

**NEIL ABERCROMBIE**  
Governor



**SCOTT E. ENRIGHT**  
Chairperson, Board of Agriculture

**KEN H. KAKESAKO**  
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

**TESTIMONY OF SCOTT E. ENRIGHT  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON AGRICULTURE  
THURSDAY, MARCH 13, 2014  
9:30 A.M.  
Room 312**

**SENATE BILL NO. 2078, SENATE DRAFT 1  
RELATING TO CONDOMINIUMS**

Chairperson Wooley and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2078, Senate Draft 1. The Department of Agriculture supports this measure that clarifies that Section 205-4.6, Hawaii Revised Statutes does not allow private restrictions to be placed on agricultural uses and activities on agricultural condominium properties. Since the enactment of this law in 2003, we have received complaints from occupants of agricultural condominiums seeking to grow crops but facing restrictions on their agricultural activities, including limitations on the days and times they may use farming equipment, limitations on the height and type of vegetation used for windbreaks, and restrictions on crop types. The Department of Agriculture strongly supports and promotes meaningful agricultural production on all agricultural lands, particularly within agricultural subdivisions and condominiums.

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





P.O. Box 253, Kunia, Hawai'i 96759  
Phone: (808) 848-2074; Fax: (808) 848-1921  
e-mail [info@hfbf.org](mailto:info@hfbf.org); [www.hfbf.org](http://www.hfbf.org)

March 13, 2014

HEARING BEFORE THE  
HOUSE COMMITTEE ON AGRICULTURE

**TESTIMONY ON SB 2078, SD1  
RELATING TO CONDOMINIUMS**

Room 312  
9:30 AM

Chair Wooley, Vice Chair Onishi, and Members of the Committee:

I am Christopher Manfredi, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,832 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 supports the intent of this bill to clarify that private restrictions on agricultural uses and activities on agricultural lands are inappropriate and should not be allowed.

We agree that, for example, an agricultural land owner wishing to convert his property to a condominium status under a condominium property regime should not be able to restrict current or future agricultural uses of that property.

Local agriculture should be supported and encouraged. This bill appears to provide assurances that under these specific circumstances, agricultural land will not be subject to unreasonable restrictions that would inhibit that purpose.

Thank you for the opportunity to comment on this measure.



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

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MAILING ADDRESS

PO. Box23404  
Honolulu  
Hawai'i 96823

March 11, 2014

TO: Chair Jessica Wooley, Vice Chair Richard Onishi  
Members of the House Committee on Agriculture

FROM: John Bickel, President  
Americans for Democratic Action/Hawai'i

RE: Support and Comments on SB 2078 Relating to Condominiums

Americans for Democratic Action/Hawaii support SB 2078 SD 1 as it eliminates a loophole in the land use laws. Developers should not use the condominium provision to subvert restrictions on development. Sustainability seems to have a consensus of favorability. To make this concept a reality, we must protect our agricultural lands for without food we are not sustainable. Please give this bill your favorable consideration.

March 13, 2014

**The Honorable Jessica Wooley, Chair**  
House Committee on Agriculture  
State Capitol, Room 312  
Honolulu, Hawaii 96813

**RE: S.B. 2078, S.D.1, Relating to Condominiums**

**HEARING: Thursday, March 13, 2014 at 9:30 a.m.**

Aloha Chair Wooley, Vice Chair Onishi, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,300 members. HAR **supports the intent** of S.B. 2078, S.D.1, which clarifies the applicability of section 205-4.6, Hawaii Revised Statutes ("HRS"), relating to private restrictions on agricultural uses and activities, to condominiums projects on lands classified as agricultural.

This measure provides for an owner to farm on their property and accomplishes that by amending HRS §205-4.6 to protect uses and activities on agricultural lands through prohibiting any restrictions by private agreement contained in any condominium declaration, map, bylaws, and other documents.

HAR further believes that consumers may be better informed by disclosing in the condominium developer's public report that there are no restrictions or prohibitions disallowing a potential purchaser from engaging in farming as defined in HRS §205.

Mahalo for the opportunity to testify.

**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON AGRICULTURE

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2014

Thursday, March 13, 2014  
9:30 a.m.

**TESTIMONY ON SENATE BILL NO. 2078, S.D. 1, RELATING TO CONDOMINIUMS.**

TO THE HONORABLE JESSICA WOOLEY, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Scott Sherley and I am the Condominium Review Committee Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission appreciates the opportunity to present comments on Senate Bill No. 2078, S.D. 1, Relating to Condominiums. House Bill No. 2017 is the companion bill to Senate Bill No. 2078, S.D. 1, and except for a technical non-substantive change, is substantially similar to Senate Bill No. 2078, S.D. 1. House Bill No. 2017 was heard by this Committee on January 27, 2014 and deferred. The Commission prefers Senate Bill No. 2078, S.D. 1.

Senate Bill No. 2078, S.D. 1, clarifies the applicability of section 205-4.6, HRS, relating to private restrictions on agricultural uses and activities, to condominium projects on lands classified as agricultural. The Commission supports Senate Bill No. 2078, S.D. 1, for the following reasons.

Condominiums may be created on lands located in an agricultural classified district. Pursuant to the condominium law, section 514B-84 (b) (1), HRS, a developer creating such a condominium shall disclose to prospective purchasers among other information as follows:



(1) Whether the structures and uses anticipated by the developer's promotional plan for the project are in compliance with all applicable state and county land use laws;

(2) Whether the structures and uses anticipated by the developer's promotional plan for the project are in compliance with all applicable county real property tax laws, and the penalties for noncompliance; and

(3) Other disclosures and information that the commission may require.

Such disclosures are apparently intended to provide prospective purchasers relevant information relating to whether the prospective purchaser's consumer expectations may be met by purchasing a unit.

Specifically, Senate Bill No. 2078, S.D. 1, appears to provide some additional consumer protective measures towards these ends as follows:

- Requires a developer to include in a declaration creating a new or converted condominium property regime that there are no restrictions or prohibitions disallowing any prospective purchaser from engaging in agricultural uses and activities as defined in sections 205-2 (d) and 205-4.5 (a), HRS;
- Requires a developer to obtain a verified statement signed by an appropriate county official, that the project as described and set forth in the project's declaration, condominium map, bylaws, and house rules does not include any restrictions limiting or prohibiting agricultural uses or activities, in compliance with section 205-4.6, HRS;

- Requires a developer to submit to the Commission as part of the developer's application to register the project the verified statement;
- Allows the Commission to decline to register an agricultural condominium project if the developer does not submit the required statement;
- Allows the Commission to decline to issue an effective date for a developer prepared public report to be used to sell units in the project where the developer has not submitted the required county statement;
- Permits the Commission after notice and a hearing to terminate the registration of a condominium project after a determination that a developer, or any officer, principal, or affiliate of a developer has failed to conform or comply with county zoning and development ordinances as required by chapter 205, including section 205-4.6 where applicable, and section 514B-5, HRS.

For the reasons discussed, the Commission supports Senate Bill No. 2078, S.D. 1. Thank you for the opportunity to provide testimony.