

Testimony of the Real Estate Commission

**Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, February 23, 2021
9:30 a.m.
Via Videoconference**

**On the following measure:
S.B. 340, RELATING TO AGRICULTURAL LANDS**

WRITTEN TESTIMONY ONLY

Chair Baker and Members of the Committee:

My name is Carole Richelieu, Senior Condominium Specialist, testifying for Michael Pang, the Chairperson of the Real Estate Commission (Commission). The Commission supports this bill.

The purpose of this bill is to amend certain land subdivision and condominium property regime laws related to agricultural land, as recommended pursuant to Act 278, Session Laws of Hawaii 2019, to ensure condominium property regime projects within the agricultural district are used for agricultural purposes.

In particular, the Commission supports the proposed language in section 3 of the bill amending Hawaii Revised Statutes section 514B-52(b). The developer's public report is a disclosure document. The Commission supports additional disclosure to prospective buyers.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
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 PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

**FEBRUARY 23, 2021
9:30 A.M.
VIA VIDEO CONFERENCE**

**SENATE BILL NO. 340
RELATING TO AGRICULTURAL LANDS**

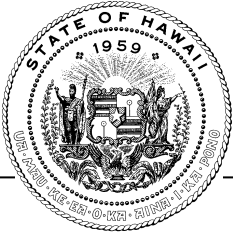
Chairperson Baker and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 340. This measure amends certain land subdivision and condominium property regime laws related to agricultural land, as recommended pursuant to Act 278, Session Laws of Hawaii 2019, to ensure:

1. Farm dwellings on agricultural lands are accessory to a farm or where the agricultural activity provides income of no less than \$10,000 per year to the family occupying the dwelling and verified by general excise tax return filing or agricultural tax dedication;
2. Structures on subdivided leasehold subdivisions of agricultural land are subject to county enforcement authority; and
3. Applications for registration of condominium property regimes of agricultural land are to include county comments regarding the availability of supportive infrastructure, any potential impact on government plans and resources, other requirements pursuant to county ordinances and rules, and the "developer's public report" pursuant to Section 514B-52.

The Department of Agriculture strongly supports this measure that reflects the input of the Act 278 Stakeholders Group that was assembled and led by the Office of Planning. Although the Act was limited to the City and County of Honolulu, the Stakeholders Group has broad representation. We look forward to working with the Office of Planning as this bill moves forward.





OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Tuesday, February 23, 2021
9:30 AM
Via Videoconference

in consideration of
SB 340
RELATING TO AGRICULTURAL LANDS.

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

The Office of Planning (OP) **strongly supports** SB 340 which addresses recommendations pursuant to Act 278, Session Laws of Hawaii 2019 directing OP to study subdivision and condominium property regime (CPR) issues on agricultural land. OP convened and collaborated with a broad Stakeholders Group in developing the report which was submitted to the 2021 Legislature. The Group established five goals: 1) keep suitable agricultural lands for agriculture; 2) support farmers and farming; 3) keep agricultural lands affordable for farming; 4) enable long-term access to agricultural lands for farmers; and 5) minimize subdivision and CPR of productive agricultural lands except for bona fide agricultural reasons.

SB 340 addresses three major issues and recommendations of the study:

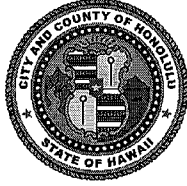
1. Defines “farm dwelling” (amends HRS 205-4.5(4)). Inadequate definitions of a bona fide farm results in: proliferation of dwellings without a farm component, fake farms, and gentlemen estates.
2. Allows county enforcement of unpermitted structures in leaseholds subdivisions in the Agricultural District (amends HRS 205-4.5(f)(2)) which has created an enforcement problem.
3. Requires county comments prior to CPR registration (amends HRS 514B-52(b)). Allows counties to review and alert the buyer of infrastructure and environmental deficiencies, and conformance with county codes.

Thank you for hearing this bill and providing this opportunity to testify in strong support.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR



DEAN UCHIDA
DIRECTOR DESIGNATE

DAWN TAKEUCHI APUNA
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

February 23, 2021

The Honorable Rosalyn H. Baker, Chair
and Members of the Committee on
Commerce and Consumer Protection
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker and Committee Members:

**Subject: Senate Bill No. 340
Relating to Agricultural Lands**

The Department of Planning and Permitting (DPP) **strongly supports** Senate Bill No. 340.

