

STAND. COM. REP. NO. 264

Honolulu, Hawaii

FEB 16 2021

RE: S.B. No. 186

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committee on Agriculture and Environment, to which was referred S.B. No. 186 entitled:

"A BILL FOR AN ACT RELATING TO RESTRICTIONS ON AGRICULTURAL USES AND ACTIVITIES,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit the enforcement of a re-recorded homeowners' association restriction if the restriction prohibits bona fide agricultural uses and activities on agricultural land.

Your Committee received testimony in support of this measure from the Department of Agriculture, Office of Planning, Hawai'i Farm Bureau, and one individual. Your Committee received testimony in opposition to this measure from the Community Associations Institute and one individual. Your Committee received comments on this measure from the Land Use Commission and Associa.

Your Committee finds that subdivision of agricultural lands has significantly increased over the past few decades, thereby leading homeowners' associations to impose restrictions that limit bona fide agricultural uses on agricultural lands. Currently, some homeowners' associations have been circumventing the law by renewing agricultural restrictions that existed prior to July 8, 2003, claiming that the renewed terms continue to be exempt from the law despite those agreements, by their own terms, expiring

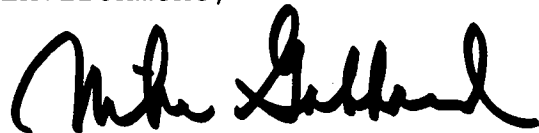


after 2003. Restrictive covenants that limit agricultural uses on agricultural lands undermine the State's interest in protecting and preserving agricultural resources and promoting self-sufficiency. Additionally, agricultural subdivisions promote conflict between "gentlemen estates", where little farming exists, and bona fide farmers in surrounding areas regarding dust, odors, smoke, and noise from farming operations. The existence of these gentlemen estates increases the cost of agricultural land, making it difficult for bona fide purchasers to purchase farm land. Thus, this measure is needed to prevent the restriction of agricultural uses and activities on lots within state agricultural districts. This measure also clarifies that renewed contracts restricting agricultural uses and activities within agricultural uses and activities within agricultural lands are considered new contracts and are therefore voidable, subject to limited circumstances.

Your Committee notes testifiers' concerns that this measure as currently written is overly broad. Many agricultural condominiums have restrictions on the types of agriculture permitted as the project itself may have limitations, such as the availability of water, electricity, or the topography and should not be forced to anticipate the inception of the project.

As affirmed by the record of votes of the members of your Committee on Agriculture and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 186 and recommends that it pass Second Reading and be referred to your Committee on Commerce and Consumer Protection.

Respectfully submitted on  
behalf of the members of the  
Committee on Agriculture and  
Environment,



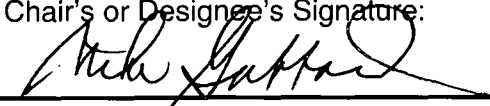
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MIKE GABBARD, Chair



The Senate  
 Thirty-First Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Agriculture and Environment**  
**AEN**

Bill / Resolution No.:* <b>SB 186</b>	Committee Referral: <b>AEN, CPN</b>	Date: <b>02/08/2021</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
GABBARD, Mike (C)	✓			
NISHIHARA, Clarence K. (VC)	✓			
ACASIO, Laura	✓			
RHOADS, Karl	✓			
FEVELLA, Kurt	✓			
<b>TOTAL</b>	<b>5</b>			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes