



LATE

LAND USE RESEARCH  
FOUNDATION OF HAWAII

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February 28, 2017

Senator Rosalyn H. Baker, Chair  
Senator Clarence K. Nishihara, Vice Chair  
Senate Committee on Commerce, Consumer Protection, and Health

**Comments and Concerns in Strong Opposition to SB 708, 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 Hrg: Tuesday, February 28, 2017, 10:30 a.m., in Conference Room 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. LURF's mission 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 **strongly opposes SB 708**, and respectfully urges that this Committee consider the **DEFERRAL** of this measure, which proposes a ban on, among other things, the creation of a condominium property regime (CPR) and subdivisions on agricultural land twenty-five acres or greater.

The facts do not support this measure - just the opposite -

1. This **SB 708** is not based on any reliable facts or quantified data regarding the actual harm done by CPRs and subdivisions, and that a ban is the only way to address such harms;
2. CPRs can actually assist small farmers by sharing infrastructure and water costs, etc.;
3. Across the State, there are examples of agricultural CPRs and subdivisions that work, such as agricultural operations on Maui;
4. Thousands of acres of large-scale agricultural lands, particularly on Maui could be CPR'ed and used for bonafide agricultural operations and diversified agriculture;

reasonable means to achieve whatever this measure is trying to accomplish. Thus, must **strongly oppose SB 708**, based on the following:

- There are five (5) very broad prohibitions in this measure, however, there are no specific facts and no specific evidence to justify a total ban on CPRs and subdivisions for CPRs for lands greater than 25 acres.
- If this bill is based on the concern of non-agricultural uses on agricultural lands, **SB 708** 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 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 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.
- 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.
- CPRs can actually result in larger contiguous agricultural parcels.
- CPRs can create “Agricultural Condominiums,” which are important tools in the successful agricultural use of lands.
- 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 one hundred acres.
- This bill is not based on prior consultation, collaboration or consensus with key Agricultural Stakeholders who would be most affected.
- 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 counties have not completed identification and mapping of IAL, due to the lack of State funding. If the State wants to encourage voluntary preservation of agricultural lands, the State should help fund the county IAL efforts.

For the reasons stated above, LURF **must strongly oppose SB 708** and respectfully requests that this bill be **held** in this Committee.

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



SIERRA CLUB OF HAWAI'I  
MĀLAMA I KA HONUA. *Cherish the Earth.*

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, & HEALTH

Tuesday, February, 28 2017 10:30 AM Room 229

LATE

In SUPPORT SB 708 SD1 Relating to Agricultural Land

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Aloha Chairwoman Baker and members of the Commerce, Consumer Protection, and Health Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i strongly supports SB 708 SD1. SB 708 SD1 seeks to prohibit: the creation of a condominium property regime on agricultural land 25 acres or greater; a condominium property regime on agricultural land from being amended to allow a residential dwelling; the subdivision of agricultural land 25 acres or greater for the purpose of creating a condominium property regime; and 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.

This bill takes a huge step in allowing the State to carry out its constitutional duty to "promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands."<sup>1</sup> As the bill points out, by preserving large parcels of agricultural lands, we as a State will be in a much better position to expand our local agricultural production. This in turn greatly increase the amount of locally grown food we produce, and will also have a tremendous benefit to both our economy and environment.

Studies have shown, that by replacing even 10% of the food imported into the State with locally grown food, the State could generate up to \$6 million in state tax revenues and more than 2,300 jobs would likely be created.<sup>2</sup> In addition, any decrease in our reliance on the importation of food we reduce our carbon footprint and lower our risk to invasive species introductions. These potential benefits, however, cannot be realized if we do not preserve our large parcels of agricultural lands and ensure that they are being used for agricultural purposes. For these reasons, we urge you to support SB 708 SD1.

Thank you very much for this opportunity to provide testimony on this important issue.

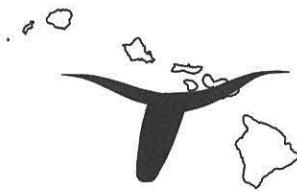
Mahalo,

Martha Townsend  
Director

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<sup>1</sup> Haw. Const. Art. II, § 3.

