

# SB2351 SD1

**Measure Title:** RELATING TO AGRICULTURAL LAND.

**Report Title:** Condominium Property Regime; Agricultural Land

**Description:** Prohibits the creation of a condominium property regime on agricultural land 25 acres or greater. Prohibits a condominium property regime on agricultural land from being amended to allow a residential dwelling. Prohibits the subdivision of agricultural land 25 acres or greater for the purpose of creating a condominium property regime. Prohibits any residential project created as a condominium under chapter 514B, HRS, or a planned community association under chapter 421J, HRS, in class A or B agricultural lands. (SD1)

**Companion:**

**Package:** None

**Current Referral:** WLA, CPH

**Introducer(s):** L. THIELEN, GABBARD, RIVIERE, Dela Cruz, Galuteria, Ihara, Kim, Nishihara, Slom, Taniguchi

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



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

SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson

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

**BEFORE THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,  
AND HEALTH**

February 26, 2016  
10:30 A.M.  
CONFERENCE ROOM 229

**SENATE BILL NO. 2351 SD1  
RELATING TO AGRICULTURAL LAND**

Chairperson Baker and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2351 SD1 that seeks to amend sections 514B-31 (creation of condominiums), and 205-4.5 (permissible uses within the Agricultural Districts) to prohibit:

1. the creation of a residential project via condominium property regime (CPR) or a planned community association on a parcel of agricultural land 25 or more acres in size,
2. CPRs on any parcel of agricultural land from being later amended to allow residential dwellings, and
3. the subdivision of parcels of agricultural land 25 or more acres in size for the purpose of creating a CPR.

The Department of Agriculture offers comments.

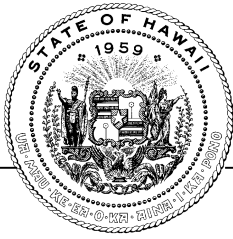
CPRs are an alternative to the subdivision of a parcel of land. When applied to agricultural land, it can theoretically result in a larger contiguous area available for farming than under a subdivision. However, without sufficient controls, monitoring, and



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enforcement, CPRs have resulted in the establishment of “gentlemen farms” where “farm dwellings” are constructed but are not connected to a farm or where agricultural activity provides income to the family occupying the dwelling.

Thank you for the opportunity to submit our testimony.



**OFFICE OF PLANNING  
STATE OF HAWAII**

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  
Web: <http://planning.hawaii.gov/>

**DAVID Y. IGE**  
GOVERNOR

**LEO R. ASUNCION**  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**SENATE COMMITTEE ON COMMERCE,  
CONSUMER PROTECTION, AND HEALTH**

Friday, February 26, 2016  
10:30 AM  
State Capitol, Conference Room 229

in consideration of  
**SB 2351, SD 1**  
**RELATING TO AGRICULTURAL LAND.**

Chair Baker, Vice Chair Kidani, and Members of the Senate Committee on Commerce, Consumer Protection, and Health.

The Office of Planning (OP) has concerns with SB 2351, SD 1 in its current form, and offers these comments. SB 2351, SD 1 would: (1) amend Hawaii Revised Statutes (HRS) § 514B-31 to prohibit the creation of a condominium property regime (CPR) on any parcel of agricultural land consisting of 25 or more acres; (2) prohibit a change in an established CPR to allow for a residential dwelling; and (3) prohibit the creation of a residential project under a CPR or a planned community association under HRS Chapter 421J on lands in the State Agricultural District with an “A” or “B” Land Study Bureau (LSB) productivity rating.

OP fully supports the intent of discouraging the fragmentation and conversion of Hawaii’s agricultural lands. However, we are concerned that prohibiting the use of CPRs on agricultural land would preclude the legitimate use of this mechanism by bona fide farmers, farm cooperatives, or other farm entities to provide farmer/lessees affordable access to agricultural land. In addition, we are concerned that new language prohibiting residential projects on “A”

and “B”-rated lands would exclude similar protection from higher-value non-agricultural uses for other land in the State Agricultural District rated “C”, “D”, or “E”, upwards of 1.5 million acres.

