

HB1475 HD2 SD1

Measure Title: RELATING TO AGRICULTURAL LANDS.

Report Title: Agricultural Lands; Commercial Operations; Farmers' Markets; Food Hubs

Description: Permits farmers' markets and food hubs on lands in an agricultural district. Requires that value-added products displayed and sold by agricultural-based commercial operations in agricultural districts contain at least fifty percent Hawaii grown content. (SD1)

Companion:

Package: None

Current Referral: AEN/WTL, CPH

Introducer(s): CREAGAN, ING, DeCoite, Thielen

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

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

**HOUSE BILL NO.1475 HD2 SD1
RELATING TO AGRICULTURAL LANDS**

Chairperson Baker and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 1475 HD2 SD1, which amends Section 205-2(d)(15) to allow farmers' markets and food hubs as "agricultural-based commercial operations" on all State Agricultural District lands. Definitions of both activities are provided. The bill also amends "agricultural-based commercial operations" by specifying that they be headquartered and registered in Hawaii and that the value-added products sold at these operations contain at least 50 percent Hawaii grown content. The Department of Agriculture supports the intent of this measure and offers comments.

Establishing "farmers' markets" and "food hubs" as permissible uses throughout the Agricultural District will, in concept, allow additional marketing opportunities for farmers to sell the products they grow. SD2 makes it clear that the products sold are to be limited to agricultural products grown by Hawaii farmers. The Department notes that the 50% Hawaii-grown content may be difficult to define and enforce.

The counties are already experiencing difficulty in developing regulatory language to allow the other uses permitted in Section 205-2(d)(15) such as "retail activities in an enclosed structure" and "retail food establishments". The counties need



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to carefully balance these uses and the additional activities proposed in this measure with their responsibility to protect and promote their agriculturally-zoned lands for agricultural production.

Thank you for the opportunity to submit our testimony.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lieutenant Governor

LUIS P. SALAVERIA
Director

MARY ALICE EVANS
Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai`i

DANIEL ORODENKER
Executive Officer

Bert K. Saruwatari
Planner
SCOTT A.K. DERRICKSON AICP
Planner

RILEY K. HAKODA
Chief Clerk/Planner

FRED A. TALON
Drafting Technician

Statement of
Daniel E. Orodener
Executive Officer
Land Use Commission
Before the
Senate Committee on Commerce, Consumer Protection, and Health
Tuesday April 4, 2017
9:30 AM
State Capitol, Conference Room 229

In consideration of
HB 1475 HD2 SD1
RELATING TO AGRICULTURAL LANDS

Chair Baker, Vice Chair Nishihara, and members of the Committee on Commerce, Consumer Protection, and Health:

The Land Use Commission (LUC) has the following comments on this measure, which seeks to amend section 205-2(d)(15), Hawai`i Revised Statutes (HRS) to add farmers markets and food hubs on State Agricultural District lands under the umbrella of “agricultural-based commercial operations” as a permissible use.

We believe the language in sections 205-2(d)(7) and (15); and 205-4.5(a)(9) and (10), HRS, already allows for the types of uses associated with food stands and food hubs. Farmers markets can vary in size, location, duration, and the scope of impacts they may create. Farmers markets can be allowed under a State Special Permit processed by the counties (for uses on 15 acres or less) and by the LUC (for uses over 15 acres). The Special Permit process allows the potential impacts of the proposed activity to be adequately assessed and addressed.

Thank you for the opportunity to testify on this matter.



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

April 4, 2017

HEARING BEFORE THE
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

TESTIMONY ON HB 1475, HD2, SD1
RELATING TO RELATING TO AGRICULTURAL LANDS

Room 229
9:30 AM

Aloha Chair Baker, Vice Chair Nishihara, and Members of the Committees:

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.

HFB supports the intent of HB 1475, HD2, SD1, which would broaden the allowable uses of lands in agricultural districts under Section 205-2, Hawaii Revised Statutes to include farmers' markets and food hubs.

Food hubs, farm stands, and other retail sales opportunities can be significant revenue enhancing opportunities for our farmers and ranchers and thereby increase the viability of their businesses. We support those opportunities while also realizing that there may be more potential for abuse if the amended language is not sufficiently clear.