<sup>2</sup> PingSun Leung & Matthew Loke, College of Tropical Agriculture and Human Resources, University of Hawaii at Manoa, *Economic Impacts of Increasing Hawai'i's Food Self-Sufficiency*, p.6 (Dec. 2008) available at: <http://hdoa.hawaii.gov/add/files/2012/12/FoodSSReport.pdf>



**LATE**

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

**COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH**  
**Senator Rosalyn H. Baker, Chair**  
**Senator Clarence K. Nishihara, Vice Chair**

DATE: Tuesday, February 28, 2017  
TIME: 10:30 a.m.  
PLACE: Conference Room 229

**SB 708 SD1 – 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.

Chair Baker, Vice Chair Nishihara, 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 **opposes** SB 708 SD1, as this is unfair to land owners with large TMK's.

Limiting CPR of agricultural lands removes a valuable and viable tool for land management. The ability to divide these lands provides ranchers with the ability to determine land ownership for estate planning, and in some cases, this can be the difference between survival or going out of business. The simple fact is that we can't force folks who own ag land to farm.

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 all want to keep productive ag land in production, and not lose it to gentlemen farms. The Important Ag Lands (IAL) legislation this legislature passed years ago was supposed to help address that. Counties have yet to create the incentives for land owners to keep their land in ag. If we do that, maybe we will start to address the issue of Gentlemen Farms. We would support finding a viable solution, but this bill is not the way.

Thank you for giving us the opportunity to testify on this important matter.

**LARRY JEFTS FARMS, LLC  
PO BOX 27  
KUNIA, HAWAII 96759  
(808) 688-2892**

SB708sd1, Relating to Agricultural Land  
Senate CPH Decision Making Hearing  
Tues. Feb. 28, 2016 – 10:30 am  
Testimony by: Larry Jeffs  
Position: Oppose

**LATE**

Chair Baker, and Members of the Senate CPH Committee:

I am Larry Jeffs, owner and operator of Larry Jeffs Farms, LLC, which is part of our family-run business of farms on Oahu and Molokai, under the administrative umbrella of Sugarland Growers, Inc. We have more than 35 years of Hawaii farm experience on Molokai and Oahu.

Appreciation is expressed for efforts to stop gentlemen farms on agricultural subdivisions. However, opposition is expressed because the proposed bill seems to hurt farmers and ranchers with privately owned, large TMKs by prohibiting the creation of CPR on agricultural lands of 25 acres or greater in class A or B agricultural lands.

We agree with others who have commented that a definition of bona fide agricultural producers would be among the first steps to prevent the rise of gentlemen farms on agricultural lands.

The proposed bill appears inconsistent with the State's goal of diversified agriculture and to place entrepreneurial farmers on its own State Ag Parks and ADC's lots. Many of the producers venturing into commercial agriculture today must look at small lots as a starting point. This bill would make it more difficult to create smaller parcels, thus constraining the inventory of available small ag-lots.

Thank you for the opportunity to submit testimony.

## CPH Testimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 3:50 PM  
**To:** CPH Testimony  
**Cc:** djr@teamedeluz.com  
**Subject:** Submitted testimony for SB708 on Feb 28, 2017 10:30AM

**LATE**

### **SB708**

Submitted on: 2/27/2017

Testimony for CPH on Feb 28, 2017 10:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
David S. De Luz, Jr.	Kukaiiau Ranch LLXC	Oppose	No