This measure would prohibit the use of CPRs on agricultural land to combat the development of non-farm residences, but at the expense of farmers seeking access to agricultural land. The problem is not the CPR, but the residential use of the land.

Provisions in HRS Chapter 514B, such as HRS § 514B-5, require conformance of CPRs with county land use laws. If additional measures are needed to discourage non-agricultural use of CPRs, rather than eliminate the tool for bona fide farmers, the measure should focus on provisions that would curtail non-farm residential uses on agricultural land.

Toward this end, OP offers the following comments for your consideration.

1. HRS Chapter 514B amendments
  - (a) Define “agricultural land” as land in the State Agricultural Land Use District;
  - (b) Amend the language on page 3 to either prohibit residences in CPRs when created or amended on lands in the State Agricultural District, or limit residential use in any CPR in the State Agricultural District to the maximum number of farm dwellings allowable by the underlying county zoning of the original lot of record (The number of farm dwellings allowed outright per lot of record is typically two, but varies based on county ordinances.); and

(c) Amend HRS § 514B-32(a) to require that the CPR declaration described in this subsection include the limitation on residential uses as set out in the amended HRS § 514B-31.

2. HRS Chapter 205 amendment. Placement of this amendment at the end of HRS § 205-2(d) would ensure uniform protection from non-agricultural residential projects on all lands in the State Agricultural District.

Thank you for the opportunity to testify on this measure.



**SB2351**  
**RELATING TO AGRICULTURAL LAND**

Senate Committee on Commerce, Consumer Protection, and Health

February 26, 2016

10:30 a.m.

Room 229

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB2351 SD1, which prohibits condominiums or planned community associations on land study bureau (LSB) class A and B lands; the creation of condominium property regimes (CPR) on agricultural lands of twenty-five acres or more; amending CPRs on agricultural lands to allow for residential dwellings; or subdividing agricultural lands over twenty-five acres for the purpose of creating a CPR.

Preventing the irrevocable loss of agricultural land, particularly the loss of land to residential development unassociated or only superficially associated with agricultural production, is clearly an issue of statewide concern. A recent report from the Department of Agriculture (DOA) highlights the need to proactively preserve Hawai‘i’s dwindling agricultural land base.<sup>1</sup> DOA reports that between 1980 and 2015, there was a loss of almost 200,000 acres of land in active crop use and a loss of more than 300,000 acres of pasture land.<sup>2</sup> Such loss of agricultural land for agricultural uses may impact land prices, local farmers and food production, and the state’s economy, as discussed below. **The continued loss of agricultural land threatens the future of agriculture in Hawai‘i, and undermines the state’s sustainability efforts.**

Farming in Hawai‘i depends on farmers having access to affordable land.<sup>3</sup> However, the acquisition of agricultural land by developers and speculators primarily for residential uses significantly increases the cost of agricultural land in general, often beyond what bona fide farmers can afford. As the DOA recently stated, “[p]roductive farm areas . . . are undercut by increased real estate prices and by new owners without agricultural intentions.”<sup>4</sup> By preventing new, non-agricultural producing land owners from creating CPRs on LSB class A and B lands or on agricultural lands twenty-five acres or more, this bill may help to deter developers and speculators from acquiring land for the express purpose of holding land for later residential use. In turn, more agricultural land may remain available and affordable for agricultural producers.

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<sup>1</sup> HAWAI‘I DEPARTMENT OF AGRICULTURE (DOA), STATEWIDE AGRICULTURAL LAND USE BASELINE 2015 (2016), available at <http://hdoa.hawaii.gov/wp-content/uploads/2016/02/StateAgLandUseBaseline2015.pdf>.

<sup>2</sup> *Id.* at 4.

<sup>3</sup> According to DOA, “[t]he sale of agricultural lands at prices that exceed the farmers’ ability to farm economically is one of the strongest forces working against sustained agriculture in Hawai‘i.” *Id.* at 19.

<sup>4</sup> *Id.* at 6.

