:00 a.m.

Aloha Chair Yamane, Vice Chair Kong, and Members of the Committee,

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,000 members. HAR **strongly supports** on H.B. 1418 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.

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.





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

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

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.

There have been discussions between State Department of Land and Natural Resources, Representative Ryan Yamane, and FEMA to develop the appropriate language to address the specific concerns raised by FEMA.

Those amendments are compiled in this measure and the Legislature is in receipt of written confirmation from FEMA that the language will address the concerns raised on meeting NFIP's requirements.

HAR respectfully request the passage of this measure.

Mahalo for the opportunity to testify.





Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

February 6, 2017

The Honorable Ryan I. Yamane, Chair,
The Honorable Sam Satoru Kong, Vice Chair, and
Members of the House Committee on Water and Land

Re: House Bill 1418, Relating to Land
Hearing Date/Time: Wednesday, February 8, 2017, 9:00am

Chair Yamane, Vice Chair Kong, and Members of the Committee:

I am Linda Nakamura, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service or support the origination and servicing of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation, it is related only to mortgage lending and servicing.

The MBAH supports the intent of House Bill 1418.

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).

This Bill will revise section 46-88 of the Hawaii Revised Statutes so that it will meet the Federal Emergency Management Agency (FEMA) guidelines. It is imperative that the Hawaii State Legislature passes legislation to amend section 46-88 of the Hawaii Revised Statutes by July 31, 2017. If legislation is not passed to meet the FEMA guidelines, FEMA will suspend the participating communities in the State of Hawaii from the NFIP. This means that homeowners whose homes are located in a flood zone will not be able to purchase federally-backed flood insurance. They will be required to purchase private flood insurance which may result in higher premiums for these homeowners. This may also have an impact on lending. As mortgage applicants may not be able to procure flood insurance or affordable flood insurance. Suspension from the NFIP will also mean that Federal Disaster Assistance may not be available to the State and County governments, businesses and individuals who may be impacted by a disaster and is requiring aid. As you can see, these consequences are quite dire as this does not

only affect homeowners whose homes are currently or in the future will be in a flood zone. This has far reaching consequences as it may impact the entire State of Hawaii in the event of a disaster.

Thank you for the opportunity to present this testimony.

LINDA NAKAMURA
Mortgage Bankers Association of Hawaii

waltestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 11:10 AM
To: waltestimony
Cc: alan@prloffice.com
Subject: *Submitted testimony for HB1418 on Feb 8, 2017 09:00AM*

HB1418

Submitted on: 2/7/2017

Testimony for WAL on Feb 8, 2017 09:00AM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|------------------------|---------------------------|---------------------------|
| Alan Gottlieb | Ponoholo Ranch Limited | 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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Presentation To
House Committee on Water and Land
February 8, 2017 at 9:00 AM
State Capitol Conference Room 325

Testimony in Support of House Bill 1418

TO: The Honorable Ryan I. Yamane, Chair
The Honorable Sam Satoru Kong, 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, 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

TESTIMONY OF ALISON UEOKA

COMMITTEE ON WATER & LAND
Representative Ryan I. Yamane, Chair
Representative Sam Satoru Kong, Vice Chair

Wednesday, February 8, 2017
9:00 a.m.

HB 1418

Chair Yamane, Vice Chair Kong, and members of the Committee on Water & Land, my name is Alison Ueoka, President of the Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council **opposes** HB 1418, and instead prefers the specific language in HB 1122. In its letter to Suzanne Case, Chairperson of DLNR dated January 25, 2017, FEMA Mitigation Division Director, Region IX, Jeffrey D. Lusk says that in their technical review of HB 1122, "...The draft bill, therefore, would satisfy the concerns raised in the Agency's April 15, 2016 letter..."

We believe that the state has only this Legislative Session to enact a remedy to this situation that could potentially leave 60,000 homeowners without NFIP coverage and the state without natural disaster funding, and therefore, the bill referenced in the FEMA letter should be the one passed by the Legislature.

Thank you for the opportunity to testify.



Testimony to the House Committee on Water & Land
February 8, 2017

Testimony in Support of HB 1418, Relating to Land

To: The Honorable Ryan Yamane, Chair
The Honorable Sam Kong, 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.

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

A S S O C I A T I O N

February 6, 2017

To: Representative Ryan I. Yamane, Chair
Representative Sam Satoru Kong, Vice-Chair
And Members of the Committee on Water and Land

Re: HB1418 Relating to Land
Hearing: Wednesday, February 8, 2017 9:00 AM Conference Room 325

The Hawaii Independent Insurance Agents Association (HIIA) is submitting testimony in **strong support** of HB1418 which “amends the county exemptions from building permit and building code requirements to ensure that the Hawaii’s communities are not suspended from participation in NFIP.”

