

Testimony of the Real Estate Commission

**Before the
House Committee on Judiciary & Hawaiian Affairs
Wednesday, February 24, 2021
2:00 p.m.
Via Videoconference**

**On the following measure:
H.B. 247, RELATING TO AGRICULTURAL LANDS**

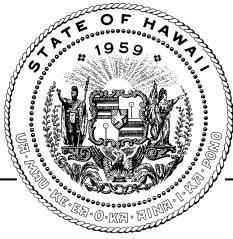
Chair Nakashima and Members of the Committee:

My name is Carole Richelieu, Senior Condominium Specialist, testifying for Michael Pang, the Chairperson of the Real Estate Commission (Commission). The Commission supports this bill.

The purpose of this bill is to amend certain land subdivision and condominium property regime laws related to agricultural land, as recommended pursuant to Act 278, Session Laws of Hawaii 2019, to ensure condominium property regime projects within the agricultural district are used for agricultural purposes.

In particular, the Commission supports the proposed language in section 3 of the bill amending Hawaii Revised Statutes section 514B-52(b). The developer's public report is a disclosure document. The Commission supports additional disclosure to prospective buyers.

Thank you for the opportunity to testify on this bill.



OFFICE OF PLANNING STATE OF HAWAII

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Wednesday, February 24, 2021
2:00 PM
Via Videoconference
in consideration of
HB 247
RELATING TO AGRICULTURAL LANDS.

Chair Nakashima, Vice Chair Matayoshi, and Members of the House Committee on Judiciary and Hawaiian Affairs.

The Office of Planning (OP) **strongly supports** HB 247 which addresses recommendations pursuant to Act 278, Session Laws of Hawaii 2019 directing OP to study subdivision and condominium property regime (CPR) issues on agricultural land. OP convened and collaborated with a broad Stakeholders Group in developing the report which was submitted to the 2021 Legislature. The Group established five goals: 1) keep suitable agricultural lands for agriculture; 2) support farmers and farming; 3) keep agricultural lands affordable for farming; 4) enable long-term access to agricultural lands for farmers; and 5) minimize subdivision and CPR of productive agricultural lands except for bona fide agricultural reasons.

HB 247 addresses three major issues and recommendations of the study:

1. Defines “farm dwelling” (amends HRS 205-4.5(4)). Inadequate definitions of a bona fide farm results in: proliferation of dwellings without a farm component, fake farms, and gentlemen estates.
2. Allows county enforcement of unpermitted structures in leaseholds subdivisions in the agricultural district (amends HRS 205-4.5(f)(2)) which has created an enforcement problem.
3. Requires county comments prior to CPR registration (amends HRS 514B-52(b)). Allows counties to review and alert the buyer of infrastructure and environmental deficiencies, and conformance with county codes.

Thank you for hearing this bill and providing this opportunity to testify in support.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

**FEBRUARY 24, 2021
2:00 PM
VIA VIDEO CONFERENCE**

**HOUSE BILL NO. 247
RELATING TO AGRICULTURAL LANDS**

Chairperson Nakashima and Members of the Committee:

Thank you for the opportunity to testify on House Bill 247. This measure amends certain land subdivision and condominium property regime laws related to agricultural land, as recommended pursuant to Act 278, Session Laws of Hawaii 2019, to ensure:

1. Farm dwellings on agricultural lands are accessory to a farm or where the agricultural activity provides income of no less than \$10,000 per year to the family occupying the dwelling and verified by general excise tax return filing or agricultural tax dedication;
2. Structures on subdivided leasehold subdivisions of agricultural land are subject to county enforcement authority; and
3. Applications for registration of condominium property regimes of agricultural land are to include county comments regarding the availability of supportive infrastructure, any potential impact on government plans and resources, other requirements pursuant to county ordinances and rules, and the "developer's public report" pursuant to Section 514B-52.

The Department of Agriculture strongly supports this measure that reflects the input of the Act 278 Stakeholders Group that was assembled and led by the Office of Planning. Although the Act was limited to the City and County of Honolulu, the Stakeholders Group has broad representation. We look forward to working with the Office of Planning as this bill moves forward.



DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Mark M. Nakashima, Chair;
The Honorable Scot Z. Matayoshi, Vice Chair;
and Members of the House Committee on Judiciary & Hawaiian Affairs

From: Isaac W. Choy, Director
Department of Taxation

Date: February 24, 2021
Time: 2:00 P.M.
Place: Via Videoconference, Hawaii State Capitol

Re: H.B. 247, Relating to Agricultural Lands

The Department of Taxation (Department) offers the following comments regarding H.B. 247 for your consideration.

H.B. 247 makes several amendments to the Department of Agriculture (DOA)'s Important Agricultural Lands program. Notably, it modifies the definition of "farm dwelling" in section 205-4.5, Hawaii Revised Statutes (HRS), to include single-family dwellings "where agricultural activity provides income of no less than \$10,000 a year" to the occupying family. The measure also authorizes DOA to use "any state general excise tax return filing" to determine threshold eligibility, as well as any "agricultural dedication for the parcel or lot of record approved by the county in which the dwelling and agricultural activity are located[.]" The measure is effective upon approval.

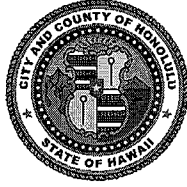
As stated in the Department's previous testimony on this measure, state general excise tax filings likely do not contain sufficient information to help DOA and the Legislature accomplish its desired screening goals. Although Forms G-45 (GET return) and G-49 (GET annual return and reconciliation) would indicate a Taxpayer's gross income from "Producing," which contains a broad category of agricultural activities, simply reviewing a taxpayer's GET filings will not be enough to determine whether and how much of any income earned by the Producer was actually earned while the Producer occupied a single-family dwelling that was an accessory to a farm. The Department recommends amending this measure accordingly and using a different method of income verification. The Department defers to the DOA on the substantive merits of this measure.

Thank you for the opportunity to provide comments.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.gov • CITY WEB SITE: www.honolulu.gov

RICK BLANGIARDI
MAYOR



DEAN UCHIDA
DIRECTOR DESIGNATE
DAWN TAKEUCHI APUNA
DEPUTY DIRECTOR
EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

February 24, 2021

The Honorable Mark M. Nakashima, Chair
and Members of the Committee on Judiciary
and Hawaiian Affairs
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nakashima and Committee Members:

**Subject: House Bill No. 247
Relating to Agricultural Lands**

The Department of Planning and Permitting (DPP) **strongly supports** House Bill No. 247.

This Bill will allow meaningful county input in the condominium property regime process involving agricultural lands, in order that these projects be laid out in conformity with the underlying county zoning, State land use district, and the applicable development permits for the proposed use of the land. Each county can then ensure availability of necessary supportive infrastructure, and identify and mitigate any potential negative impacts to environmentally important or culturally significant resources, prior to the piecemeal sale of the property.

Accordingly, we urge that this Bill be passed by your committee.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dean Uchida".

Dean Uchida
Director Designate



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

February 24, 2021

HEARING BEFORE THE
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

TESTIMONY ON HB 247
RELATING TO AGRICULTURAL LANDS

Conference Room 325
2:00 PM

Aloha Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 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.

The Hawaii Farm Bureau supports HB 247, which amends certain land subdivision and condominium property regime laws related to agricultural land, as recommended pursuant to Act 278, Session Laws of Hawaii 2019, to ensure agricultural lands that are organized under a condominium property regime are used for agricultural purposes.

HFB advocates for public policies and incentives that provide for viable farming and ranching activities on agricultural lands thereby retaining agricultural lands for future generations. Lands capable of supporting viable agricultural activities should be protected and kept in agriculture for agricultural production.

We support the retention of agricultural lands in blocks of contiguous, intact, and functional land units large enough to allow **flexibility** in agricultural production and management and discourage the fragmentation of agricultural lands to non-agricultural uses. Lands zoned for agriculture should be used primarily for productive agricultural purposes, including family farming.

The Hawaii Farm Bureau was part of the Stakeholders Group convened by the Office of Planning in response to Act 278, Session Laws of Hawaii 2019. The stakeholder group established the following goals 1) Keep suitable agricultural lands for agriculture; 2) Support farmers and farming; 3) Keep agricultural lands affordable for farming; 4) Enable long-term access to agricultural lands for farmers, and 5) Minimize subdivision and CPR of productive agricultural lands except for bona fide agricultural reasons.

The Hawaii Farm Bureau supports HB 247 which recommends amendments to certain land subdivision and condominium property regime laws to ensure that agricultural lands be used primarily for productive agricultural purposes.

Thank you for this opportunity to testify on this important subject.



Email: communications@ulupono.com

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Wednesday, February 24, 2021 — 2:00 p.m.

Ulupono Initiative supports HB 247, Relating to Agricultural Lands.

Dear Chair Nakashima and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono supports HB 247, which amends certain land subdivision and condominium property regime (CPR) laws related to agricultural land to ensure CPR projects within the agricultural district are used for agricultural purposes.

Ulupono supports the efforts to meet the legislative mandate in Act 278, SLH 2019, which was signed into law asking the Office of Planning to study and report on the ways to ensure agricultural activities on agricultural land. This measure seeks to strengthen the definition of a farm dwelling by adding an income threshold for agricultural activity (\$10,000 a year), authorizing county enforcement and fines for any violation, and a more transparent project application process.

We applaud the work of the Office of Planning in studying this issue, working with the public and vested stakeholders, and providing a legislative proposal to help address the misuse of agricultural lands.

Thank you for this opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i

HB-247

Submitted on: 2/22/2021 3:58:50 PM

Testimony for JHA on 2/24/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Keawe	Individual	Support	No

Comments:

I support hb247