



# **HAWAII PEST CONTROL ASSOCIATION**

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February 20, 2024

Testimony To: Senate Committee on Commerce and Consumer Protection  
Senator Jarrett Keohokalole, Chair

Presented By: Tim Lyons, CAE  
Executive Director

Subject: S.B. 3329, SD 1 – RELATING TO LITTE FIRE ANTS.

Chair Keohokalole and Members of the Committee:

I am Tim Lyons, Executive Director of the Hawaii Pest Control Association and we have **comments** regarding this bill.

We believe that the bill has good purpose and information regarding a prior little fire ant infestation could be vital information, especially the information required by Senate Draft 1. Indicating the information disclosed which provides when there was a treatment for the little fire ants including the date and who did the treatment is vital. If there was multiple treatments recently, a prospective buyer can take some comfort. If on the other hand there was only one (1) treatment or the treatment occurred sometime ago, then the real possibility exists of reinfestation and they should be informed and made aware of that.

Therefore, we agree with the intent and recommend Senate Draft 1.

While the Realtors "Real Property Disclosure Statement" does ask the seller about the "presence" or "evidence" of ants, it is not specific to the Little Fire Ants. And, while it asks generally "when" treatment was made, it does not ask for a specific date. Further, unlike SD 1, it does not ask "who" did the treatment. There could be a big difference between a "Do it Yourself" treatment versus a professional.

Thank you for the opportunity to testify.

**JOSH GREEN, M.D.**  
Governor

**SYLVIA LUKE**  
Lt. Governor



**SHARON HURD**  
Chairperson, Board of Agriculture

**DEXTER KISHIDA**  
Deputy to the Chairperson

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**DEPARTMENT OF AGRICULTURE**  
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**TESTIMONY OF SHARON HURD  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION**

**FEBRUARY 20, 2024  
9:35 AM  
CONFERENCE ROOM 229**

**SENATE BILL NO. 3329, SD1  
RELATING TO LITTLE FIRE ANTS**

Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill 3329, SD1 relating to little fire ants. This bill requires the disclosure of any little fire ant infestation as part of any sale of residential real property. The department offers the following comments in relation to this bill:

Disclosure statements will be based upon the positive determination of live LFA infestations on property. There needs to be a clear and defined mechanism by which homeowners engage in the sale of residential real property to obtain identification of LFA with some form of certification process. There is no system currently existing to certify the identification. The Department has the ability to render definitive identifications but does not have the capacity to do so. The Department is requesting the ability to charge fees for identification services and an increase in capacity for the identification of plant pests. Currently the Department is used by some pest control operations to render identifications they should be making on their own to comply with pesticide regulations. However, the scale of identifications for the purposes of this bill indicate the department would interfere with unique business opportunities. This bill also



does not offer clear guidelines for procedures for sampling to accurately determine if little fire ants are present. Existing protocols currently used focus on sampling of ants in the yard and do not include trees and foliage or internal to the residents. It should also be noted that condominiums present unique challenges—a unit for sale may be impacted by a building being infested, not just the individual unit for sale. These issues need to be addressed. A consequence of this bill could be abuse of pesticide law using non-licensed or non-labeled products to execute quick reduction in foraging populations without control of the actual colony.

We thank you for the opportunity to provide comments.

February 20, 2024

**The Honorable Jarrett Keohokalole, Chair**

Senate Committee on Commerce and Consumer Protection  
State Capitol, Conference Room 229 & Videoconference

**RE: Senate Bill 3329, SD1, Relating to Little Fire Ants**

**HEARING: Tuesday, February 20, 2024, at 9:35 a.m.**

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR **opposes** Senate Bill 3329, SD1, which requires the disclosure of any little fire ant infestation as part of any sale of residential real property.

Current law (Hawaii Revised Statutes 508-D) imposes a broad obligation upon sellers of residential property to disclose all material facts. Material fact means "any fact, defect, or condition, past or present, that would be expected to measurably affect the value to a reasonable person of the residential real property being offered for sale." The seller would have to disclose to the buyer any material facts that are within the knowledge and control of the seller or observed from visible, accessible areas.

HAR believes material facts include known pest infestations. Question 10 on our *Seller's Real Property Disclosure Statement* ("SRPDS") form asks the seller if there has been any evidence or presence of any pest (e.g. roaches, fleas, bedbugs, mites, ticks, **ants**, rats, centipedes). Moreover, if the seller indicates there is a presence of pests, they are then asked in a follow-up question (10a) if there has been any treatment and, if so, when, how, and by whom. We provided a screenshot of the relevant section of our SRPDS and attached it to our testimony.

A broad disclosure law is more effective because it is difficult to list every possible item for disclosure to the exclusion of others. Given the unique nature of each real estate transaction and the diverse issues on different islands, it is difficult to anticipate every scenario. We do not want to set the precedent to require the need to constantly update state statute every time a new scenario is identified. The broad disclosure law on all material facts as currently written is better suited to address a wide range of current and future situations.

As such, HAR believes that it is not necessary to specifically mandate disclosure of fire ants in statute as such pests are already covered as a material fact disclosure requirement.

Mahalo for the opportunity to testify on this measure.

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- |      | YES   | NO  | NTMK | NA  |   |
|------|-------|-----|------|-----|---|
| 5)   | [ ]   | [ ] | [ ]  | [ ] | Have you given any release or waiver of liability, or release from a warranty to any government agency, contractor, engineer, architect, land surveyor, or landscape architect, for any defect, mistake, or omission in the design or construction of the Property? |
| 6)   | [ ]   | [ ] | [ ]  | [ ] | Is the property sprinklered for fire protection?  |
| 7)   | [ ]   | [ ] | [ ]  | [ ] | Is the property equipped with smoke and/or carbon monoxide detectors? How many? Are they wired into the electrical system?  |
| 8)   | _____ |     |      |     | What is the age of the main roof and the roofing of any other addition(s)? _____  |
| 8a)  | _____ |     |      |     | Has the roof been [ ] replaced, [ ] repaired, or [ ] treated? If checked, describe in Section G.  |
| 9)   | [ ]   | [ ] | [ ]  | [ ] | Has there been any evidence or presence of mold, mildew, or fungus interior or exterior?  |
| 9a)  | _____ |     |      |     | If yes, has there been treatment? [ ] Yes [ ] No. If yes, describe when, how, and by whom in Section G.   |
| 10)  | [ ]   | [ ] | [ ]  | [ ] | Has there been any evidence or presence of any pest (e.g., roaches, fleas, bedbugs, mites, ticks, ants, rats, centipedes)?  |
| 10a) | _____ |     |      |     | If yes, has there been treatment? [ ] Yes [ ] No. If yes, describe when, how, and by whom in Section G.   |
| 11)  | [ ]   | [ ] | [ ]  | [ ] | Has there been any evidence or presence of wood destroying organisms in the improvements (e.g., termites, powder post beetles, dry rot, carpenter ants, bees, etc.)?  |
| 11a) | _____ |     |      |     | If yes, has there been treatment? [ ] Yes [ ] No. If yes, describe when, how, and by whom in Section G.   |
| 11b) | [ ]   | [ ] | [ ]  | [ ] | Is there any known damage to the improvements caused by wood destroying organisms?  |
| 11c) | [ ]   | [ ] | [ ]  | [ ] | Has the damage been repaired? If yes, list repairs.   |
| 12)  | [ ]   | [ ] | [ ]  | [ ] | Are there any transferable warranties (appliances, pest treatment, roof, photovoltaic, other)?  |