Notably, by helping to prevent large tracts of agricultural land from being used for non-agricultural purposes, this bill furthers Hawai'i's local food production goals. The Legislature, the counties, and OHA have all endorsed the Aloha+ Challenge commitment to double local food production by 2030.<sup>5</sup> Local food production is clearly dependent on a viable land base on which agricultural producers can grow food. Removing the incentive to acquire agricultural lands for non-agricultural purposes will help keep our agricultural lands in agriculture, and help to ensure that agricultural lands and leases are available and affordable for local food producers.

Increasing local food production in Hawai'i may also have a substantial impact on Hawai'i's economy. According to 2008 estimates, if we replaced just 10% of our imported food with locally produced food, the economy-wide impact would be "\$188 million in sales, \$47 million in earnings, \$6 million in state tax revenues, and more than 2,300 jobs."<sup>6</sup> By helping to protect and promote bona fide agricultural uses of our agricultural lands, this measure may represent an important step towards realizing the significant economic benefits of local food production.

OHA acknowledges that at the previous hearing for SB2351, the Office of Planning (OP) raised concerns that this bill may, in certain instances, limit access to agricultural land, assumedly for smaller scale producers. If this is indeed the case, then OHA recommends that the bill be amended to more specifically target the residential use of CPRs on agricultural land, as recommended by OP.

Lastly, while OHA appreciates this bill's potential to help protect Hawai'i's agricultural land base, OHA notes that there may be other barriers to the conservation and protection of our agricultural lands. For example, one significant barrier is the inadequate enforcement of uses within the agricultural district. Accordingly, OHA urges the Legislature to continue exploring ways to ensure that our agricultural lands are available for bona fide agricultural uses.

Mahalo for the opportunity to testify on this measure.

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<sup>5</sup> "Local Food: At least double local food production – 20 to 30 percent of food consumed is grown locally." The Aloha+ Challenge: A Culture of Sustainability, Declaration of Commitment.

<sup>6</sup> COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES, ECONOMIC IMPACTS OF INCREASING HAWAII'S FOOD SELF-SUFFICIENCY 6 (2008), available at <http://hdoa.hawaii.gov/add/files/2012/12/FoodSSReport.pdf>.



**Bernard P. Carvalho, Jr.**  
Mayor



**Michael A. Dahilig**  
Director of Planning

**Nadine K. Nakamura**  
Managing Director

**Ka'āina S. Hull**  
Deputy Director of Planning

**PLANNING DEPARTMENT**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite A-473, Līhu'e, Hawai'i 96766

**Testimony before the Senate Committees on Commerce, Consumer Protection, and Health**  
**SENATE BILL 2351 SD1 Relating to Agricultural Lands**

February 26, 2016 at 10:30 am  
Senate Conference Room 229

By Michael A. Dahilig  
Director of Planning, County of Kaua'i

Chair Baker, Vice Chair Kidani, and Honorable Members of the Committee:

The Kauai Planning Department **supports** the intent of SB2351 in that it seeks to prevent the wholesale subdivision of larger agricultural lots through the use of the condominium property regime (CPR) process.

The limitation on the use of CPR process to agricultural lands of 25 acres or more may be effective in halting subdivision of large and medium size parcels into lots too small for agricultural purposes. Allowing CPR of lots of this size allows the development of "gentleman farm subdivisions" which are essentially low density, but sometimes large subdivisions.

Furthermore, unlike other developments, these agricultural CPR subdivisions are not required to contribute to State and county infrastructure to handle increased impacts and other issues.

In sum, the current use of the CPR process to create agricultural subdivisions allows for significant abuse, costs to the State and counties, and limits the public of its right to have impacts reviewed and mitigated.

Thank you for the opportunity to testify on this matter.

