

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
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State of Hawai'i
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND THE ENVIRONMENT

FEBRUARY 7, 2024
1:00 PM
CONFERENCE ROOM 224

SENATE BILL NO. 3329
RELATING TO LITTLE FIRE ANTS

Chair Gabbard, Vice Chair Richards and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill 3329 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.



HAWAII PEST CONTROL ASSOCIATION

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February 7, 2024

Testimony To: Senate Committee on Agriculture and Environment
Senator Mike Gabbard, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: S.B. 3329 – RELATING TO THE LITTE FIRE ANTS.

Chair Gabbard 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 intentions and information regarding a prior little fire ant infestation could be vital information. We suggest that it does not go quite far enough, in that it should also indicate that the information disclosed should also provide when there was a treatment for the little fire ants including the date and who did the treatment. 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 but would recommend an amendment on page 6, line 4 by adding "has had any infestation of little fire ants and if there was a treatment made, the date and who provided the treatment".

Thank you for the opportunity to testify.

SB-3329

Submitted on: 2/5/2024 3:56:17 PM

Testimony for AEN on 2/7/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Colehour Bondera	Testifying for Kanalani Ohana Farm	Support	Written Testimony Only

Comments:

Aloha Chair and Committee Members:

Please accept this as support for SB3329 regarding little fire ants and sharing of known infestations.

Let's require putting the truth on the table in transations.

Sincerely,

Colehour Bondera

KANALANI OHANA FARM

colemel2@gmail.com

February 7, 2024

The Honorable Mike Gabbard, Chair

Senate Committee on Agriculture and Environment
State Capitol, Conference Room 224 & Videoconference

RE: Senate Bill 3329, Relating to Little Fire Ants

HEARING: Wednesday, February 7, 2024, at 1:00 p.m.

Aloha Chair Gabbard, Vice Chair Richards, 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 Hawai'i and its over 11,000 members. HAR provides **comments** on Senate Bill 3329, which requires the disclosure of any little fire ant infestation as part of any sale of residential real property.

Under Hawaii Revised Statutes 508-D, the law 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. We have a question on our *Seller's Real Property Disclosure Statement (SRPDS)* form asking 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 if there has been any treatment and, if so, when, how, and by whom.

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 and provide comments on this measure.

- | | 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)? |

SB-3329

Submitted on: 2/2/2024 5:49:20 PM

Testimony for AEN on 2/7/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
penny levin	Individual	Support	Written Testimony Only

Comments:

In strong support!

SB-3329

Submitted on: 2/3/2024 8:07:54 AM

Testimony for AEN on 2/7/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nancy Redfeather	Individual	Support	Written Testimony Only

Comments:

I truly thought this was already the case on Hawai'i Island. I am in full support of LFA disclosure. After being on the Hawai'i Island Little Fire Ant Task Force for a few years, and helping to treat the neighborhood I live in, we MUST disclose presence of LFA on property before purchase. Otherwise I could see suits arising down the road against Realtors.

Mahalo, Nancy

SB-3329

Submitted on: 2/4/2024 11:35:54 AM

Testimony for AEN on 2/7/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Maki Morinoue	Individual	Support	Written Testimony Only

Comments:

Aloha

As a muliti generation kama'aina, I find the increased invasive species to be impact on human health and well being. Little Fire Ants. LFAs are harmful to all life here in Hawai'i. I find it must be required the disclosure of any little fire ant infestation must be part of any sale of residential real property as it is an added cost and time to mitigate the spread and impacts the owners' well-being, especially with small children and pets.

Please pass this bill!

Mahalo

Maki Morinoue

Holualoa, 96725

SB-3329

Submitted on: 2/4/2024 8:17:12 PM

Testimony for AEN on 2/7/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tamara Paltin	Individual	Support	Written Testimony Only

Comments:

support SB3329 we all want to know

Mahalo,

Tamara Paltin