

SB 2341

Late

Testimony



State of Hawaii
DEPARTMENT OF AGRICULTURE
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LATE

TESTIMONY OF RUSSELL KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND WATER, LAND,
AND HOUSING
Thursday, February 2, 2011
Room 229
2:45 P.M.

SENATE BILL NO. 2341
RELATING TO LAND USE

Chairpersons Nishihara and Dela Cruz and Members of the Committees:

Thank you for this opportunity to provide testimony on SB 2341. The Department of Agriculture opposes this measure that amends Sections 205-2, to allow unspecified activities and uses for short term rentals of less than 30 days duration as permissible uses within the Agricultural District, amends Section 205-4.5 to allow short-term rentals of not more than 30 days duration, and Section 205-5 an 30-days duration, and amends Section 205-5 that would allow agricultural tourism and overnight accommodations without a related bona fide farming operation.

If passed, this measure will cause the proliferation of vacation rentals and related uses and activities that are presently not permissible within the Agricultural District. The special permit is the appropriate means to consider such uses if they are not already prohibited by county ordinance. If this measure passes, it will cause agricultural land values to rise, not because of their agricultural utility but because of their value for vacation rental use. Inflated land prices in turn will make entry into farming and continuation of existing farms difficult and less attractive. Nuisance complaints about



agricultural activities (noise, dust, odors) by non-agricultural visitors in overnight accommodations are likely to increase.

The proposed amendment to allow agricultural tourism and overnight accommodations to occur without the presence of a bona fide farming operation will severely erode the purpose and intent of the agricultural tourism provision as found in Section 205-5. An agricultural use or activity is the fundamental requirement for the majority of the uses and activities permitted in Chapter 205. For example, farm dwellings, processing plants, agricultural-energy facilities, plantation community subdivisions and so forth require a direct relationship to an agricultural use or activity. Establishing an exception for agricultural tourism and overnight accommodations is not sound planning and will bring harm to Hawaii's bona fide agricultural farms. We respectfully request this measure be held in committee.

Thank you, again, for the opportunity to testify on this measure.

LATE



Hawaii Farm Bureau
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FEBRUARY 2, 2012

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE
SENATE COMMITTEE ON WATER, LAND AND HOUSING

TESTIMONY ON SB 2341
RELATING TO LAND USE

Room 229
2:45 PM

Chair Nishihara, Chair Dela Cruz 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 and provides the following comments.

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 (13) specifically allowing short-term rentals should not be required.

Similarly, 205-4.5(a)(13) does not prohibit overnight dwellings so the proposed section (20) is not required.

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.

We do not agree with the deletion of the requirement of bona fide farming operations for conducting agritourism activities in 205-5. These types of activities are called agritainment in other areas of the country and are not considered agriculture. Allowing such activities on agricultural lands has the potential to result in conflicts and negative impacts on farming operations.

HFBF respectfully suggests that the rural district be considered for overnight accommodations without agriculture. In the rural district agriculture is a choice. We strongly believe that agriculture must be the priority in the agricultural district that is provided benefits such as reduced property taxes, water rates and other tax breaks in exchange for the production of agricultural products. This priority must not be lost.

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 addition of overnight accommodations in 205-2(d)(11) and 205-4.5(a)(13) independent of requiring agritourism ordinance by the counties.
4. removing proposed deletion of requiring bona fide agricultural operations associated with agritourism.
5. encouraging use of the rural designation for overnight accommodations not associated with agricultural activity.

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

Committee of Agriculture, Chair Senator Clarence K. Nishihara and Vice Chair Gilbert Kahele

I am Glenn Martinez, President of Hawaii Farmers Union United and Board of Director of Hawaii Aquaculture and Aquaponics Association and owner of Olomana Gardens, Certified Organic Farm.

Please accept my written testimony and I do intend to be present to testify in person at the hearing on Feb 2, 2012.

SB 2341 Relating to Land Use..SUPPORT with suggested amendments. We feel that short term rentals should be restricted to approved and accepted programs for farm interns such as the International and American WWOOFer program (World Wide Opportunities on Organic Farms), and in State programs via Universities and educational programs that sponsor agriculture interns. Failure to have this requirement puts the farms in a position to engage in vacation rentals of less than 30 days.

We recommend removing the 30 day limit and making it 180 days. Many of the international WWOOF programs require a minimum of 90 days to qualify as true educational internships. Quite frankly it takes 90 to 180 days to train an intern to a level of usefulness.

We also recommend that the wording requiring that Ag Education or Tourism be restricted to counties is draconian. Counties are dragging their feet and not passing regulations, this killing the intended application of this bill. Better that wording be added that "in absence of any county having regulations a Ag tourism or educational program can proceed to operate within the guidelines of this bill.

We recommend that Ag Education and Tourism activities be EXEMPTED from requirements of Chapter 343. and have "Each county may require an environmental assessment under chapter 343 as a condition to any agricultural tourism use and activity. " This should be worded to state that counties CANNOT require Chapter 343 compliance. Chapter 343 triggers a COMPLETE survey of ALL uses of the entire property, not just the for the activity or area that trigger the need environmental assessment. Historically Chapter 343