The language in Chapter 46-88 HRS in its current form violates FEMA and the NFIP requirements. As a result, last year our administration was put on notice that Hawaii will be in jeopardy of suspension of the Federally backed Flood Insurance Program and the Federal Disaster Assistance unless the statute is amended to comply with the Federal requirements. The state’s noncompliance to these federal requirements will affect existing flood insurance policies currently in place and will affect new real estate transactions that require flood insurance.

This is a very serious concern for not only our organization but for the residents of Hawaii and we cannot delay in correcting this situation. We thank the Committee on Water and Land for their wisdom, foresight and help in trying to remedy the current unacceptable situation.

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

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

February 8, 2017

Rep. Ryan I. Yamane, Chair
Rep. Sam Satoru Kong, Vice Chair
and members of the House Committee on Water & Land
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **H.B. 1418 (Land)**
Hearing Date/Time: Wednesday, February 8, 2017, 9:00 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 the intent** of 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.

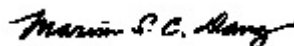
Hawaii Revised Statutes Sec. 46-88 was amended by Act 203 in 2013 to allow exemptions from building permit and building code requirements for certain types of agricultural buildings, structures, and appurtenances.

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



American Public Works Association Hawaii Chapter

February 7, 2017

House Committee on Water and Land

Hearing Date: Wednesday, February 8, 9:00am, Conference Room 325

Honorable Representatives Ryan Yamane, Chair; Sam Kong, Vice Chair; and Members of the House Committee on Water and Land

Subject: **SUPPORT of HB 1418, Relating to Land**

Dear Chair Yamane, Vice Chair Kong, and Committee Members:

The American Public Works Association Hawaii Chapter (APWA) represents numerous public works officials, engineers from State and Counties, utilities and private sector design professionals. The primary purpose of our State Procurement Code relating to professional services was to ensure that the best qualified professional service provider is selected to work on public sector projects and to allow for transparency in the procurement process.

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). **We further understand that there are other bills, namely HB1122** proposed by the Department of Land and Natural Resources and also referred to this committee, that address this matter to the satisfaction of FEMA. ***We urge the Committee to address this matter by moving forward one of these bills to prevent the suspension of Hawai'i's NFIP.***

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

Sincerely,
American Public Works Association Hawaii Chapter

Lester Fukuda

Lester Fukuda, PE, FACEC



February 7, 2017

Representative Ryan I. Yamane, Chair
Representative Sam Satoru Kong, Vice Chair
House Committee on Water and Land
Hawaii State Capitol, 415 S. Beretania St.
Honolulu, Hawaii 96813

Dear Chair Yamane, Vice Chair Kong, and Members of the Committees:

The Hawaii Aquaculture and Aquaponics Association (HAAA) is sending this testimony to express **concerns with HB 1418**, "Relating to Land." HAAA strongly supported the passage of Act 203 (2013), which provided exemptions under HRS Section 46-88 from building codes and permits for certain agricultural structures. We believe that these exemptions are essential if agriculture and aquaculture are to thrive in Hawaii, and we thank the Legislature for supporting Hawaii's farmers and ranchers by providing them.

We recognize that the purpose of HB 1418 is to preserve Hawaii's eligibility for flood insurance under the National Flood Insurance Program, and we accept the need to make Section 46-88 compatible with Federal floodplain regulations. We hope, however, that the Legislature will see the need to preserve the benefits of Section 46-88's exemptions for farms in locations that are not in FEMA-designated floodplain areas. We note that HB 1418 would require farmers to notify the appropriate County agency so that the agency can determine whether or not proposed structures would fall under Federal floodplain regulations, and we appreciate that HB 1418 contains a 30-day deadline for the County agency to make this determination. However, HB 1418 does not explicitly state that construction may proceed if the County agency fails to act within 30 days. Such failure would result in no penalty to the agency, and could delay construction indefinitely even if the proposed structure is not within a floodplain.

If HB 1418 passes into law, there may be farmers who have already initiated construction on exempt structures, but who have not completed construction at the time the new law takes effect. These farmers may be in violation of the "prior notice" provision of the new law even though they were in compliance with the old law at the time they started construction, and even though the structures are not in a floodplain. We encourage you to amend HB 1418 to allow a grace period of one year during which farmers who have already started building can complete construction.

Thank you for the opportunity to testify on this important matter.

