

LATE TESTIMONY



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street • Honolulu, Hawaii 96819
Phone: (808) 848-2074 • Neighbor-Islands: (800) 482-1272
Fax: (808) 848-1921 • Email: info@hfbf.org
www.hfbf.org

March 30, 2012

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

TESTIMONY ON SB 2341, SD2, HD1
RELATING TO LAND USE

Room 325
11:00 AM

Chair Chang, Vice Chair Har, and Members of the Committee:

I am Brian Miyamoto, Chief Operating Officer and Government Affairs Liaison for the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF 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 interest of our diverse agricultural community.

Hawaii Farm Bureau Federation supports the intent of SB 2341, SD2, HD1, and provides the following amendments.

HFBF was an active participant in drafting of the language currently in place in HRS 205-2(d)11 recognizing agritourism as a permissible use in the agricultural district in 2006. Agritourism was just gaining a foothold in the islands and we recognized its' potential as a means to expand the revenue base of our farmers and ranchers. Across the country there were many examples of agritourism incorporated within productive farms and ranches. It was a means not only to provide additional income to farms and ranches but provided a learning experience for many who no longer had a connection to agriculture.

We also recognized that there are many different activities that comprise agritourism. Farm stands, tours, demonstrations, you-picks, and bed and breakfast operations are among the diversity of activities comprising agritourism. At the same time, HFBF had

as a priority the need to keep bona fide agricultural operations as the primary activity on farmland. Crossing the line to tourist related activities without significant agricultural production was not the intent of this measure. All of the Counties have different priorities of what they are willing to accept as permissible uses on their agricultural lands. We felt it was appropriate to be consistent as in other land uses to use the zoning chapter to delegate this authority to the Counties. To accomplish this objective, HFBB supported language that recognized agritourism but required the Counties to develop an agritourism ordinance.

During the hearings, there were many discussions regarding overnight accommodations. In the end, prohibition of overnight accommodations was included due to the lack of a clear process for allowing of overnight accommodations on bona fide farms and ranches without abuse.

There are examples of bed and breakfast operations on working farms across the country. Many years have passed since 2006 and the Counties have had discussions about this issue. The Counties should decide the conditions under which such practices would be allowed. 205-2(d)11 does not prohibit overnight accommodations. Therefore, addition of (12) specifically allowing short-term rentals should not be required.

Similarly, 205-4.5(a)(13) does not prohibit overnight dwellings so the proposed section (14) is not required.

If the intent of the two proposals above is to limit the scope of overnight accommodations, such language is better placed in the guidance to Counties on zoning requirements in Section 205-5.

We do not object to the deletion of the prohibition of overnight accommodations in 205-5 (b)(2), provided that the County will enact ordinances that define the conditions as specified within this statute. The Attorney General's opinion rendered in 2009 clearly states that this section is the reason why overnight accommodations associated with agritourism is not allowed. Allowing overnight accommodations in this section will address the intent of this measure. To address guidance to the Counties of considerations for overnight accommodations, we suggest the following change:

Ordinances shall include but not be limited to:

- (1) Requirements for access to a farm, including road width, road surface, and parking;
- (2) Requirements and restrictions for accessory facilities connected with the farming operation, including gift shops and restaurants; provided that overnight accommodations shall not be permitted;
- (3) Activities that may be offered by the farming operation for visitors;

(4) The number of units and length (not to exceed 21 days) of any one stay in overnight accommodations within a County.

~~[(4)]~~(5) Days and hours of operation; and

~~[(5)]~~ (6) Automatic termination of the accessory use upon the cessation of the farming operation.

We do not agree with the deletion of the requirement of bona fide farming operations for conducting agritourism activities in 205-5. T

While we agree that the requirements to have agriculture as the primary use of the land are stated in other chapters, this has been an area of contention at the various counties. For this reason, we believe it is relevant to have it as part of this chapter to reiterate the condition under which the overnight accommodation is allowed. The bill as proposed inserts additional language to allow overnight accommodations that is redundant since existing language other than 205-5(b)(2) does not prohibit overnight accommodations. By removing the prohibition that the Attorney General has stated is the reason why overnight accommodations are currently not allowed, the option will be provided for Counties to allow overnight accommodations.

The County Farm Bureaus are ready and willing to work with the various Counties to enact Agritourism Ordinances that are appropriate for their conditions. Thank you for this opportunity to address this important issue. We believe the primary purpose within the Agricultural District is production agriculture. The option of a rural district is available in which agriculture is a choice and appropriate for bed and breakfast and other agritourism activities that focus on tourism as the primary enterprise.

We respectfully request passage of this measure to address the County's need to address overnight accommodations associated with agritourism, by

1. amending section 205-5 (b)(2) as proposed
2. continuing to require County ordinances as specified in 205-5(b)
3. removing proposed deletion of requiring bona fide agricultural operations associated with agritourism.
4. Remove proposed additions of 205-2(d)(12) and 205-4.5(a)(14) as existing language in these sections do not prohibit overnight accommodations.
5. Provide guidance in 205-5, the additional areas to be addressed in Agritourism ordinances that allow overnight accommodations.

Thank you for this opportunity to provide our opinion on this matter. All of the Counties have faced challenges of non-agricultural uses entering the agricultural district. As we move to allow overnight accommodations on agricultural lands, it is important that we do not create unintended consequences that impact expanded commercial production of agricultural products that is the intent of agricultural lands.



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

LATE TESTIMONY

HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

February 30, 2012, 11:00 A.M.
(Testimony is 2 pages long)

TESTIMONY IN OPPOSITION TO SB 2341

Aloha Chair Chang and Committee Members -

The Sierra Club, Hawai'i Chapter, with over 10,000 members and supporters, *strongly opposes* SB 2341. This bill would allow vacation rentals, bed & breakfasts, and other similar activity in the agricultural district.

To the extent that such activity is desirable or necessary, such actions can already occur with a special use permit.

But to allow such activities as a matter of right would fly in the face of decades of careful protection of agricultural land. Hawai'i State Constitution Article 11, Section 3 mandates:

The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

Haw. Rev. Stat. Chapter 205, serves to protect agricultural lands. In passing this law, the Senate noted:

The purpose of this bill is to preserve and protect land best suited for cultivation, forestry and other agricultural purposes and to facilitate sound and economical urban development in order to promote the economy and general welfare of the state, and to insure the efficient expenditure of public funds. . . .

The state's highly productive agricultural lands are jeopardized by normal economic laws which encourage land owners to place their own particular pieces of land to the most profitable current use for which they can find a market. Long term agricultural leases are expiring annually. Because of the pressure for urbanization the land owners are reluctant to continue long term renewals of such leases, and the lessee is therefore discouraged to develop the land to its maximum agricultural production. If exclusive agricultural zones are not established to preserve and protect prime agricultural lands from infringement by non-agricultural uses, the possibility

of land speculation through inflated or artificial land prices may jeopardize the existence of major agricultural companies or activities. The most effective protection of prime agricultural lands, preservation of open space and direction of for urban growth, is through state zoning.

S. Stand.Comm.Rep. No.937, 1961 Senate Journal 883 (emphases added).

SB 2341 flouts this reasoning. It would encourage high-revenue producing vacation rentals as an authorized use, which in turn would raise the price of agricultural land for true agricultural activities. Lessees, for example, may have to pay more as new and more expensive "highest and best uses" (the normal phrase used to determine lease rents) are established on agricultural land. Farmers may have to stop producing food and switch to vacation rentals simply to stay in business.

Competing uses also takes valuable and finite farmland out of food production. Longterm leasing may also become more difficult to obtain as more agricultural land is taken out of existing inventory. This puts Hawai'i further down the hole in establishing a reasonable level of food self-sufficiency.

Finally, this bill further erodes orderly planning. Tourism activities would be shifted from planned urban centers to open agricultural areas. This would have corresponding impacts on the ability for other agricultural activity to continue, as well as associated infrastructure impacts.

In short, this bill would substantially and detrimentally impact agriculture in Hawai'i. Please hold this bill.

Mahalo for the opportunity to testify.

From: Windward Ahupua`a Alliance [info@waa-hawaii.org]
Sent: Friday, March 30, 2012 7:13 AM
To: WLOtestimony
Subject: SB 2341 SD2 HD1 - RELATING TO LAND USE

COMMITTEE ON WATER, LAND & OCEAN RESOURCES

Rep. Jerry L. Chang, Chair
Rep. Sharon E. Har, Vice Chair

11 am
Friday, March 30, 2012
Conference Room 325

SB 2341 SD2 HD1 - RELATING TO LAND USE
Strongly Support With Comments

My name is Shannon Wood, the president & co-founder of the *Windward Ahupua`a Alliance*, a 501c3 Hawai`i non-profit corporation, which was established in July, 2002, to create the Ko`olau Greenbelt & Heritage Trail System. Its mandate, however, has expanded over the years well beyond these important regional issues.