Comments: Chair Baker, Vice Chair Nishihara, and Members of the Committee: My name is David S. De Luz, Jr., and my family owns and operates Kukaiiau Ranch and currently have over 600 cows and approximately 300 calves . Kukaiiau Ranch has been a cattle ranch operation since the 1880's and has had many challenges and this Bill is another challenge that unfairly targets large land holdings such as Kukaiiau Ranch. we **STRONGLY OPPOSE** SB 708 SD1, as this is unfair to land owners such as us with large TMK's. Limiting CPR of agricultural lands removes a valuable and viable tool for land management. The ability to divide these lands provides us the potential opportunity with the ability to determine land ownership for estate planning, and in some cases, this can be the difference between survival or going out of business. The simple fact is that you can't force folks like us who own ag land to farm. 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, for any of the reasons I stated. Although this might not affect the smaller parcels in the state, it does hinder the rights and privileges of large landowners unfairly. 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 all want to keep productive ag land in production, and not lose it to gentlemen farms. The Important Ag Lands (IAL) legislation this legislature passed years ago was supposed to help address that. Counties have yet to create the incentives for land owners to keep their land in ag. If we do that, maybe we will start to address the issue of Gentlemen Farms. We would support finding a viable solution, but this bill is not the way. Thank you for giving us the opportunity to testify on this important matter. David S. De Luz, Jr. Managing Member Kukaiiau Ranch LLC 808-895-4284 djr@teamedeluz.com

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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**baker4 - Mary Kate**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 28, 2017 3:36 AM  
**To:** CPH Testimony  
**Cc:** afrancokaupo@gmail.com  
**Subject:** \*Submitted testimony for SB708 on Feb 28, 2017 10:30AM\*

**LATE**

**SB708**

Submitted on: 2/28/2017

Testimony for CPH on Feb 28, 2017 10:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alex Franco	Maui Cattle Company	Oppose	No

Comments:

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## CPH Testimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 4:42 PM  
**To:** CPH Testimony  
**Cc:** gregf@haleakalaranch.com  
**Subject:** \*Submitted testimony for SB708 on Feb 28, 2017 10:30AM\*

### **SB708**

Submitted on: 2/27/2017

Testimony for CPH on Feb 28, 2017 10:30AM in Conference Room 229

**LATE**

<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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## CPH Testimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 3:15 PM  
**To:** CPH Testimony  
**Cc:** JMATTOSHBP@AOL.COM  
**Subject:** \*Submitted testimony for SB708 on Feb 28, 2017 10:30AM\*

**LATE**

### **SB708**

Submitted on: 2/27/2017

Testimony for CPH on Feb 28, 2017 10:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jill J Mattos	Individual	Oppose	No

### Comments:

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## CPH Testimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 3:16 PM  
**To:** CPH Testimony  
**Cc:** bcraven@lanihau.net  
**Subject:** \*Submitted testimony for SB708 on Feb 28, 2017 10:30AM\*

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### **SB708**

Submitted on: 2/27/2017

Testimony for CPH on Feb 28, 2017 10:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
britt craven	Individual	Oppose	No

### Comments:

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**baker1 - Melissa**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 5:12 PM  
**To:** CPH Testimony  
**Cc:** diamondbranchhi@aol.com  
**Subject:** Submitted testimony for SB708 on Feb 28, 2017 10:30AM

**LATE**

**SB708**

Submitted on: 2/27/2017

Testimony for CPH on Feb 28, 2017 10:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brendan Balthazar	Individual	Support	No

Comments: I think it is about time that someone steps up to protect agg land. People are coming in and buying up big agg parcels and cutting them up into gentlemen farms. Farms that most of the time will never be farmed. A lot of agg land is lost this way. I hope it passes. Enough is enough.

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**baker4 - Mary Kate**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 28, 2017 7:17 AM  
**To:** CPH Testimony  
**Cc:** haupuranch@gmail.com  
**Subject:** \*Submitted testimony for SB708 on Feb 28, 2017 10:30AM\*

**LATE**

**SB708**

Submitted on: 2/28/2017

Testimony for CPH on Feb 28, 2017 10:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Bryan	Individual	Oppose	No

Comments:

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**baker4 - Mary Kate**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 28, 2017 7:08 AM  
**To:** CPH Testimony  
**Cc:** starr@maui.net  
**Subject:** Submitted testimony for SB708 on Feb 28, 2017 10:30AM

**LATE**

**SB708**

Submitted on: 2/28/2017  
Testimony for CPH on Feb 28, 2017 10:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Hugh Starr	Individual	Oppose	No

Comments: CPR'ing of Hawaii's Agricultural Lands does not increase the allowable residential dwelling density mandated by each County. Please vote against this needless measure that will hurt our local Ag Community.

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