



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Agriculture and Environment
Wednesday, February 5, 2020
1:15 p.m.
State Capitol, Conference Room 224**

**On the following measure:
S.B. 2738, RELATING TO AGRICULTURE**

Chair Gabbard and Members of the Committee:

My name is Ty Nohara, and I am the Commissioner of Securities of the Department of Commerce and Consumer Affairs' (Department) Business Registration Division. The Department opposes section 37 of this bill to the extent it conflicts with the Hawaii Uniform Securities Act, Hawaii Revised Statutes (HRS) chapter 485A.

The purpose of this bill is to authorize agricultural entities to incorporate as general cooperatives.

HRS chapter 485A ensures the transparency and integrity of financial markets and the protection of investors. In general, all securities offered or sold in the State, including the person making the offer or sale, must be registered in the State. Registration of securities affords protection to investors by requiring that all material information be disclosed to the investor to assist the investor in making informed investment decisions. In addition, the securities laws prohibit fraudulent activity in connection with the issuance and sale of securities.

S.B. 2738 creates a blanket exemption from HRS chapter 485A with respect to securities issued or sold by a cooperative as described in the bill. Therefore, these securities would not be required to be registered with the State and would not be subject to any of the State's securities antifraud provisions. Consequently, investors would not receive the protection that HRS chapter 485A would otherwise afford to them.

This blanket exemption is unnecessary, as HRS section 485A-201(8) provides a limited registration exemption for securities issued or sold by a cooperative to its members or owners. Under this limited exemption, the assumption is that these investors would still be protected, because as members or owners of the cooperative, they would have access to material information regarding the securities to make informed investment decisions. Unlike the blanket exemption in this bill, exempt securities under HRS chapter 485A-201(8) would still be subject to the State's securities antifraud provision.

If the Committee chooses to pass this measure, the Department strongly urges that any exemption from the securities laws be consistent with the exemptions in HRS chapter 485A to best protect investors in the State.

Thank you for the opportunity to testify on this measure. I would be happy to answer any questions the Committee may have.



Senate Committee on Agriculture and Environment
Wednesday, February 5, 2020 at 1:15 p.m. in Conference Room 224

RE: SB 2738 – Relating to Agriculture – In Support

To Chair Gabbard, Vice Chair Ruderman, and members of the Committee:

The Kohala Center strongly supports SB 2738, which authorizes agricultural entities to incorporate as general cooperatives conducting business in the State of Hawai'i.

The cooperative business model provides a pathway for individual businesses to work together to address shared business goals. Cooperatives are formed to engage in collective marketing, shared labor, shared processing, transportation, and many other reasons.

In Hawai'i, when an agricultural cooperative incorporates, they choose between one of two cooperative statutes: Agriculture Cooperatives (HRS Chapter 421) and Consumer Cooperatives (HRS 421C). Based on The Kohala Center's past nine years of work with Hawai'i's cooperatives, research has shown these two statutory options limiting for cooperatives pursuing multi-stakeholder and worker models. Additionally, because there is currently no general cooperative statute in Hawai'i, those interested in forming non-agricultural cooperatives, or cooperatives with multi-stakeholders are drawn to Hawai'i's consumer cooperative law. That law, however, is not as flexible as other general cooperative statutes.

To provide cooperatives with greater flexibility in defining membership and organizational structure, many U.S. states offer a General Cooperative Statute. A general statute allows for multi-stakeholder cooperatives with diverse classes of membership, with consumers, producers, and workers all in the same cooperative. General cooperative statutes embrace a broad and flexible approach, adhering to accepted cooperative principles while allowing cooperatives to create by-laws that are in line with economic, social, and cultural needs. With the proposed general cooperative statute, Hawai'i would join other states (e.g., Wisconsin, Colorado, and California) that allow diverse enterprises to take advantage of the benefits derived from a cooperative business structure.

This bill will have a significant and beneficial impact on Hawai'i cooperatives and the small business sector, especially in rural areas of the state. For these reasons, we respectfully request your support of SB 2738. Thank you for the opportunity to submit testimony.

Sincerely,

Cheryl Ka'uhane Lupenui
President and Chief Executive Officer

Senate Committee on Agriculture and Environment
Wednesday, February 5, 2020 at 1:15 p.m. in Conference Room 224

RE: SB 2738 – Relating to Agriculture – In Support

To Chair Gabbard, Vice Chair Ruderman, and members of the Committee:

Hawai'i Small Business Development Center (SBDC), East Hawaii strongly supports SB 2738, which authorizes agricultural entities to incorporate as general cooperatives conducting business in the State of Hawai'i.

The SBDC has worked with several groups who wish to collaborate to form an agriculture cooperative, but the currently Hawaii statutes limit ag coop models. The proposed statute is needed to enable consumers, producers and workers to collaborate. The cooperative business model provides a pathway for individual businesses to work together to address shared business goals. Agriculture cooperatives are formed to engage in collective marketing, shared labor, shared processing, transportation, and many other reasons.

In Hawai'i, when an ag coop incorporates, they must choose between one of two cooperative statutes: Agriculture Cooperatives (HRS Chapter 421) and Consumer Cooperatives (HRS 421C). The SBDC's experience and Kohala Center's work with Hawai'i's cooperatives has shown these two statutory options limit cooperatives pursuing multi-stakeholder and worker models.

Additionally, because there is currently no general cooperative statute in Hawai'i, those interested in forming non-agricultural cooperatives, or cooperatives with multi-stakeholders are drawn to Hawai'i's consumer cooperative law. That law, however, is not as flexible as other general cooperative statutes.

To provide cooperatives with greater flexibility in defining membership and organizational structure, many U.S. states offer a General Cooperative Statute. A general statute allows for multi-stakeholder cooperatives with diverse classes of membership, with consumers, producers, and workers all in the same cooperative.

