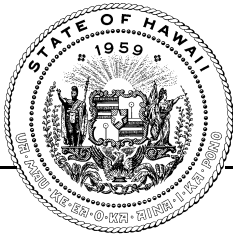


HB 1202



**OFFICE OF PLANNING
STATE OF HAWAII**

DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
ACTING DIRECTOR
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Statement of
LEO R. ASUNCION
Acting Director, Office of Planning
before the
HOUSE COMMITTEE ON HOUSING
Monday, February 9, 2015
8:30 AM
State Capitol, Conference Room 329

in consideration of
HB 1202
RELATING TO AGRICULTURAL LANDS.

Chair Hashem, Vice Chair Jordan, and Members of the House Committee on Housing.

The Office of Planning (OP) **opposes** HB 1202, which amends section 205-2(d) to allow a county within the State of Hawaii which contains between 180,000 to 200,000 persons to have dwelling units and housing facilities that are not related to agricultural uses. These could include housing for elderly, homeless, vacation rentals, agricultural tourism or farm-stay and workforce housing, for which the owner of the property may charge fees, provided that these units are located on lands classified by the Land Study Bureau as Class D and E.

Given the population parameters, the amendment appears to affect only the County of Hawaii. OP nonetheless has serious concerns with the allowance of non-farm dwelling units and housing facilities within the State Agricultural District.

Allowing non-agricultural uses in the State Agricultural District may contribute to the impermanence syndrome, whereby agricultural use declines due to farmers' disinvestment in

their farm operations in anticipation of development. This has been observed to occur where competing uses are allowed in areas designed for agricultural uses.¹

The list of non-agricultural uses allowed in the State Agricultural District has grown over time. Currently, HRS § 205-2 allows the following non-agricultural uses: wind generated energy production; biofuel production; limited solar energy facilities; wind machines and wind farms; small-scale meteorological, air quality, noise, and other scientific and environmental data collection and monitoring facilities; open area recreational facilities; and geothermal resources exploration and geothermal resources development. The list of non-food related uses is longer still.

The State Special Permit under HRS § 205-6 grants counties the authority to allow “certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified[.]” In other words, the Special Permit process allows uses in the State Agricultural District that are not agricultural uses or related to agricultural uses on a case-by-case basis. Although we do not advocate for allowing non-agricultural uses within the State Agricultural District, this established process allows counties to review non-agricultural uses to mitigate impacts on the State Agricultural District.

Thank you for the opportunity to testify on this measure.

¹ *Impermanence Syndrome – Have you got it?*, Rutgers, at <http://njsustainingfarms.rutgers.edu/farmlandissues.html> (last visited, Feb. 3, 2014).



HB1202
RELATING TO AGRICULTURAL LANDS
Committee on Housing

February 9, 2015

8:30 a.m.

Room 329

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend to the Board of Trustees a position of **COMMENT** on HB1202, which expands permissible uses in the state land use agricultural district for Hawai'i County to include short and long term housing for purposes unrelated to agricultural activities when situated on soil classified as D and E.

This bill significantly expands the types of overnight accommodation permitted in the agricultural district for Hawai'i County. Although the permissible uses pursuant to HRS § 205-4.5 go beyond agricultural activities, the uses related to housing and overnight accommodation are quite limited. The types of overnight accommodation permitted are related to operating a farm, i.e., farm dwellings and employee housing, or, in the case of agricultural tourism activities¹, the permitted activities must coexist with a bona fide agricultural activity.

The explosion of transient vacation rentals² in the state is highly controversial. If vacation rentals are permitted as an agricultural use, property values may increase significantly, pricing local residents out of the housing market as investors target land in the agricultural district for vacation rentals. Further, by explicitly permitting vacation rentals on these lands without a robust and sufficient enforcement mechanism, our rental housing shortage will likely be exacerbated.

If the current classifications of land are inadequate to meet the public needs of Hawai'i County, then the processes already in place that ensure community input on the local level should be utilized, rather than passing new legislation that weakens Hawai'i's land use laws. Pursuant to HRS § 205-18, the Office of Planning is tasked with periodically reviewing the classification and districting of all land in the state. Through this process, land is reclassified consistent with county general plans, development plans, and sustainable community plans, which are developed with significant input from the community and from county and state agencies. Likewise, the district boundary amendment process by the state and counties also afford community members an opportunity to provide public input on individual petitions.

Mahalo for the opportunity to testify on this important measure.

¹ Agricultural tourism that involves overnight accommodations is only permitted in a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities. HRS 205-4.5(14).

² Hawaii Tourism Authority found that there were over 20,000 Individually Advertised Units in the state. Individual Advertised Units in Hawaii (Vacation Rentals), <http://www.hawaiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individually%20Advertised%20Units%20in%20Hawaii%20%28Vacation%20Rentals%29.pdf>



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Feb 09, 2015, 6:17 am

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February 9, 2015

HEARING BEFORE THE
HOUSE COMMITTEE HOUSING

TESTIMONY ON HB 1202
REALTING TO AGRICULTURAL LANDS

Room 312
9:20 AM

Aloha Chair Hashem, Vice Chair Jordan, and Members of the Committee:

I am Christopher Manfredi, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,932 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFB opposes HB 1202, which would allow non-agricultural housing on marginal agricultural lands.

The measure reads:

In a county with a resident population of greater than one hundred seventy thousand but fewer than two hundred thousand, dwelling units and housing facilities whether or not for purposes related to agricultural activities or uses, including housing for the elderly, the homeless, vacation-rentals, agricultural tourism, or farm-stay and workforce housing, for which the fee or leasehold owner of the property may charge a rent or fee; provided that such dwelling units or housing facilities shall be located solely on agricultural district lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class D and E.

This measure has a narrow target of counties with a population between 170,000 and 200,000 residents. HFB questions the relevant nexus for this qualification. HFB also wonders what will happen when the population in said county rises above or falls below this narrow window. It appears that all of the activities and investments made in them will fall out of compliance, creating a regulatory and enforcement boondoggle.

Furthermore, this measure circumvents county planning departments that already have a process by which an applicant may apply for a variance and/or special use permit that would allow the activities described above, under conditions imposed and enforced by the locality, often with input from the community. By passing a state law that applies to a

qualifying county, the legislature is essentially taking local governance away from the targeted county.

HFB supports the idea of additional farm revenue generated through agricultural tourism, but believes that allowance of vacation rentals on agricultural lands that are not connected to the primary activity on the farm creates more problems than it will solve.

Perhaps the introducer would like to examine the multi-tiered regulatory process that inhibits landowners from classifying their lands for uses suitable for them.

Please hold HB1202

Thank you for the opportunity to testify on this measure.