WAA now works to educate & inform residents, visitors, businesses, policymakers at all levels of government, and the media about using **SMART GROWTH** principles which promote economic and environmental sustainability.

Over the past 14 years, I have done three major studies on agricultural tourism - including overnight accommodations - and feel that Hawai`i needs to integrate all its components in order to help stabilize this sector of the economy in sustainable and low-cost ways to help preserve & protect agricultural land.

In 2007, I took part in the legislative discussions about agricultural tourism because I know first-hand how important it can be to help stabilize family incomes when **Stuff Happens** - like the forty-two consecutive days of rain that happened in the winter of 2006 or the high winds & heavy rains that have beaten up Hawai`ii over the past two months.

At that time, the issue of farmhouse bed & breakfast operations created a lot of controversy because the broader alternative accommodations issues were being discussed before the *Honolulu City Council*. I was tracking what was happening in the other three counties as well, but there was no state-wide enabling legislation which could help draft county-appropriate implementing legislation.

Although there was a lot of strong support for allowing **B&Bs** and small country inns and even a dude ranch or two along with daytime activities - especially here on O`ahu - there was also a lot of opposition from people who felt that it was extremely important to restrict or even bar people from staying in visitor accommodations other than ones located Waikiki, downtown, around the airport, or in fenced-in high-end country resort areas such as *Turtle Bay* or *Ko Olina*.

Because the issue might have a major negative impact on passage of the overall concept of ag tourism, I was willing to let the **B&B** language go at the time, but now it's back again.

The people who oppose alternative visitor accommodations have not gone away. They feel that allowing people to stay overnight outside of resort areas will eventually lead to huge visitor complexes or major commercial activities being built on ag land - or, for that matter, in suburban communities like Kailua..

That is not going to happen.

However, rural or ag tourism needs to allow overnight accommodations - and we're not talking about building forty-story high-rise hotels but allowing visitors to stay on the property **with the owners** who will not only provide them with a place to sleep but will also educate & inform them about a wide range of issues - growing coffee or organic vegetables or biofuels or food security matters or protecting watersheds - in a family-friendly environment. The idea of having to travel from a hotel in Waikiki or at the airport out to the country to learn about Hawai'i's agricultural economy has a profound negative impact on both the environment and the economy.

There are thousands of rural towns across the United States which allow people to stay in alternative accommodations such as privately-owned campgrounds, bed & breakfasts, and small-footprint inns out in the country.

Hawai'i can do so without ruining the agricultural economy. Allowing the counties to set the standards for overnight accommodations will increase the amount of the *TAT* and the *GET*, bring in additional revenues to the county for permits and licenses, raise awareness of the importance of Hawai'i's agricultural economy, help stabilize farming family income, and support locally-owned nearby businesses.

However, I ask that you insert language in the bill which would set up a review of the law in three to five years in order to review the potential impacts on counties which currently do not fall into this proposed law. This review could be done by the *Department of Agriculture* or the *Office of Planning*.

We urge that you move **SB 2341 SD2 HD1- RELATING TO LAND USE** forward.

Mahalo for the opportunity to present this testimony.

Shannon Wood, *President*

Windward Ahupua'a Alliance

PLANT A NATIVE TREE CAMPAIGN

P.O. Box 6366

Kane'ohe, HI 96744

Voicemail: 808/247-6366; Cellular: 808/223-4481 or 808/224-4496 (personal)

Website: <http://www.waa-hawaii.org>; E-mail: <mailto:info@waa-hawaii.org>

Website: <http://www.plantanativetree.org>; E-mail: <mailto:info@plantanaativetree.org>

LATE TESTIMONY

Kathleen M. Pahinui
67-237 Kauai St
Waialua, HI 96791

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Subject: Senate Bill No. 2341, SD2, HD1

Repeals the prohibition on agricultural tourism activities in the absence of a bona fide farming operation. Repeals the prohibition on ordinances that allow overnight accommodations in agricultural districts. Authorizes agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county with a population greater than two hundred and fifty thousand people, but less than five hundred thousand people; provided that the county has adopted ordinances regulating agricultural tourism. Effective July 1, 2112. (SB2341 HD1)

Dear Chair Rep. Jerry L. Chang, Chair

I am writing in strong opposition to SB 2341. This will further degrade agriculture on Oahu and open the door to further abuse of the permitting and zoning system in relation to short-term rentals.

There is already great abuse of ag land on Oahu especially on the North Shore where it is sold and the owners make a token nod to ag by pretending to either grow a small group of fruit trees or allow a few horses to board. In return they get to build McMansions and pay well below what they should be paying in property taxes. This is just wrong.

By allowing short-term rentals on ag land, provides more reason for those who buy ag land to not use it for the purposes it was zoned for – why farm when easy money can be made with vacation rentals. Farming requires commitment and hard work – why bother when a cheap ad on the internet could reap thousands in one month. This is a huge disincentive to farm and will directly impact our food security and the long-term viability of our farm land.

Please do not pass this bill.

Malama aina,

Kathleen M. Pahinui
Waialua resident

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 29, 2012 8:15 PM
To: WLOtestimony
Cc: boydready@hawaii.rr.com
Subject: Testimony for SB2341 on 3/30/2012 11:00:00 AM

Categories: Red Category

Testimony for WLO 3/30/2012 11:00:00 AM SB2341

Conference room: 325
Testifier position: Oppose
Testifier will be present: No
Submitted by: Boyd Ready
Organization: Individual
E-mail: boydready@hawaii.rr.com
Submitted on: 3/29/2012

Comments:

This completely defeats Hawaii's comprehensive zoning and protection of agricultural lands, defeats the economic basis of successful agriculture, and spot zones most of the non-urban, non-preservation lands on all our islands as mini-resort without appropriate facilities, controls, or septic and health facilities. This is anathema to Hawaii as we know it. Do not give in to this, please. Why are you even considering such measures?

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 30, 2012 12:15 AM
To: WLOtestimony
Cc: raboffwilliam@me.com
Subject: Testimony for SB2341 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2341

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: William Raboff
Organization: Individual
E-mail: raboffwilliam@me.com
Submitted on: 3/30/2012

Comments:

Testimony supporting SB2341:

1. We are Haiku residents conducting limited farming and agricultural conservation and are in favor of the Zoning; Agricultural Tourism ordinance SB2341 SD2.
2. The ordinance supports employment for local Haiku residents limiting their need to travel to hotel districts for employment.
3. SB3241 SD2 helps farmers stay on their land with supplemental income generated by tourism. The ordinance will spread the economic benefits of tourism to the rural areas dramatically increasing the amount of small business/individual employment.
 - a. Specifically, SB3241 SD2 will not only increase the hours provided to our 4 existing part-time employees, but will add employment for 10 others involved in booking, support, cleaning and maintenance associated with agricultural tourism.
4. Maui County has a good track record for management of the vacation rental trade and can be trusted to properly regulate this industry.

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 30, 2012 7:59 AM
To: WLOtestimony
Cc: glennmartinez@hawaii.rr.com
Subject: Testimony for SB2341 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2341

Conference room: 325
Testifier position: Oppose
Testifier will be present: No
Submitted by: Glenn Martinez
Organization: Individual
E-mail: glennmartinez@hawaii.rr.com
Submitted on: 3/30/2012

Comments:
Hawaii Farmers Union United.....Strongly OPPOSE...

We supported allowing a farmer to have an accessory use and supplementing farm income with guest housing. But to remove any requirement for there to be a principal use of farming, will simply remove land from agriculture and make vacation rentals flourish!

This is an insane policy....for get AG zoning restrictions, just allow any development!

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 30, 2012 8:00 AM
To: WLOtestimony
Cc: michael@mcengineer.com
Subject: Testimony for SB2341 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2341

Conference room: 325
Testifier position: Oppose
Testifier will be present: No
Submitted by: Michael McNulty
Organization: Individual
E-mail: michael@mcengineer.com
Submitted on: 3/30/2012

Comments:

LATE TESTIMONY

har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 30, 2012 8:54 AM
To: WLOtestimony
Cc: kmcnulty@hawaii.rr.com
Subject: Testimony for SB2341 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2341

Conference room: 325
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kandis McNulty
Organization: Individual
E-mail: kmcnulty@hawaii.rr.com
Submitted on: 3/30/2012

Comments: