

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON WATER & LAND

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2014

Monday, March 17, 2014
9:30 a.m.

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

TO THE HONORABLE CINDY EVANS, 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. Senate Bill No. 2078, S.D. 1. was heard by the House Agriculture Committee on March 13, 2014, and was passed by the Committee unamended. 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.

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 WATER AND LAND
MONDAY, MARCH 17, 2014
9:30 A.M.
Room 325**

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

Chairperson Evans 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; www.hfbf.org

March 17, 2014

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER & LAND

TESTIMONY ON SB 2078, SD1
RELATING TO CONDOMINIUMS

Room 325
9:30 AM

Aloha Chair Evans, Vice Chair Lowen, 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.