This Bill will allow meaningful county input in the condominium property regime process involving agricultural lands, in order that these projects be laid out in conformity with the underlying county zoning, State land use district, and the applicable development permits for the proposed use of the land. Each county can then ensure availability of necessary supportive infrastructure, and identify and mitigate any potential negative impacts to environmentally important or culturally significant resources, prior to the piecemeal sale of the property.

Accordingly, we urge that this Bill be passed by your committee.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Uchida".

Dean Uchida
Director Designate

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura

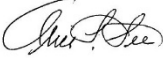


Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 22, 2021

TO: Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection

FROM: Alice L. Lee
Council Chair 

DATE: February 22, 2021

SUBJECT: **SUPPORT OF SB 340, RELATING TO AGRICULTURAL LANDS**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to ensure Condominium Property Regime projects within the Agricultural District are used for agricultural purposes.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I **SUPPORT** this measure for the following reasons:

1. The measure appropriately recognizes the need for designated land to be used for agricultural purposes and the need for locally grown produce.
2. This measure responsibly implements the State Office of Planning's advice in its study of subdivision and CPRs on agricultural lands in accordance with Act 278 (2019).
3. Maintaining and expanding our agricultural lands help ensure food resilience, consistent with the State's "Increased Food Security and Food Self-Sufficiency Strategy."

For the foregoing reasons, I **SUPPORT** this measure.



Email: communications@ulupono.com

SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION
Tuesday, February 23, 2021 — 9:30 a.m.

Ulupono Initiative supports SB 340, Relating to Agricultural Lands.

Dear Chair Baker and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono supports SB 340, which amends certain land subdivision and condominium property regime (CPR) laws related to agricultural land to ensure CPR projects within the agricultural district are used for agricultural purposes.

Ulupono supports the efforts to meet the legislative mandate in Act 278, SLH 2019, which was signed into law asking the Office of Planning to study and report on the ways to ensure agricultural activities on agricultural land. This measure seeks to strengthen the definition of a farm dwelling by adding an income threshold for agricultural activity (\$10,000 a year), authorizing county enforcement and fines for any violation, and a more transparent project application process.

We applaud the work of the Office of Planning in studying this issue, working with the public and vested stakeholders, and providing a legislative proposal to help address the misuse of agricultural lands.

Thank you for this opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i



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February 23, 2021

HEARING BEFORE THE
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TESTIMONY ON SB 340
RELATING TO AGRICULTURAL LANDS

Conference Room 229
9:30 AM

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

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports SB 340, which amends certain land subdivision and condominium property regime laws related to agricultural land, as recommended pursuant to Act 278, Session Laws of Hawaii 2019, to ensure agricultural lands that are organized under a condominium property regime are used for agricultural purposes.

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 for agricultural production.

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.

The Hawaii Farm Bureau was part of the Stakeholders Group convened by the Office of Planning in response to Act 278, Session Laws of Hawaii 2019. The stakeholder group established the following goals 1) Keep suitable agricultural lands for agriculture; 2) Support farmers and farming; 3) Keep agricultural lands affordable for farming; 4) Enable long-term access to agricultural lands for farmers, and 5) Minimize subdivision and CPR of productive agricultural lands except for bona fide agricultural reasons.

The Hawaii Farm Bureau supports SB 340 which recommends amendments to certain land subdivision and condominium property regime laws to ensure that agricultural lands be used primarily for productive agricultural purposes.

Thank you for this opportunity to testify on this important subject.



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

SB340

RELATING TO AGRICULTURAL LANDS.

Tuesday, February 23, 2021 9:30 am
Via Video Conference

Chair Baker, Vice Chair Chang, and Members of the Committee,

The Hawaii Cattlemen's Council **supports SB340** which addresses the Act 278 Subdivision and CPR on Ag Lands Report by stakeholders. This bill presents a method for addressing the ambiguities through which a landowner might develop land contrary to the intended agricultural use. It is important to protect agricultural districts and ensure that agricultural lands are indeed being used for agricultural purposes.

We support SB340 to support farmers and keep agricultural lands affordable for farming. Thank you for the opportunity to testify on this issue.

Nicole Galase

Hawaii Cattlemen's Council

Managing Director



Hawaii Cattlemen's Council

Position Statement on Local Beef Production

One of the core strengths of any society lies in its ability to be self-sufficient, to feed itself. Hawaii's beef producers are committed to providing wholesome food for its community that is safe, secure and sustainable.

For most of its existence, Hawaii's beef industry has followed a conventional model with production, harvest and processing occurring within state. In the early 1990's, a combination of rising costs and inefficiencies led Hawaii producers to shift to an export calf model which remains dominant today. However, with increasing consumer demand for locally sourced food, there is renewed focus on expanding local beef production. Several private labels have emerged over the last 10 years, raising the flavor and tenderness profile for local beef, further driving demand. The groundwork for expansion has been set.

In recent years, Hawaii Cattlemen's Council (HCC) and the Hawaii Department of Agriculture (HDOA) recognized limited harvest capacities as one of the primary constraints for expanding local beef production. It has been HCC's position that each island should have access to a full complement of harvest and processing facilities. The economic benefit of efficiencies achieved with consolidation should be balanced with the unique challenges Hawaii's beef industry faces. These include;

- the vulnerability of interisland transportation of perishable goods and/or live animals as it relates to;
 - food security and safety, animal welfare, affordable shipping rates, labor disputes and equipment failure
- the need to develop and maintain a diversified economic base and skilled labor force on outer islands
- limited competitive markets
- quasi-public responsibility of state-owned food processing facilities

Among other things previously identified (see attached, "A Livestock Harvest Facility for Hawaii"), the ideal model should address;

- Flexible marketing – direct sale vs retained ownership
- Increased capacity/access for all producers to harvest, process and market
- Growth of market share through "coopetition" vs direct competition
- Compliance with regulatory planning concepts and concerns, especially as related to environmental issues
- Preservation of the integrity of locally labeled beef
- Opportunity to expand locally branded products

Our producers continue to provide high-quality grass-fed beef year-round, which serves a loyal, sustainability-minded customer base that increasingly want to know where their food comes

from. HCC supports a business model that facilitates infrastructure that allows each island to maintain autonomy over its beef production from gate to plate.

A Livestock Harvest Facility for the State of Hawaii Hawaii Cattlemen's Council



Senate Bill 1257 provides \$1.5M for the planning and design of a livestock harvest facility within the state of Hawaii. This is an ambitious initiative that represents our strong belief in the future of our industry and our commitment to building infrastructure that will help grow and expand our local markets.

Our critical need for this project is based on the following;

- a. increased consumer demand for local beef
- b. increased market demand created by expanding programs, such as our schools' Aina Pono initiative
- c. availability for producers' strategic culling programs
- d. security for animal welfare in the face of disease or drought

The Request for Proposal (RFP) for planning and design should include the following key components and deliverables from firms who will respond;

1. An analysis of a viable business/feasibility plan that addresses expected throughput, revenues, expenses and return on investment related to the operation of a new facility. Our initial recommendation for Hawaii Island is for a 5,000 head capacity that can be expanded to 10,000 head/year. This will be varied island by island. We see this information as critical to attracting capital to our state and industry.
2. Schematics and drawings of the layout of a new facility that can be adapted to meet different environmental conditions for each island and can scale up or down to meet production needs.
3. Analysis and review of technologies to support the remote locations and sensitive environments in which this facility will operate.

4. Review of the following key features of the facility itself. These features will ensure that the proposed model will meet our goal of creating a facility that serves the sustainability needs of our industry addressed through these economic, social and environmental considerations.

Economic	<ul style="list-style-type: none"> • Capacity (target steady state, initial, and ramp up) • Scalable/modular • Marketing partner • Added value/processing • Certification for specialty markets – i.e. export, BRC, GFSI • Management expertise • Transportation costs • Flexible marketing – direct sale vs retained ownership • Innovation and technology • Useful life • Potential for multi-species use • Scope of facility—slaughter, processing, and further processing capabilities • Value Added Products and Processing
Social	<ul style="list-style-type: none"> • Food safety • Worker safety • Animal well-being • Employee engagement • Central location • Affordable housing
Environmental	<ul style="list-style-type: none"> • Renewable energy • Waste disposal - bio digester • Water resources and requirements • Critical path for permits • Environmental Impact Statement • Air emissions/odor • Proximity to existing infrastructure and need for establishment of new connections to electrical, water, wastewater, and roadways.

HCC believes our industry and agriculture as a whole are at a critical crossroads. There is a great deal to be optimistic about including consumer demand for more locally sourced food, public officials who have declared a commitment to improve Hawaii’s food security, an advocate in our HDOA administration who believe in the need for Hawaii’s agriculture to thrive and people within the ranching community with the will to move our industry forward. These things combine to create powerful synergy to keep our industry and agriculture a vibrant and relevant part of our state’s economy and landscape. This project is the result of that synergy and a real, tangible move forward for the beef industry.

LATE

SB-340

Submitted on: 2/23/2021 12:07:16 AM

Testimony for CPN on 2/23/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Brinker	Individual	Support	No

Comments:

Support