Sincerely,

Frederick M. Mencher
for Ronald Weidenbach, President
Hawaii Aquaculture and Aquaponics Association



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Hawaii

President

Corey M. Matsuoka, P.E.
SSFM International
Ph: (808) 531-1308

President-Elect

Jeffrey K. Kalani, P.E.
Yogi Kwong Engineers, LLC
Ph: (808) 942-0001

Treasurer

Sean Sugai, P.E.
Ronald N.S. Ho & Assoc.
Ph: (808) 941-0577

Secretary

Ken Kawahara, P.E.
Akinaka & Assoc.
Ph: (808) 836-1900

Past President

Robin Lim, P.E.
Geolabs, Inc.
Ph: (808) 841-5064

National Director

Janice Marsters, PhD.
Hart Crowser
Ph: (808) 371-8504

Directors

Garret Masuda, P.E.
InSynergy Engineering
Ph: (808) 521-3773

Liana Choy, P.E.

Sato & Assoc.
Ph: (808) 955-4441

Paul T. Matsuda, P.E.

Group 70 International, Inc.
Ph: (808) 523-5866

Ginny M. Wright

Executive Director

P.O. Box 88840

Honolulu, HI 96830

Ph: (808) 741-4772

Email: gwright@acechawaii.org

Website: www.acechawaii.org

February 6, 2017

House Committee on Water and Land

Hearing Date: Wednesday, February 8, 9:00 a.m., Conference Room 325

Honorable Representatives Ryan Yamane, Chair; Sam Kong, Vice Chair; and Members of the House Committee on Water and Land

Subject: **SUPPORT of HB 1418, Relating to Land**

Dear Chair Yamane, Vice Chair Kong, and Committee Members:

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). We further understand that there are other bills, namely HB1122 proposed by the Department of Land and Natural Resources and also referred to this committee, that address this matter to the satisfaction of FEMA. We urge the Committee to address this matter by moving forward one of these bills to prevent the suspension of Hawai'i's NFIP.

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



LATE

P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 8, 2017

HOUSE COMMITTEE ON WATER & LAND
HB 1418: RELATING TO LAND

Room 325
9:00 AM

Aloha Chair Yamane, Vice Chair Kong, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau offers the following concerns regarding HB 1418, that would 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).

As you know, agriculture in Hawaii is struggling because of a myriad of reasons, not the least of which is that it is extremely expensive to farm here. In 2013, Hawaii Farm Bureau advocated for the passage of Act 203, which helped our farmers build specific non-residential, low risk agricultural structures without the burden and expense of overly stringent and inapplicable regulations.

We appreciate that HB 1418 is meant to ensure Hawaii's continued eligibility for flood insurance under the NFIP while preserving as much of the benefits to Hawaii's farmers of Act 203 as possible.

HFB supports this effort and respectfully requests the following:

- Ensure that amendments to HRS Section 46-88 do not negatively impact farms that are not in FEMA-designated floodplain areas.
- Insert language to allow construction to commence if the County agency fails to act within the 30 day deadline of the farmer's notification to the agency.
- Because this measure includes a provision that farmers must give prior notice to the County agency, but the farmer may have started construction before this law goes into effect, a grace period should be included.

Thank you for the opportunity to provide these comments and for your support of Hawaii's farmers and ranchers.

February 6, 2017

Subject: **HB1418, Relating to Land**

TESTIMONY IN SUPPORT

Hearing Date: Wednesday, February 8, 2017 at 9 am., Conference Room 325

Honorable Senators and Representatives:

As a Certified Floodplain Manager, I support the bill HB 1418 since the State and four Counties are in jeopardy of losing eligibility in the National Flood Insurance Program (NFIP) and could be suspended from the program. This will result in tremendous loss for the State of Hawai'i as follows:

1. Federally backed flood insurance will no longer be available for the home owners,
2. Existing home owners risk recall on their current mortgages or pay higher private insurance, which may not be affordable for low income families in the State of Hawai'i,
3. New federally mortgages will not be available for homes in the State of Hawai'i because they cannot get flood insurance coverage at an affordable price, and
4. Federal Disaster Assistance in the event of a Presidential Declaration will no longer be available for the State and local participating agencies posing an additional strain on the already strained budgets of local and State governments of Hawai'i.

The housing crisis in Hawai'i does not need additional burden from the loss of NFIP for existing homeowners. The State of Hawai'i had one major disaster declaration in 2016 and two in 2014. And, with climate change, we are only one storm away from a disaster. The State of Hawai'i cannot bear the burden of loss of NFIP coverage.

So, I urge to act now to pass this bill before the deadline of July 31, 2017 imposed by the Federal Emergency Management Agency (FEMA) on the State of Hawai'i.

I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,



Vijaya Tummala
vijaya.tummala@gmail.com

waltestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 1:22 PM
To: waltestimony
Cc: shyunueno@gmail.com
Subject: *Submitted testimony for HB1418 on Feb 8, 2017 09:00AM*

HB1418

Submitted on: 2/6/2017

Testimony for WAL on Feb 8, 2017 09:00AM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Shyun Ueno | 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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov