

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT,
AND WATER AND LAND

WEDNESDAY, MARCH 22, 2023
ROOM 224
1:00 P.M.

HOUSE BILL NO. 615, HOUSE DRAFT 1
RELATING TO RESTRICTIONS ON AGRICULTURAL USES AND ACTIVITIES

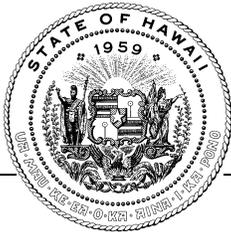
Chairpersons Gabbard and Inouye and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 615, HD1 that seeks to further clarify that private agreements found in conveyances of agricultural land prior to July 8, 2003, that limits or restricts agricultural uses or activities, and that such agreements have expired and not been renewed and recorded in bureau of conveyances, shall be void. The Department of Agriculture supports this measure.

We understand that some "private agreements" established on subdivided and condominiumized agricultural lands with lot or unit owner associations prior to the effective date of Section 205-4.6 contained limitations and prohibitions on agricultural activities and uses. These constraints can severely impact farming operations and include limitations on hours of operation of farm equipment, height of windbreaks and types of crops that are allowed to be cultivated. The proposed amendment appears to prevent "private agreements" created prior to July 8, 2003, that have since expired and not been renewed, from being enforced.

Thank you for the opportunity to present our testimony.





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

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GOVERNOR

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Statement of
SCOTT GLENN, Director

before the
**SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT
AND WATER AND LAND**

Wednesday, March 22, 2023, 1:00 PM
State Capitol, Conference Room 224

in consideration of
HB 615 HD1
RELATING TO RESTRICTIONS ON AGRICULTURAL USES AND ACTIVITIES.

Chairs Gabbard and Inouye, Vice Chairs Richards and Elefante, and Members of the Senate Committees on Agriculture and Environment and Water and Land:

The Office of Planning and Sustainable Development (OPSD) **supports** HB 615 HD1, which clarifies § 205-4.6 (a), Hawaii Revised Statutes, to prohibit any provision in private agreements contained in a conveyance of land recorded on or before July 8, 2003 that have since expired and not been renewed and recorded in the bureau of conveyances from restricting agricultural uses and activities.

OPSD supports measures that strengthen the protection of agricultural uses and activities in the State Agricultural District.

Thank you for the opportunity to testify on this measure.



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March 22, 2023

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
SENATE COMMITTEE ON WATER AND LAND

TESTIMONY ON HB 615, HD1
RELATING TO RESTRICTIONS ON AGRICULTURAL USES AND ACTIVITIES

Conference Room 224 & Via Videoconference
1:00 PM

Aloha Chairs Gabbard and Inouye, Vice Chairs Richards and Elefante, and Members of the Committees:

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 615, HD1, which clarifies that any provision in a private agreement contained in a conveyance of land recorded on or before 7/8/2003 that have since expired but have not been renewed and recorded in the bureau of conveyances are prohibited from restricting bona fide agricultural uses and activities on agricultural land.

Restrictive covenants that limit agricultural uses on agricultural lands undermine the State's interest in protecting and preserving agricultural resources and promoting agricultural self-sufficiency. Renewal of the terms of these agreements circumvents public policy and is inconsistent with Act 170 (2004), which prohibited homeowners' associations from restricting agricultural activities but was not retroactive. This has created a problem when the association decides to renew its restrictive covenants.

Agricultural subdivisions like these promote conflict between "gentlemen farmers" and bona fide farmers in surrounding areas when dust, odors, smoke, and noise from legitimate farms offend those who live in the subdivisions. Ag lands that were developed to create "gentlemen farms," where little to no farming exists, also increase the cost of agricultural land, making it impossible for bona fide farmers to purchase farmland. These subdivisions are typically residential lots with larger yards and nice landscaping. A separate and distinct designation for this type of land use may be more appropriate. In the meantime, the renewal of agricultural restrictions on agricultural land should not be allowed.

Act 94, SLH 2021, addressed this by disallowing the enforcement of a re-recorded homeowners' association restriction if the restriction prohibits bona fide agricultural uses and activities on agricultural land. HB 615, HD1 further clarifies that any provision in a private agreement contained in a conveyance of land recorded on or before July 8, 2003, that limits or prohibits agricultural use or activity and has since expired but has not been renewed and recorded in the bureau of conveyances shall be void.

Thank you for the opportunity to testify on this measure.