



**EXECUTIVE CHAMBERS**

HONOLULU

LINDA LINGLE  
GOVERNOR

July 9, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 2646 SD2 HD2 CD1

On July 8, 2008, Senate Bill No. 2646, entitled "A Bill for an Act Relating to Important Agricultural Lands" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to encourage landowners to designate their lands as important agricultural lands.

In 1978 the voters of Hawaii approved Article XI, Section 3 of the State Constitution that established a framework for the preservation of important agricultural lands. In 2005, twenty-seven years later, my Administration supported and I signed Act 183 that established the standards, criteria, and procedures to identify important agricultural lands. This bill finally puts in place a package of incentives to encourage public and private landowners to make important agricultural land designations.

Although there are many important components to this bill, it contains a number of provisions that raise concerns.

This bill lists certain requirements when a reclassification is accompanied by a petition to designate lands as important agricultural lands. However, these requirements do not specifically include the evaluation criteria currently required for land reclassification set forth in section 205-17, Hawaii Revised Statutes. It is unclear whether the Land Use Commission is expected to apply the existing criteria under section 205-17 for reclassification determinations or a different set of criteria when the reclassification is coupled with a designation of land as important agricultural land. Further, it is unclear whether the Office of Planning may provide input into the reclassification deliberations.

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Part II of this bill requires the Department of Agriculture to review housing plans, a function outside of its scope of responsibility and for which it is not equipped. The counties raised concerns that this section of the bill, along with other provisions calling for priority processing of permits, adversely impinges upon county functions, contrary to home rule.

The granting of a refundable tax credit is troubling since businesses will be able to claim the credit without actually carrying through on plans for agricultural operations. This credit also comes at a time when the State is facing severe financial constraints. A loss of \$7.5 million per year not within the State balanced budget plan will mean these revenues must be made up from other sources. Additionally, the Department of Taxation has raised technical and definitional concerns that will make it difficult to administer this credit.

Finally, the insertion of the Legislature into the process to remove important agricultural land designations is troubling and should be a matter left in the hands of the body that oversees land classifications, the Land Use Commission.

For the foregoing reasons, I allowed Senate Bill No. 2646 to become law as Act 233, effective July 8, 2008, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE