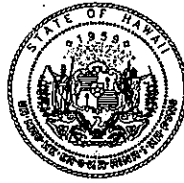


NEIL ABERCROMBIE  
Governor



RUSSELL S. KOKUBUN  
Chairperson, Board of Agriculture

SCOTT E. ENRIGHT  
Deputy to the Chairperson

State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

**LATE TESTIMONY**

TESTIMONY OF RUSSELL KOKUBUN  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEES ON AGRICULTURE AND ECONOMIC  
REVITALIZATION AND BUSINESS

Friday, March 16, 2012  
Room 312  
10:00 a.m.

SENATE BILL NO. 2341, SENATE DRAFT 2  
RELATING TO LAND USE

Chairpersons Tsuji and McKelvey and Members of the Committees:

Thank you for the opportunity to provide testimony on Senate Bill No. 2341, Senate Draft 2. The Department of Agriculture supports agricultural tourism as defined in Chapter 205 as a means for bona fide farmers to supplement the income derived from agricultural activities, however the Department of Agriculture respectfully opposes this measure as written.

Chapter 205 requires agricultural tourism activities to be "...accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations..." (Section 205-2(d)(11) and Section 205-4.5(a)(13)). The Legislature, in passing agricultural tourism legislation in 2006, specified in detail the content of the county ordinances and in addition to that, enabled the counties to require, as necessary, an environmental assessment as a condition to any proposed agricultural tourism use and activity (Section 205-5(b)). We believe the addition of overnight accommodations dramatically alters the concept of agricultural tourism as originally intended, and if not carefully regulated, may cause the agricultural tourism activity to be the primary, rather than secondary, use of the agricultural land. This would lead to an undesirable increase



in agricultural land value that reflects the potential for overnight accommodations rather than agricultural production.

LATE TESTIMONY

Senate Draft 2 deletes the provision in Section 205-5 (page 15, lines 7-9) that “agricultural tourism activities shall not be permissible in the absence of a bona fide farming operation.” This deletion will have the effect of gutting the key requirement for agricultural tourism activities that they be an accessory use on a working farm or farming operation (page 15, lines 2-7). **We strongly recommend** that the proposed deletion in Senate Draft 2 (page 15, lines 7-9) be withdrawn and the original language left as is.

This bill does not provide any guidance to the counties as to what constitutes permissible “overnight accommodations”. **We strongly recommend** the State provide guidance to the counties by clearly defining what constitutes acceptable overnight accommodations.

Finally, Senate Draft 2 reduces the length of stay to 21 days for any one stay within a county. According to the Standing Committee Report (No. 2675, dated March 2, 2012) of the Senate Committee on Tourism, the belief is that this would “ensure that month-to-month rentals are not inadvertently allowed. The question arises as to how this 21-day cap will be enforced.

We thank you for this opportunity to present our testimony on this important measure.



**LATE TESTIMONY**

**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE  
GOVERNOR  
RICHARD C. LIM  
DIRECTOR  
MARY ALICE EVANS  
DEPUTY DIRECTOR  
JESSE K. SOUKI  
DIRECTOR  
OFFICE OF PLANNING

**OFFICE OF PLANNING**

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

Telephone: (808) 587-2846  
Fax: (808) 587-2824

**To:** House Committee on Agriculture and Economic Revitalization and Business      **From:** Teri Hee, Secretary

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**Date:** March 16, 2012

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**Re:** SB2341SD2\_BED-OP\_03-16-12\_AGR-ERB      **CC:**

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<b>Testifier:</b>	Rodney Funakoshi, Planning Program Administrator, Office of Planning on behalf of Jesse K. Souki
<b>Committee:</b>	AGR/ERB
<b>Date/Time of Hrg.</b>	Friday, 3/16/12 @ 10:00 AM, Rm. 312
<b>Measure No.</b>	SB 2341, SD2 – Relating to Land Use
<b>No. of Copies to Committee:</b>	5 copies to Room 424



LATE TESTIMONY

**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE  
GOVERNOR  
RICHARD C. LIM  
DIRECTOR  
MARY ALICE EVANS  
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Telephone: (808) 587-2846  
Fax: (808) 587-2824

Statement of  
**JESSE K. SOUKI**  
Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON AGRICULTURE  
AND  
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION AND BUSINESS**

Friday, March 16, 2012  
10:00 AM  
State Capitol, Conference Room 312

in consideration of  
**SB 2341, SD 2  
RELATING TO LAND USE.**

Chairs Tsuji and McKelvey, Vice Chairs Hashem and Choy, and Members of the House Committees on Agriculture and Economic Revitalization and Business.

The Office of Planning (OP) opposes SB 2341 SD 2 in its current form. We support the concept of allowing farmers to provide overnight accommodations and agricultural tourism activities on their working farms. However, the proposed legislation weakens the existing requirement for agricultural tourism activities and short-term rentals to be conducted in conjunction with a working farm in order to be permitted as a use in the State Agricultural District.

**Short-term rentals.** We are concerned with the proposed amendments related to agricultural tourism activities, including short-term rentals, as a permissible use in the Agricultural District. Allowing short-term rentals that are not conducted on a working farm

conflicts with State agricultural policy pursuant to Article XI, Section 3 of the Hawai'i Constitution, Hawai'i Revised Statutes (HRS) Chapter 205, the State Land Use Law, and HRS Chapter 226, the Hawai'i State Plan. In addition, the provision to permit short-term rentals that are not associated with a working farm conflicts with the Administration's New Day Plan priorities to increase production and consumption of locally produced foods and increase food and energy security for the islands.

HRS Chapter 205 specifically limits the permissible uses in the Agricultural District to discourage the use of agricultural land by higher value, non-agricultural land uses. The only dwellings defined as permissible uses in the Agricultural District are farm dwellings that are located on and used in connection with a farm or a dwelling occupied by persons or families deriving income from agriculture, as defined in HRS Section 205-4.5(a)(4).

Allowing short-term or vacation rentals as a permissible use in the State Agricultural District would increase land values in the Agricultural District and make land less affordable for farmers. This would contribute significantly to the loss of agricultural lands to higher-value non-farm uses, and could adversely impact the viability of diversified agriculture in Hawai'i as well as food and energy security for Hawaii's people.

**Overnight accommodations on a working farm.** OP wholeheartedly supports the concept of allowing bona fide farming operations to provide overnight accommodations to supplement their farm revenues and/or labor needs by providing accommodations for farm tour participants or working farm stays. This is good for the farmer, and is consistent with State policies and efforts to promote agriculture, increase agricultural viability and markets for farmers, and maintain agricultural use of agricultural lands.

As written, the proposed amendments in SD 2 would create further problems in regulating transient vacation rentals in the Agricultural District. The prohibition of overnight accommodations as set forth in HRS § 205-5(b) was originally intended to safeguard against widespread permitting of non-agricultural transient vacation rentals in the Agricultural District. However, non-farm applicants are able to establish transient vacation rentals in the Agricultural District by obtaining a special permit pursuant to HRS § 205-6. Any legislation on this matter should provide certainty or a level playing field for farmers statewide as to their ability to conduct agricultural tourism activities or have overnight accommodations on their farms.

**Recommendation.** OP recommends the bill be amended or replaced with language to address the concerns raised in our testimony. In particular, we recommend:

1. Adoption of new language in HRS Chapter 205 defining bona fide agriculture or a bona fide farming operation, which must be actually occurring before agricultural tourism and overnight accommodations are allowed in the Agricultural District;
2. Amendment of the existing provisions in HRS Chapter 205 related to agricultural tourism and overnight accommodations to allow them as permissible uses outright in the Agricultural District, provided they coexist with a bona fide farming operation. The objective is to provide a minimum threshold from which the counties may then adopt ordinances governing development standards, additional threshold criteria, and operational restrictions as desired; and
3. Other housekeeping amendments to conform to the proposed bona fide farming operation definition.

We are preparing specific language to accomplish the above in consultation with the Department of Agriculture. We believe the language we are recommending will result in

legitimate farmers being able to tap agricultural tourism markets to supplement their farming incomes, and ensure that transient vacation rentals are adequately regulated.

Thank you for the opportunity to provide these comments.

hashem1 - Julie

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 10:09 PM  
**To:** AGRtestimony  
**Cc:** hbc@hanahawaii.net  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

**LATE TESTIMONY**

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Andrew Rayner  
Organization: Hana Business Council  
E-mail: [hbc@hanahawaii.net](mailto:hbc@hanahawaii.net)  
Submitted on: 3/15/2012

**Comments:**

We believe that there is no reason nowadays to stipulate a special permit for STRs on Ag land. The requirement meets no useful purpose, only serving to increase public employment and multiply the compliance hurdles for small business people. Moreover, STRs are often a vital source of supplemental income to smallholders and other small farmers, provide the opportunity for agricultural and eco tourism, and in our remote community provide much needed employment. Please get rid of this requirement.



hashem1 - Julie

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 6:16 PM  
**To:** AGRtestimony  
**Cc:** Cgraygray@hotmail.com  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Chuck Gray  
Organization: Individual  
E-mail: [Cgraygray@hotmail.com](mailto:Cgraygray@hotmail.com)  
Submitted on: 3/15/2012

**LATE TESTIMONY**

Comments:

This bill simplifies the permitting process. Speedier processing means faster tax ollections.

## **LATE TESTIMONY**

Dear Committee members

I am writing in support of the measure SB2341, to remove the prohibition of the use of ag land for vacation rentals. The use of such land would help spread out the benefits of the tourist industry to more rural areas of the island. This would help promote jobs for outlying areas and generate income for the county. It is hard to make a living as a farmer without the help of some supplemental income. The days of the small farmer making enough income, especially in Hana, having long since passed away. Today's reality requires additional sources of revenue to keep us on our land.

Thank you  
Richard Collins  
Resident of Hana  
PO Box 967  
Hana, HI 96713  
808 268-2692

## LATE TESTIMONY

To Senate Committee,

Am writing this letter in support of measure SB2341, which would remove the prohibition of the use of agricultural land for the use of vacation rentals. I strongly believe it is in the best economic interest of the Hana community to allow owners of farm land to offer the vacation rentals to Maui residence and tourists. As Hana is a rural area, this would allow persons to remain in the area and earn income. It would also supplement the income of rural farmers. Most of us are aware it is very hard to make a living on farming alone. Especially in Hana as it is hard to transport produce to the populated areas of the island. Vacation rentals bring in revenue to many of the businesses in Hana that benefit from sales to tourist. Gas, items bought from stores, produce bought at farm stands and food bought from vendors and visits to local attractions to name a few. Vacation rental owners supply income to many families in the area via house cleaning, yard and home maintenance. It is also true that a substantial amount would be paid quarterly to the State in taxes. Many vacation Rental owners wish to remain open and continue to support their families and supply income to many Hana Families. I see this measure is an important step in maintaining economic integrity in the community of Hana.

Sincerely

Marlie Collins  
Hana Resident

## hashem3 - Casey

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 4:39 PM  
**To:** AGRtestimony  
**Cc:** dreamers@maui.net  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

**LATE TESTIMONY**

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Sharyn Stone  
Organization: Individual  
E-mail: [dreamers@maui.net](mailto:dreamers@maui.net)  
Submitted on: 3/15/2012

### Comments:

Aloha, my name is Sharyn Stone and I live on ag land in Maui and own a permitted Bed and Breakfast. In six months, I'm up for my renewal. Right now, I have to start preparing my paperwork because as well as having to go through the County permit process, I also have to go through yet ANOTHER Special Use Permit hearing, even though my Bed and Breakfast has been operating peacefully and with no complaints for the last three years. This is a giant waste of my time, County time and the State's time. This is NO time to be frivolous with public money.

Bed and Breakfasts and Vacation Rentals are an ideal complement to agricultural land, in controlled and regulated numbers. There is ample parking and no noise or nuisance factors involved because ag lots are usually large. Impacts here on ag land are far less than in built up residential districts where lots are smaller, boundaries are closer and parking more challenging.

By the State's making this activity a permitted use, the Counties would then be free to make their own decisions whether or not they want these activities and, if so, in what numbers and under what local conditions.

The Bed and Breakfast and Vacation Rental activities also help bona fide farmers stay on the land. Income derived from these activities enables farmers to stay at home and work the land, buy fertilizers, pay for extra help etc. Otherwise he or she would have little time to work the land as he or she would be driving into the nearest town each day for full time work.

In Maui, we have also realized the importance of the economic trickle down effect generated by the Bed and Breakfast and Vacation rental industry. Tourists spend money in the smaller towns and rural communities, thus encouraging new small businesses to flourish, often creating extra jobs. People can live and work in within their own communities, so there are fewer people on the roads, less pollution, more time with families, and a healthier life style.

Maui has worked very hard for ten years to provide a workable Bed and Breakfast and Vacation Rental ordinance. We have a very good track record on the vacation rental trade and have analyzed it in detail. For us, the vacation rental industry brings in approximately \$318 million dollars a year (see RAM study). That money stays in our community. That money stays local. Please support SB2341.

**hashem3 - Casey**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 4:16 PM  
**To:** AGRtestimony  
**Cc:** ddantes@compuserve.com  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

**LATE TESTIMONY**

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: David Dantes, M.D.  
Organization: Individual  
E-mail: [ddantes@compuserve.com](mailto:ddantes@compuserve.com)  
Submitted on: 3/15/2012

**Comments:**

Having personally endured the duplicate process of applying for a County B&B permit and a State Special permit for our small B&B on agricultural-zoned land, I urge you to eliminate the unnecessary and costly requirement for dual permits. Please leave it to the discretion of each County to oversee the permitting of home-based visitor accommodations. Thank you for your consideration.

**hashem3 - Casey**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 4:11 PM  
**To:** AGRtestimony  
**Cc:** daunna@lava.net  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

**LATE TESTIMONY**

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: andrew charles yanoviak, aia,apa,csi  
Organization: Individual  
E-mail: [daunna@lava.net](mailto:daunna@lava.net)  
Submitted on: 3/15/2012

**Comments:**

State should Not be Involved in County Planning, Zoning and Permitting Matters! Former City Councilpersons in the Senate should be aware of the Dangers of such Regulatory Intermingling! I'm Surprised to Learn of the Individuals Involved in such Lame Proposals!

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Robin Gaffney  
Organization: Individual  
E-mail: [razzle@maui.net](mailto:razzle@maui.net)  
Submitted on: 3/15/2012

**LATE TESTIMONY**

Comments:

Aloha Hawaii State Representatives,

I live in Hana, Maui and feel that proposed bill SB2341 would be very beneficial to small rural areas like ours' where there are few ways to make a living and most of the land out here is zoned agricultural. We need ways to earn a living and having small, quiet vacation rentals can be a winning scenario for everyone. Our visitors want to stay in private, quiet accommodations and ag land is perfect for that. The properties are large enough that neighbors are not bothered and parking is not a problem. If properly managed, there is no negative impact to tourism on ag zoned property. Also, there are numerous ag zoned properties are not conducive to farming or pasture. They are too steep, too rocky, too full of gulches that run in a storm. Many are surrounded by State Forest that is seeding the ag properties with miconia and African Tulip and tibouchina which is a daunting task to keep at bay. I hope you will pass bill SB2341 and help many people in Hana find a way to make a living and stay on their land. Mahalo, Robin Gaffney

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 4:44 PM  
**To:** AGRtestimony  
**Cc:** caryritt@gmail.com  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

**LATE TESTIMONY**

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: CARY RITT  
Organization: Individual  
E-mail: [caryritt@gmail.com](mailto:caryritt@gmail.com)  
Submitted on: 3/15/2012

Comments:

1. If a County creates an ordinance to allow this use, this legislation would be beneficial for them.
2. Helps bona fide farmers stay on the land and in agriculture, by providing supplemental income.
3. It would be a boon to rural farming communities, spreading the economic benefits of tourism to the rural areas, creating jobs for small business service providers. People can live and work within their community.
4. Counties can still regulate how much of this use they allow.



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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 4:50 PM  
**To:** AGRtestimony  
**Cc:** tradewds@maui.net  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

**LATE TESTIMONY**

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Beverly Livingston, R.N.  
Organization: Individual  
E-mail: [tradewds@maui.net](mailto:tradewds@maui.net)  
Submitted on: 3/15/2012

**Comments:**

Passing this legislation will return "home rule" to the Counties regarding use of agricultural lands. Please encourage agricultural tourism by eliminating the burden of a duplicate permit process.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 5:10 PM  
**To:** AGRtestimony  
**Cc:** tcroly@maui.net  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

**LATE TESTIMONY**

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Thomas Croly  
Organization: Individual  
E-mail: [tcroly@maui.net](mailto:tcroly@maui.net)  
Submitted on: 3/15/2012

**Comments:**

Allowing short term accommodations in the Ag district is a positive step to support family farms and help spread tourism dollars around the island.

Maui County presently regulates Bed and Breakfasts and non owner occupied short term rentals through a permitting process. Presently there is a second, redundant, permit required by the State. All properties that have passed the County permit process have also passed the state requirement.

Except that the state requirement carries with it an appearance before the planning commission and this steps adds much cost and complexity to the permit process. this cost and complexity is one reason that some people are reluctant to attempt to get a permit. This measure can help streamline this permitting process and will help make it easier for property owners to become compliant with state and county laws.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 5:12 PM  
**To:** AGRtestimony  
**Cc:** randyleavitt@gmail.com  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

LATE TESTIMONY

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Randy Leavitt  
Organization: Individual  
E-mail: [randyleavitt@gmail.com](mailto:randyleavitt@gmail.com)  
Submitted on: 3/15/2012

Comments:

SB 2341 is very important legislation for Hawaii. It would allow each County to control legislation that is best suited for their needs. Maui County, in particular, has a very good track record of implementing well considered legislation of this sort.

It would bring much needed revenue to rural areas which would help provide for and support local jobs. Many tourists don't like a resort based vacation and prefer the quiet relaxation of the countryside. This legislation will bring more visitors to Hawaii. These visitors will support local restaurants and shops, thereby helping the economy as well. Local tradespeople will also be employed to manage, garden, and provide other services, creating needed jobs.

Also, by keeping local rural jobs, it would help people to be able to work near their homes, rather than commuting to other parts of the island for work.

Furthermore, Farming is not a lucrative business. This ordinance will help keep farmers farming the land by giving them well deserved supplemental income.

This Bill is a win for everyone.

hashem1 - Julie

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 11:03 PM  
**To:** AGRtestimony  
**Cc:** millera012@hawaii.rr.com  
**Subject:** Testimony for SB2341 on 3/16/2012 10:00:00 AM

**LATE TESTIMONY**

Testimony for AGR/ERB 3/16/2012 10:00:00 AM SB2341

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Antya Miller  
Organization: Individual  
E-mail: [millera012@hawaii.rr.com](mailto:millera012@hawaii.rr.com)  
Submitted on: 3/15/2012

Comments:  
This will encourage non-ag activities on ag lands. I oppose this legislation.  
Antya Miller  
59-661 Alapio Rd.  
Haleiwa, HI 96712



**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](mailto:info@hfbf.org)  
[www.hfbf.org](http://www.hfbf.org)

**LATE TESTIMONY**  
**LATE TESTIMONY**

**LATE TESTIMONY**

March 16, 2012

HEARING BEFORE THE  
HOUSE COMMITTEE ON AGRICULTURE  
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION

TESTIMONY ON SB 2341, SD2  
RELATING TO LAND USE

Room 312  
10:00 PM

Chair Tsuji, Chair McKelvey, and Members of the Committees:

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 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, HFBF 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.** The last Committee Report justifies the deletion by stating,

“language is being repealed because it is unnecessary, as the statute requires each county to adopt ordinances setting forth procedures and requirements for the review and permitting of agricultural tourism uses and activities as an accessory use on a working farm, or farming operation as defined in section 165-2, Hawaii Revised Statutes.”

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.





LATE TESTIMONY

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THE HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON AGRICULTURE  
Representative Clift Tsuji, Chair  
Representative Mark J. Hashem, Vice Chair

COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS  
Rep. Angus L.K. McKelvey, Chair  
Rep. Isaac W. Choy, Vice Chair

DATE: Friday, March 16, 2012  
TIME: 10:00 a.m.  
PLACE: Conference Room 312  
State Capitol  
415 South Beretania Street

**RE: Testimony in strong support of SB 2341 SD2 RELATING TO LAND USE**

Aloha Chairs Tsuji and McKelvey, Vice Chairs Hashem and Choy, and Committee Members:

The Hawaii Aquaculture and Aquaponics Association (HAAA), representing Hawaii's aquaculture and aquaponics industry statewide, strongly supports the intent of SB 2341 SD2. This bill 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; provided that a county has adopted ordinances regulating agricultural tourism.

Agricultural tourism provides the opportunity for farm or ranch income diversification, for agricultural students, potential future farmers or ranchers, and the general public to gain first-hand, hands-on exposure to farm life and farm production. It also helps to reconnect the general public with the agricultural community and to provides them with a better understanding of where their food comes from and the hard work and care involved in agriculture.

The HAAA therefore respectfully requests the House Committee on Agriculture to pass SB2341 SD2 for the benefit of Hawaii's farmers and ranchers who may wish to consider this option for farm or ranch income diversification, and for the agricultural education of the general public.

Thank you for the opportunity to comment.

Ronald P. Weidenbach  
HAAA President