



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 31, 2023

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

Before the
Senate Committee on Ways and Means

Tuesday April 4, 2023
10:30 PM
State Capitol, Room 211

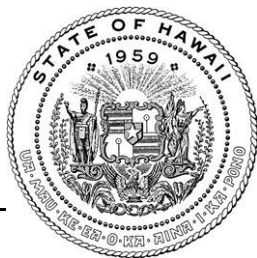
In consideration of
HB 995 HD2
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chair Dela Cruz; Vice Chair Keith-Agaran; and members of the Senate Committee on Ways and Means:

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.



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

JOSH GREEN, M.D.
GOVERNOR

CHRIS J. SADAYASU
DIRECTOR

DANE K. WICKER
DEPUTY DIRECTOR

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Statement of
CHRIS J. SADAYASU
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS

Tuesday, April 4, 2023
10:30 AM
State Capitol, Conference Room 211 & Videoconference

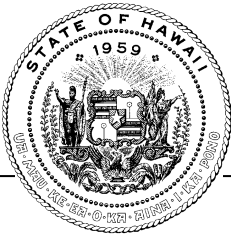
In consideration of
HB995, HD2
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chair Dela Cruz, Vice Chair Keith-Agaran 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.



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

JOSH GREEN, M.D.
GOVERNOR

SCOTT J. GLENN
INTERIM DIRECTOR

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Statement of
SCOTT GLENN, Interim Director

before the
SENATE COMMITTEE ON WAYS AND MEANS

Tuesday, April 4, 2023 10:30 AM
State Capitol, Conference Room 211

in consideration of
HB 995 HD2
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means:

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.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

TUESDAY, APRIL 4, 2023
ROOM 211
10:30 A.M.

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

Chairperson Dela Cruz and Members of the Committee:

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's 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.



DEPARTMENT OF PLANNING AND PERMITTING
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LATE

RICK BLANGIARDI
MAYOR



DAWN TAKEUCHI APUNA
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

April 4, 2023

The Honorable Donovan M. Dela Cruz, Chair
and Members of the Committee on Ways and Means
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

**Subject: House Bill No. 995, HD 2
Relating to Important Agricultural Lands**

Dear Chair Dela Cruz and Committee Members:

The Department of Planning and Permitting (DPP) **strongly supports** House Bill No. 995, HD 2, which amends Section 205-49, Hawaii Revised Statutes (HRS), to clarify that the adoption of Important Agricultural Lands (IAL) maps through county recommendation is to be conducted with rulemaking procedures. The HD 2 also inserts the contents of House Bill No. 996, HD 1, to establish an IAL incentive in the form of farm cluster housing allowances, while also repealing Section 205-45.5, HRS, related to farm dwellings on lands designated as IAL.

The proposed provisions address the challenges that surfaced during the City and County of Honolulu's petition for recommended IAL designation. Designating lands as IAL was meant to be policy making, comparable to Oahu's long-range plan land use maps. It is a resource overlay, a planning tool, to inform decision-makers of the land's agricultural importance and to direct limited resources towards those designations to assist and preserve agricultural resources. Oahu's long-range plan land use maps are similarly used to inform decision-makers of appropriate land uses for general areas depicted on the map. Accordingly, in making policy, not regulation or project approval, the concurrence of landowners is not a requirement.

Furthermore, Section 205-45.5, HRS, which was intended to be an incentive for IAL landowners, in reality created uncertainty around whether IAL designation imposes a removal of development rights or enacts a regulatory change. Since there was never clarification on the effects of Section 205-45.5, HRS, on property rights, we support the repeal of the section. We are also supportive of the farm cluster housing language in

The Honorable Donovan M. Dela Cruz, Chair
and Members of the Committee on Ways and Means
Hawaii State Senate
House Bill No. 995, HD 2
April 4, 2023
Page 2

the current draft Bill, however more substantial incentives are needed to benefit all IAL landowners; large and small. We encourage the Legislature to develop and introduce an IAL incentives package that will empower farmers to want IAL designation, rather than be apprehensive towards it.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dawn Takeuchi Apuna', with a large, stylized initial 'D'.

Dawn Takeuchi Apuna
Director



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April 4, 2023

HEARING BEFORE THE
SENATE COMMITTEE ON WAYS AND MEANS

TESTIMONY ON HB 995, HD2
RELATING TO IMPORTANT AGRICULTURAL LANDS

Conference Room 211 & Videoconference
10:30 AM

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the Committee:

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, HD2 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.