We also have concerns with the requirement that value-added products contain at least fifty per cent Hawaii grown content. Many value-added products utilize locally grown products, however, many times the featured locally grown product is not the main product by percentage. For example, the lilikoi in lilikoi butter makes up roughly 25-30% of the total ingredients. Although banana is the featured product in banana bread, the other ingredients make up more than 50% of the banana bread. Even some of the local chocolates wouldn't be allowed because the cacao percentage in the chocolate may be less than 50% (sugar, cocoa butter, cocoa liquor, and (sometimes) vanilla).

The requirement that value-added products contain at least fifty per cent Hawaii grown content is much more difficult because of the recent closing of HC&S. Many value-added products use sugar as a major ingredient and no longer have access to local sugar.

Although we appreciate the intent of HB 1475, we are concerned that it would have the unintended consequence of reducing the amount of local value-added products being sold at agricultural-based commercial operations.

Thank you for this opportunity to provide comments on this measure.

Testimony of
Jon Okudara
on
H.B. No. 1475, H.D.2, S.D.1
Relating to Agricultural Lands
Committee on Commerce, Consumer Protection, and Health
Tuesday, April 4, 2017, 9:30 a.m.
Room 229

I would offer the following comments in opposition to H.B. No. 1475, H.D.1, S.D.1, which amends “agricultural-based commercial operations” as a permissible use on agricultural lands to:

1. Requires that the agricultural-based commercial operations be headquartered and registered in Hawaii;
2. Require that “value-added products” contain at least fifty-per cent Hawaii grown content;
3. Describes “farmers’ market” as an outdoor market where farmers sell agricultural products grown in Hawaii and value-added products; and
4. Describes a “food hub” as a facility with a commercial kitchen, that provides the storage, processing, distribution, and sale of agricultural products grown in Hawaii.

The proposals in H.B. No. 1475, H.D.1, S.D.2, are not necessary, and the requirement that value-added products contain fifty-percent Hawaii grown content should be deleted.

In 2012, when Act 113, established “agricultural-based commercial operations” the following requirements were included:

1. That agricultural-based commercial operations be owned and operated by a producer, which in Hawaii law is defined as “any person engaged in the business of raising and producing agricultural products,” a farmer. It is not necessary to specify that the operations be headquartered and registered in Hawaii.

The objective, in 2012, in specifying that the operation be owned and operated by a producer was to exclude franchise or other operations not owned by a farmer. Including that agricultural-based commercial operations are “headquartered and registered in Hawaii,” including the operations “owned and operated by a producer” introduces an ambiguity where the operations may also be owned and operated by a business “headquartered and registered in Hawaii” that may not be producer.

2. “Value-added products” were described as products “produced using agricultural products grown in Hawaii.”

In many cases, value-added products are produced using the producer's off-grade products and used to make jams and jellies, and prepared foods such as baked goods. Requiring that fifty percent of the product be produced in Hawaii will eliminate many of these products. Things like lilikoi butter do not contain fifty percent Hawaii products. You would not be able to make a banana bread with fifty percent bananas. In addition, the counties, which are responsible for enforcing the land use law will not be able to determine the percentage of Hawaii products in value-added products.

3. "Retail activities in an enclosed structure owned and operated by a producer" describes a farmer's market, a food market where a farmer sells agricultural produces and value-added products directly to consumers.

H.B. 1475, H.D.1, S.D.1, however, describes "farmers' market" as an outdoor market where farmers sell agricultural products grown in Hawaii and value-added products. It does not require that the market be owned and operated by a producer. These types of "farmers' market" are usually operated by a promoter in outdoor public places, such as the farmers' market at Kapiolani Community College, or in various places in the community, usually not on agricultural lands.

4. A "food hub" is already allowed under the current law. Section 205-4.5(a)(10), allows "buildings and uses, including ...storage and processing facilities ...that are normally considered accessory to" uses described in section 205-2(d).

For these reasons, H.B. 1475, H.D.1, S.D.1, is not necessary. If, however, the bill is moved, the requirement that fifty percent of value-added products contain Hawaii-grown content should be deleted.

Thank you for the opportunity to offer these comments.