General cooperative statutes embrace a broad and flexible approach, adhering to accepted cooperative principles while allowing cooperatives to create by-laws that are in line with business needs. With the proposed general cooperative statute, Hawai'i would join other states (e.g., Wisconsin, Colorado, and California) that allow diverse enterprises to take advantage of the benefits derived from a cooperative business structure.

This bill will have a significant and beneficial impact on Hawai'i cooperatives and the small business sector, especially in rural areas of the state. For these reasons, we respectfully request your support of SB 2738. Thank you for the opportunity to submit testimony.

Sincerely,

Judi Mellon, PhD, Director, Small Business Development Center, East Hawaii
jmellon@hisbdc.org 808-933-0776

SB-2738

Submitted on: 2/3/2020 11:46:36 PM

Testimony for AEN on 2/5/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Azuma Chrupalyk	Individual	Support	No

Comments:

SB-2738

Submitted on: 2/4/2020 1:03:57 PM

Testimony for AEN on 2/5/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kendyll	Individual	Support	No

Comments:

SB-2738

Submitted on: 2/4/2020 1:14:02 PM

Testimony for AEN on 2/5/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Janel Yamamoto	Individual	Support	No

Comments:

SB-2738

Submitted on: 2/4/2020 1:09:43 PM

Testimony for AEN on 2/5/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Shapiro	Individual	Support	No

Comments:

Senate Committee on Agriculture and Environment

Wednesday, February 5, 2020 at 1:15 p.m. in Conference Room 224

RE: SB 2738 – Relating to Agriculture – In Support

To Chair Gabbard, Vice Chair Ruderman, and members of the Committee:

Hawaii Ulu Cooperative strongly supports SB 2738, which authorizes agricultural entities to incorporate as general cooperatives conducting business in the State of Hawai'i.

The cooperative business model provides a pathway for individual businesses to work together to

address shared business goals. Cooperatives are formed to engage in collective marketing, shared labor, shared processing, transportation, and many other reasons.

In Hawai'i, when an agricultural cooperative incorporates, they choose between one of two cooperative statutes: Agriculture Cooperatives (HRS Chapter 421) and Consumer Cooperatives (HRS 421C). Based on The Kohala Center's past eight years of work with Hawai'i's cooperatives, research has shown these two statutory options limiting for cooperatives pursuing multi-stakeholder and worker models.

Additionally, because there is currently no general cooperative statute in Hawai'i, those interested in forming non-agricultural cooperatives, or cooperatives with multi-

stakeholders are drawn to Hawai'i's consumer cooperative law. That law, however, is not as flexible as other general cooperative statutes.

To provide cooperatives with greater flexibility in defining membership and organizational structure, many U.S. states offer a General Cooperative Statute. A general statute allows for multi-stakeholder cooperatives with diverse classes of membership, with consumers, producers, and workers all in the same cooperative.

General cooperative statutes embrace a broad and flexible approach, adhering to accepted cooperative principles while allowing cooperatives to create by-laws that are in line with business needs. With the proposed general cooperative statute, Hawai'i would join other states (e.g., Wisconsin, Colorado, and California) that allow diverse enterprises to take advantage of the benefits derived from a cooperative business structure.

This bill will have a significant and beneficial impact on Hawai'i cooperatives and the small business sector, especially in rural areas of the state. For these reasons, we respectfully request your support of SB 2738. Thank you for the opportunity to submit testimony.

Sincerely,

Dana Shapiro

Senate Committee on Agriculture and Environment
Wednesday, February 5, 2020 at 1:15 p.m. in Conference Room 224

RE: SB 2738 – Relating to Agriculture – In Support

To Chair Gabbard, Vice Chair Ruderman, and members of the Committee:

I am the Cooperative Developer who worked as part of a team to bring this legislation forward and ask for your support. SB 2738, authorizes agricultural entities to incorporate as general cooperatives conducting business in the State of Hawai'i.

The cooperative business model is an effective mechanism which allows a pathway for individual businesses to work together to address shared business goals that would not be possible without the cooperative network. Cooperatives are formed to engage in collective marketing, shared labor, shared processing, transportation, and many other reasons.

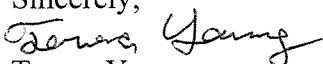
In Hawai'i, when an agricultural cooperative incorporates, they need to choose between of two cooperative statutes: Agriculture Cooperatives (HRS Chapter 421) and Consumer Cooperatives (HRS 421C). Based on my years of experience working with Farmers in Hawai'i, as they work together to form cooperative associations, I see the challenge faced when trying to find the right organizational framework to follow. Often, even when the proposed business is primarily engaged in Agricultural activities they often want to use the Consumer Cooperative Statute because it has a few preferred flexibilities to the Agriculture Cooperative Statute.

Additionally, because there is currently no general cooperative statute in Hawai'i, those interested in forming non-agricultural cooperatives, or cooperatives with multi-stakeholders are drawn to Hawai'i's consumer cooperative law. That law, however, is not as flexible as other general cooperative statutes.

Cooperatives are important to the local food system networks being created to lay a new foundation for a thriving agricultural sector throughout all of Hawai'i.

General cooperative statutes embrace a broad and flexible approach, adhering to accepted cooperative principles while allowing cooperatives to create by-laws that are in line with business needs. With the proposed general cooperative statute, Hawai'i would join other states (e.g., Wisconsin, Colorado, and California) that allow diverse enterprises to take advantage of the benefits derived from a cooperative business structure.

This bill will have a significant and beneficial impact on Hawai'i cooperatives and the small business sector, especially in rural areas of the state. For these reasons, we respectfully request your support of SB 2738. Thank you for the opportunity to submit testimony.

Sincerely,

Teresa Young
Cooperative Business Developer