

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

JOSH GREEN, M.D.
GOVERNOR

SCOTT J. GLENN
DIRECTOR

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

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

Statement of
SCOTT GLENN, Director
before the
**HOUSE COMMITTEES ON WATER & LAND AND AGRICULTURE & FOOD
SYSTEMS**

Wednesday, March 22, 2023, 11:15 AM
State Capitol, Conference Room 325

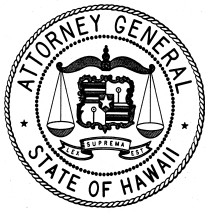
in consideration of
SB 287 SD1
RELATING TO AGRICULTURAL DISTRICTS.

Chairs Ichiyama and Gates, Vice Chairs Poepoe and Kahaloa, and Members of the House Committees on Water & Land and Agriculture & Food Systems:

The Office of Planning and Sustainable Development (OPSD) **supports** SB 287 SD1 that amends Chapter 514B, Hawaii Revised Statutes, to require condominium property regimes (CPR) for lands in the State Agricultural District be certified by the appropriate county that the CPR will conform to county zoning laws and to give the counties the discretion to require CPRs larger than 10 acres in size receive subdivision approval prior to the effective date of the CPR.

SB 287 SD1 strengthens the counties' ability to enforce its zoning laws and State standards and permitted uses in the Agricultural District.

Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 287, S.D. 1, RELATING TO AGRICULTURAL DISTRICTS.

BEFORE THE:

HOUSE COMMITTEES ON WATER AND LAND AND ON
AGRICULTURE AND FOOD SYSTEMS

DATE: Wednesday, March 22, 2023 **TIME:** 11:15 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Alison S. Kato or Bryan C. Yee, Deputy Attorneys General

Chairs Ichiyama and Gates and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill.

The bill amends section 514B-33(a), Hawaii Revised Statutes (HRS), to require that the condominium map for a condominium property regime (CPR) be accompanied by a certification from an appropriate county official or agency that the CPR will conform to county zoning laws. The bill also amends section 514B-52(b), HRS, to authorize a county to require its approval of the subdivision of land prior to the effective date of the CPR for projects greater than ten acres.

The use of the phrase "subdivision of land" on page 3, line 15, may cause confusion. The term "subdivision" is commonly used to refer to a specific county process that involves the division of land into two or more parcels. County subdivision is a lengthy process that involves design requirements, such as building street lights and sidewalks to a certain standard, and a county-approval process.

The establishment of a CPR is a different process that involves the division of ownership over land into multiple units rather than division of the land itself. The creation of a CPR is not currently subject to county approval. Because subdivision of land is not a step of the CPR process, the intent of this provision of the bill is unclear. Consequently, we recommend that the reference to "subdivision of land" be deleted.

If the intent of this bill is to allow a county to require its approval of the CPR, then we suggest deleting section 2 of the bill (amending section 514B-52(b), HRS), and replacing it with a new section adding a subsection (c) to section 514B-31, HRS, which states: "Notwithstanding any law to the contrary, for projects in the agricultural district classified pursuant to chapter 205 that are greater than ten acres, a county may require that county approval be given prior to the creation of the condominium property regime pursuant to standards adopted by the county. Proof of this approval shall be attached to the declaration."

Additionally, the wording added to section 514B-33(a), HRS, would be more appropriately placed in a new subsection (b). The added certification letter requirement was placed into subsection (a) at the end of a list of what must be included on a condominium map. The letter, however, is something that would accompany rather than be included in the condominium map. We recommend moving that requirement out of subsection (a) into a new subsection (b), with the existing subsection (b) redesignated as "(c)".

Thank you for the opportunity to offer comments.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

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

**BEFORE THE HOUSE COMMITTEES ON WATER AND LAND
AND
AGRICULTURE AND FOOD SYSTEMS**

**WEDNESDAY, MARCH 22, 2023
ROOM 325
11:15 A.M.**

**SENATE BILL NO. 287, SENATE DRAFT 1
RELATING TO AGRICULTURAL DISTRICTS**

Chairpersons Ichiyama and Gates and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 287, SD1 that authorizes the counties to require its approval of the subdivision of land greater than ten acres prior to the effective date of the condominium property regime (CPR).