TEL (808) 241-4050 FAX (808) 241-6699



LAND USE RESEARCH  
FOUNDATION OF HAWAII

1100 Alakea Street, Suite 408  
Honolulu, Hawaii 96813  
(808) 521-4717  
[www.lurf.org](http://www.lurf.org)

February 24, 2016

Senator Rosalyn H. Baker, Chair  
Senator Michelle N. Kidani, Vice Chair  
Senate Committee on Commerce,  
Consumer Protection, and Health

**Strong Opposition to SB 2351 Relating to Agricultural Land. (Prohibits the creation of a condominium property regime on agricultural land 25 acres or greater. Prohibits a condominium property regime on agricultural land from being amended to allow a residential dwelling. Prohibits the subdivision of agricultural land 25 acres or greater for the purpose of creating a condominium property regime. Prohibits any residential project created as a condominium under chapter 514B, HRS, or a planned community association under chapter 421J, HRS, in class A or B agricultural lands.)**

**CPH Hearing: Friday, February 26, 2016, 10:30 a.m., in Conf. Rm. 229**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF and its members strongly support the use of agricultural lands for agricultural purposes and the preservation of large tracts of parcels of agricultural lands. LURF has worked with the Hawaii Farm Bureau Federation (Hawaii Farm Bureau), the Department of Agriculture (DOA) and other agricultural stakeholders to pass the Important Agricultural Lands (IAL) laws in 2005 and 2008. The purpose of the IAL law is to provide agricultural incentive programs to promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of important agricultural lands for agricultural use. To date, LURF members have designated more than 53,942 acres as IAL; and LURF has been working with the Hawaii Farm Bureau, agricultural stakeholders, and the counties to implement county IAL incentives and the county IAL designation process.

**SB 2350.** This bill prohibits the creation of a condominium property regime (CPR) on agricultural land 25 acres or greater; prohibits a CPR on agricultural land from being amended to allow a residential dwelling; prohibits the subdivision of agricultural land 25 acres or greater for the purpose of creating a CPR; and prohibits any residential project created as a condominium under chapter 514B, HRS, or a planned community association under chapter 421J, HRS, in class A or B agricultural lands.

The effect of this bill is to unfairly and unnecessarily prohibit the use of private agricultural lands for small diversified agriculture, and use by bona fide small farmers, ranchers, agricultural operators, large landowners and landowners who have already designated their lands as IAL (Agricultural Stakeholders).

**LURF's Position.** LURF is not sure about the actual intent and purpose of SB 2351, because it does not have any preamble, or stated purpose or intent. If the intent of this bill is to stop "Gentlemen Farms," we appreciate its intent, however, LURF must **strongly oppose SB 2351**, based on the following:

- **This SB 2351 is not necessary – the strict enforcement of current laws, rules and regulations and government enforcement powers can prevent non-agricultural uses on agricultural lands.** The real problem is not subdivisions and CPRs - the problem is enforcement of the laws we already have. The DOA's prior comment to this bill, states that "*...without sufficient controls, monitoring, and enforcement, CPRs have resulted in the establishment of "Gentlemen Farms..."*"
- **The prohibitions in this measure will harm new and small bona fide farmers by severely constraining the inventory and availability of smaller, affordable agricultural lands; and will increase the cost of leasing or buying such parcels.** The prohibition of subdivisions and CPRs will result in a scarcity of small agricultural lots, which will increase the prices to lease or buy such parcels, thus creating a major negative impact and harm to small bona fide farmers.
- **The prohibitions in this bill will harm new and small bonafide farmers who use the subdivision and CPRs of agricultural parcels for operational, utility and financing purposes – much like the parcels in the State's agricultural parks.** This measure will also unreasonably restrict new and small bona fide farmers, agricultural land owners and entities, like farmer cooperatives, from utilizing a CPR to create separate interests in the land for individual farmers' operational and financing purposes. The Cattlemen's Council has also indicated that subdivisions are used for collateral and loan purposes.

- **The prohibitions will have negative consequences for the State’s goals for agricultural self-sufficiency and diversified agriculture and the opportunity to pass-on family lands to heirs.** Small farmers, new farmers and family farms all play important roles if helping the State reach its goals for self-sufficiency and diversified agriculture. Unfortunately, the prohibitions in this bill will prevent large land owners from creating smaller parcels for diversified and sustainable agriculture, small farmers, new farmers and family farms. For instance, if a large agricultural land owner wanted to diversify its operations and lease a portion of its lands to others for hemp farming, they will be restricted from subdividing and CPR’ing lands for such hemp farmers. This measure will also prohibit farm families from providing a portion of family lands to heirs.
- **CPRs can actually result in larger contiguous agricultural parcels.** This bill is contrary to the factual evidence and ignores the fact that CPRs can actually result in larger contiguous agricultural parcels. The DOA’s prior comments on this bill stated that CPRs are an alternative to the subdivision of a parcel of land, and when applied to agricultural land, “CPRs can theoretically result in larger contiguous area available for farming than under a subdivision.”
- **CPRs can create “Agricultural Condominiums,” which are important tools in the successful agricultural use of lands.** This bill will prohibit the use of Agricultural Condominiums, which have proven successful in Hawaii to farm large tracts of agricultural lands. Based on the prior testimony of Jon Okudara on this bill, LURF understands that the CPR agricultural lands are owned by individuals; and the crops produced on their lands will be marketed and distributed by an “coordinating entrepreneur.” *“Coordinating entrepreneur”* is defined in section 163D-3, HRS, as *“a qualified person capable of organizing, operating, and assuming the risk for enterprises that may include securing land and seed capital, locating farmers, arranging right-to-till agreements, supplying materials, maintaining equipment and infrastructure, and providing for the processing and marketing of products.”*
- **This SB 2351 is not based on any reliable facts or quantified data regarding the actual harm done by subdivisions and CPRs.** In 2015, the DOA commented on a similar bill (SB 1162), and recommended that “...*there should be more public discussion and consultation regarding issues including, but not limited to quantifying the actual harm done by subdivisions and CPRs...*”
- **This measure will indiscriminately and unfairly punish large land owners with bona fide farming, ranching and other agricultural operations (many of whom are LURF members), some of whom have already voluntarily designated a total of over 110,719 acres of IAL, including some IAL parcels and farming areas which are smaller than twenty-five acres.** This bill violates the spirit and intent of the IAL law, by

further restricting IAL landowners' rights to subdivide and CPR their lands. The IAL law specifically provides that if an agricultural landowner has voluntarily designated over fifty percent (50%) of their lands as IAL, the Land Use Commission cannot designate any further lands as IAL. The understanding is that land owners who have designated over fifty percent (50%) of their lands as IAL, are free to use the rest of their lands in whatever manner they chose, in compliance with the law.

- **This bill is not based on prior consultation, collaboration or consensus with key Agricultural Stakeholders who would be most affected.** The most effective agricultural laws and programs are based on consultation, collaboration and consensus with farmers, agricultural operators and large agricultural land owners. Unlike the IAL law, the Hawaii Farm Bureau, Cattlemen's Council, some of the large agricultural farmers and operations in the state, and the large land owners, some of whom have already dedicated over fifty percent of their lands to IAL, and the counties – were not consulted regarding this bill.

In 2015, the State Department of Agriculture (DOA) commented on a similar bill (SB 1162) and recommended that there should be more public discussion and consultation regarding issues including, but not limited to quantifying the actual harm done by subdivisions and CPRs and the involvement of the counties, who have the primary authority for granting subdivisions of agricultural lands. The Cattlemen's Council has noted the importance of collaboration and consensus in the enactment of the IAL law.

- **If the Legislature wants to create larger scale agricultural parcels, it should ensure that the State complies with the IAL law and maps all of its agricultural lands for designation IAL (deadline: December 31, 2009, over six years ago).** The State is in violation of the IAL law. Section 205-44.5, Hawaii Revised Statutes, requires the DOA and the Department of Land and Natural Resources (DLNR) to collaborate to identify public lands that should be designated as IAL and prepare maps delineating those lands, prior to December 31, 2009; and beginning **January 1, 2010**, the State Land Use Commission shall designate public lands as IAL. The DOA and DLNR have are in violation of the IAL law.

Real Solution: The State should fund DLNR and DOA to complete the identification, mapping and designation of the State's large-scale agricultural lands. With such funding, then large-scale agricultural parcels owned by the State could be preserved for bona fide agricultural operations as IAL.

- **The counties have not completed identification and mapping of IAL, due to the lack of State funding.** While it is true that the State law directed the counties to establish county IAL incentives, and to map and designate private lands as IAL, the State has not provided sufficient funding to the counties to implement their IAL mandate through the counties IAL process.

Real Solution: If the legislature really wants to preserve more large-scale agricultural parcels for bona fide farmers, it should **pass HB 1042, SD1**, which would provide funding to the counties to complete the county IAL mapping and designation process. LURF respectfully recommends that the State provide adequate funding to the counties, so that they can comply with the “State mandate” that the counties shall map and identify potential IAL.

For the reasons stated above, LURF **must strongly oppose SB 2351** and respectfully requests that this bill be **held** in your Committee.

Thank you for the opportunity to present testimony regarding this matter.



**Hawaii Cattlemen's Council, Inc.**

**COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH**  
**SENATOR ROSALYN H. BAKER, CHAIR**  
**SENATOR MICHELLE N. KIDANI, VICE CHAIR**

DATE: Friday, February 26, 2016  
TIME: 10:30 AM  
PLACE: Conference Room 229

**SB 2351, SD1 – RELATING TO AGRICULTURAL LAND.**

Prohibits the creation of a condominium property regime on agricultural land 25 acres or greater. Prohibits the subdivision of agricultural land 25 acres or greater for the purpose of creating a condominium property regime.

Chair Baker, Vice Chair Kidani, and Members of the Committee:

My name is Dale Sandlin, and I am Managing Director of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 140+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **strongly opposes** SB 2351, SD1 as this is unfair to land owners with large TMK's.

While limiting the size of the land to 25 acres or more, this measure would not allow for the equitable division of land in the case of a large parcel split among several heirs. Although this might not affect the smaller parcels in the state, it does hinder the rights and privileges of large landowners unfairly.

Also, the infrastructure that is needed to service the rural areas of the state could be provided more efficiently as a larger lot could be split into several smaller portions. By centralizing the infrastructure needed to serve the split, this would require fewer resources to complete.

If this measure is passed, the cost to purchase or lease smaller parcels of land for ag use is likely to escalate. With the cost of the land being one of the highest inputs for farmers and ranchers, this could cripple the profitability of the farm or ranch. Having more options for farmers and ranchers through being able to include large TMK's for consideration in a CPR, would yield for a more sustainable future for both the farmer or rancher and the state's food sustainability.

We respectfully ask this committee to oppose SB 2351, SD1 in it's current format. Thank you for giving us the opportunity to testify on this important matter.







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)

February 26, 2016

HEARING BEFORE THE  
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

TESTIMONY ON SB 2351, SD1  
RELATING TO AGRICULTURE

Room 229  
10:30 AM

Aloha Chair Baker, Vice Chair Kidani, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 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.

**The Hawaii Farm Bureau opposes SB 2351**, which prohibits the creation of a condominium property regime on agricultural land 25 acres or greater and prohibits the subdivision of agricultural land 25 acres or greater for the purpose of creating a condominium property regime.

HFB advocates for public policies and incentives that provide for viable farming and ranching activities on agricultural lands thereby retaining agricultural lands for future generations. Lands capable of supporting viable agricultural activities should be protected and kept in agriculture yet, this bill fails to account for localized conditions that are site specific.

Site specific conditions must be examined when such applications are made. This one-size-fits-all approach will hamstring communities who may want to create small farms on large parcels that are often unavailable to the beginning and family farmer due to the high cost threshold.

Moreover, Hawaii Farm Bureau is a strong supporter of private property rights as outlined in the US Constitution. The removal of property rights will have a net effect of devaluing land without just compensation for the landowner. We therefore argue that this measure, if passed, violates the Constitution of the United States.

We support the retention of agricultural lands in blocks of contiguous, intact, and functional land units large enough to allow **flexibility** in agricultural production and management and discourage the fragmentation of agricultural lands to non-agricultural

uses. Lands zoned for agriculture should be used primarily for productive agricultural purposes, including family farming. This type of localized land use planning is best left to local communities.

Thank you for the opportunity to testify on this measure.

February 26, 2016

**The Honorable Rosalyn H. Baker, Chair**

Senate Committee on Commerce, Consumer Protection, and Health  
State Capitol, Room 229  
Honolulu, Hawaii 96813

**RE: S.B. 2351, S.D.1, Relating to Agricultural Land**

**HEARING: Friday, February 26, 2016 at 10:30 a.m.**

Aloha Chair Baker, Vice-Chair Kidani, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, submits written testimony on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its 8,800 members. HAR **opposes** S.B. 2351, S.D.1 which:

1. Prohibits the creation of a condominium property regime on agricultural land 25 acres or greater;
2. Prohibits a condominium property regime on agricultural land from being amended to allow a residential dwelling;
3. Prohibits the subdivision of agricultural land 25 acres or greater for the purpose of creating a condominium property regime; and
4. Prohibits any residential project created as a condominium under chapter 514B, HRS, or a planned community association under chapter 421J, HRS, in class A or B agricultural lands.

HAR believes this measure could penalize retired bona fide farmers who own more than 25 acres and whose children do not wish to be farmers. These families would not be able to build and finance their own property and extended families would not be allowed to gain title to any unit on the property.

While one purpose may be to preserve agricultural lands on Oahu by using state law that will affect agricultural properties statewide, we stress the importance that each county has its own individual characteristic and state law should maintain for homerule management over these lands. The recent Department of Agriculture study shows that in the last 35 years, the statewide use of agricultural land for crops has shrunk from 350,000 acres to 150,000 acres which suggests that there is no shortage of agricultural lands but rather a shortage of bona fide farmers.

A condominium property regime requires the State LUC approval if the land needs to be

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reclassified from agricultural or other to urban and to determine compliance with state planning. It also requires county approval for zoning compliance, while counties are required to conform zoning decisions with county general plans.

We stress the importance of existing compliance with state and county planning. Adequate protections already exist under the Land Use Commission on specific standards and criteria as well as county oversight and regulation. S.B. 2351, S.D.1 may relegate thousands of existing properties to the category of being “non-conforming.”

For the foregoing reasons, we are opposed to this measure.

Mahalo for the opportunity to submit written testimony.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [CPH Testimony](#)  
**Cc:** [gottlieb@hawaii.rr.com](mailto:gottlieb@hawaii.rr.com)  
**Subject:** \*Submitted testimony for SB2351 on Feb 26, 2016 10:30AM\*  
**Date:** Thursday, February 25, 2016 9:34:11 AM

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**SB2351**

Submitted on: 2/25/2016

Testimony for CPH on Feb 26, 2016 10:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Gottlieb	Ponoholo Ranch	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**Subject:** Submitted testimony for SB2351 on Feb 26, 2016 10:30AM  
**Date:** Tuesday, February 23, 2016 10:21:27 PM

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**SB2351**

Submitted on: 2/23/2016

Testimony for CPH on Feb 26, 2016 10:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles Prentiss	Individual	Support	No

Comments: Something needs to be done to close loopholes that cause loss of our agriculture land. This bill will be a good step in keeping our agricultural land from disappearing. Please support it.

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**Cc:** [makakila@gmail.com](mailto:makakila@gmail.com)  
**Subject:** \*Submitted testimony for SB2351 on Feb 26, 2016 10:30AM\*  
**Date:** Wednesday, February 24, 2016 7:25:02 PM

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**SB2351**

Submitted on: 2/24/2016

Testimony for CPH on Feb 26, 2016 10:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Glen Kila	Individual	Support	No

Comments:

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**To:** [CPH Testimony](#)  
**Cc:** [gregf@haleakalaranch.com](mailto:gregf@haleakalaranch.com)  
**Subject:** \*Submitted testimony for SB2351 on Feb 26, 2016 10:30AM\*  
**Date:** Thursday, February 25, 2016 7:04:31 AM

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**SB2351**

Submitted on: 2/25/2016

Testimony for CPH on Feb 26, 2016 10:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gregory Friel	Individual	Oppose	No

Comments:

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