



# LAND USE COMMISSION

*Komikina Ho'ohana 'Āina*

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM  
*Ka 'Oihana Ho'omōhala Pā'oihana, 'Imi Wai wai a Ho'omāka'ika'i*

**JOSH GREEN, MD**  
GOVERNOR

**DANIEL ORODENKER**  
EXECUTIVE OFFICER

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March 20, 2023

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

Before the  
**Senate Committees on Agriculture and Environment**  
**and**  
**Water and Land**

Wednesday March 22, 2023  
1:00 PM  
State Capitol, Room 224

In consideration of  
**HB 955 HD2**  
**RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chairs Gabbard and Inouye; Vice Chairs Richards and Elefante; and members of the Senate Committees on Agriculture and Environment; and Water and Land:

The Land Use Commission (LUC) provides the following comments on HB 995 HD2. The LUC recognizes there are substantive and procedural issues with sections of the current section of Hawai'i Revised Statutes ("HRS") 205 with respect to Important Agricultural Lands. However, these issues are currently being considered in the courts in legal action brought by the City and County of Honolulu.

The Commission recommends waiting for a decision by the courts that should provide needed guidance on any changes that are necessary in the statute.

Thank you for the opportunity to testify on this matter.

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

**SYLVIA LUKE**  
Lt. Governor



**SHARON HURD**  
Chairperson, Board of Agriculture

**MORRIS M. ATTA**  
Deputy to the Chairperson

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

**BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND ENERGY, AND**  
**WATER AND LAND**

**WEDNESDAY, MARCH 22, 2023**  
**ROOM 224**  
**1:00 P.M.**

**HOUSE BILL NO. 995, HOUSE DRAFT 2**  
**RELATING TO IMPORTANT AGRICULTURAL LANDS**

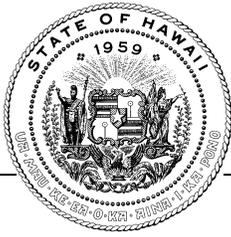
Chairpersons Gabbard and Inouye and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 995, HD2 that:

1. Clarifies that the decision-making process for the land use commission adoption of county maps and designation of important agricultural lands will be through rulemaking and not contested case hearing (Page 2, line 15 to page 5, line 2), and
2. Repeals the provision for farm dwelling and employee housing on important agricultural lands (Page 12, line 17 to page 14, line 14) and adopts a new provision for farm cluster housing as an incentive for the designation of lands as important agricultural lands (Page 7, line 13 to page 11, line 15). The Department of Agriculture (Department) understands that HD2 is a combination of HB995 (the LUC process) and HB996 (the new IAL farm cluster housing incentive and repeal of the existing farm dwelling and employee housing incentive) with no other amendments. The Department supports HB995, HD2 as we had supported both HB995 and HB996 in their earlier iterations. Otherwise, we defer to the Land Use Commission and the Office of Planning and Sustainable Development.

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





**STATE OF HAWAI'I  
OFFICE OF PLANNING  
& SUSTAINABLE DEVELOPMENT**

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

**SCOTT J. GLENN**  
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Statement of  
**SCOTT GLENN, Director**

before the  
**SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT AND WATER  
AND LAND**

Wednesday, March 22, 2023, 1:00 PM  
State Capitol, Conference Room 224

in consideration of  
**HB 995, HD 2**  
**RELATING TO IMPORTANT AGRICULTURAL LANDS.**

Chairs Gabbard and Inouye, Vice Chairs Richards and Elefante, and Members of the Senate Committees on Agriculture and Environment and Water and Land:

The Office of Planning and Sustainable Development (OPSD) **strongly supports** House Bill 995, HD 2, which amends sections of the Hawai'i Revised Statutes (HRS) pertaining to Important Agricultural Lands (IAL).

This bill revises Section 205-49, HRS, to conform with existing Land Use Commission rules by clarifying that the adoption of regional IAL maps should be accomplished through rulemaking, rather than through the contested case hearing process. This revision is essential to clarifying the process for county IAL petitions. This bill also inserts the contents of HB 996, HD 1 that provides a means to develop cluster housing for farmers and farm employees on IAL lands. Because this provision helps reduce infrastructure requirements, it serves as an incentive to designate lands as IAL.

These revisions are intended to remove obstacles to the implementation of Section 3 of Article XI of the Constitution of the State of Hawai'i and, thus, will help conserve and protect agricultural lands and promote agriculture self-sufficiency and agricultural diversification.

Thank you for the opportunity to testify on this measure.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**  
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI  
A HO'OMĀKA'IKA'I

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Statement of  
**CHRIS J. SADAYASU**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT AND WATER  
AND LAND**

Wednesday, March 22, 2023  
1:00 PM  
State Capitol, Conference Room 224 & Videoconference

In consideration of  
**HB995, HD2**  
**RELATING TO IMPORTANT AGRICULTURAL LANDS.**

Chairs Gabbard and Inouye, Vice Chairs Richards and Elefante and members of the Committees. The Department of Business, Economic Development and Tourism (DBEDT) supports Administration Bill, HB995, HD2 which amends Hawai'i Revised Statutes (HRS) 205-49 to conform with existing Land Use Commission rules by clarifying that the adoption of these regional maps is through rulemaking, rather than contested case hearing.

This bill also inserts the contents of HB 996, HD 1 that provides a means to develop cluster housing for farmers and farm employees on Important Agricultural Lands (IAL). Because this provision helps reduce infrastructure requirements, it serves as an incentive to designate lands as IAL.

These revisions are essential to clarify the process for county IAL petitions and remove obstacles to the implementation of Section 3 of Article XI of the Constitution of the State of Hawaii, to conserve and protect agricultural lands, and promote agriculture self-sufficiency and agricultural diversification.

Thank you for the opportunity to testify on this measure.



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March 22, 2023

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

**TESTIMONY ON HB 995, HD2**  
RELATING TO IMPORTANT AGRICULTURAL LANDS

Conference Room 224 & Via Videoconference  
1:00 PM

Aloha Chairs Gabbard and Inouye, Vice Chairs Richards and Elefante, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

**The Hawai'i Farm Bureau supports HB 995, HD2**, which clarifies the decision-making process for the Land Use Commission adoption of maps of Important Agricultural Lands and repeals the provision for farm dwelling and employee housing on important agricultural lands, and adopts a new provision for farm cluster housing as an incentive for the designation of lands as important agricultural lands.

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

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

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

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

HB 995, HD1 seeks to the bill facilitate the designation of IAL by clarifying the process for county IAL petitions by allowing IAL designations through rulemaking.

Thank you for the opportunity to testify on this measure.