The Department of Agriculture (Department) supports this measure. The proposed amendments to Chapter 514B appear to be an effective way to require county approval and/or require conformance to county zoning laws for larger CPRs on agricultural land that may or may not require prior subdivision. We, otherwise, defer to the county planning departments, the Department of the Attorney General, the Office of Planning and Sustainable Development, and the Department of Commerce and Consumer Affairs. The Department understands there is ongoing CPR activity on agricultural lands throughout the State and are also concerned about their effect on increasing agricultural land values and the amount of agricultural production occurring on CPR developments.

Thank you for the opportunity to present testimony on this measure.



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.dpp.org • CITY WEB SITE: www.honolulu.gov

RICK BLANGIARDI
MAYOR



DAWN TAKEUCHI APUNA
DIRECTOR

JIRO SUMADA
DEPUTY DIRECTOR

March 22, 2023

The Honorable Linda Ichiyama, Chair
and Members of the Committee on Water & Land
The Honorable Cedric Asuega Gates, Chair
and Members of the Committee on Agriculture & Food Systems
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Ichiyama, Gates, and Committee Members:

**Subject: Senate Bill No. 287, SD 1
Relating to Agricultural Districts**

The Department of Planning and Permitting (DPP) **strongly supports** Senate Bill No. 287, SD 1.

This Bill allows the counties to require a subdivision approval if the agricultural condominium has a land area greater than ten acres prior to the effective date of the condominium property regime.

Additionally, the Bill allows the county an opportunity to review and approve the agricultural condominium map for conformity with county zoning laws before the developer records the condominium map.

Accordingly, we urge that Senate Bill No. 287, SD 1, be passed by your committees.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dawn Takeuchi Apuna".

Dawn Takeuchi Apuna
Director

Testimony of the Real Estate Commission

**Before the
House Committee on Water & Land
and
House Committee on Agriculture & Food Systems
Wednesday, March 22, 2023
11:15 a.m.
Conference Room 325 and Via Videoconference**

**On the following measure:
S.B. 287, S.D. 1, RELATING TO AGRICULTURAL DISTRICTS**

Chairs Ichiyama and Gates and Members of the Committees:

My name is Derrick Yamane, and I am the Chairperson of the Real Estate Commission (Commission). The Commission opposes this bill.

The purpose of this bill is for condominium property regimes, to authorize counties to require its approval of the subdivision of land greater than ten acres prior to the effective date of the condominium property regime.

This proposal is unnecessary, redundant, causes confusion to the current regulatory statutory scheme, and may create unintended, and unforeseen consequences. Prior to registering the condominium with the Hawaii Real Estate Commission, under Hawaii Revised Statutes (HRS) chapter 514B, the developer for the condominium project must already receive county approval. HRS §514B-5 currently states: “any condominium property regime established under this chapter shall conform to the existing underlying county zoning for the property and all applicable county permitting requirements adopted by the county in which the property is located, including any supplemental rules adopted by the county, pursuant to section 514B-6, to ensure the conformance of condominium property regimes to the purposes and provisions of county zoning and development ordinances and chapter 205, including section 205-4.6 where applicable.” (Emphasis added.)

Thank you for the opportunity to testify on this bill.



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Ted Radovich
Waimanalo, O'ahu

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Honolulu, O'ahu

Ray Maki
Kauai

Aloha Chairs Ichiyama and Gates, Vice Chairs Poepoe and Kahaloe, and Members of the House Water & Land and Agriculture & Food Systems Committees,

The Hawaii Farmers Union United (HFUU) is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFUU supports SB287.**

SB287 would authorize county governments to require approval of the subdivision of land greater than ten acres prior to the effective date of condominium property regimes. This would provide important protection to Hawaii's agricultural districts while ensuring that future developments are in line with the state's goals of preserving the environment and providing a safe, quality food supply.

The farming industry in Hawaii is an integral part of the state's economy, and it requires protection from encroachment by residential and commercial development. Providing counties with the authority to approve any subdivision of land for condominiums in excess of ten acres before the effective date of the condominium property regime would help preserve Hawaii's agricultural districts and the businesses of Hawaii's farmers. Furthermore, it would ensure that the quality of life for Hawaii's residents and visitors is not compromised by overdevelopment, thus helping the state to achieve its important environmental and sustainability goals. HFUU urges the passage of SB287 and appreciates your support of the farming industry in Hawaii.

Mahalo for the opportunity to testify.

Kaipo Kekona, President HFUU/HFUF