

JOSH GREEN, M.D.  
Governor

SYLVIA LUKE  
Lt. Governor



SHARON HURD  
Chairperson, Board of Agriculture

DEXTER KISHIDA  
Deputy to the Chairperson

State of Hawai'i  
DEPARTMENT OF AGRICULTURE  
KA 'OIHANA MAHI'AI  
1428 South King Street  
Honolulu, Hawai'i 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613



TESTIMONY OF SHARON HURD  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

MARCH 28, 2024  
2:00 PM  
CONFERENCE ROOM 329 & VIDEOCONFERENCE

SENATE BILL NO. 3329, SD1, HD1  
RELATING TO LITTLE FIRE ANTS

Chair Nakashima, Vice Chair Sayama and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill 3329, SD1, HD1 relating to little fire ants (LFA). This bill requires the disclosure of any little fire ant infestation as part of any sale of residential real property. The department offers the following comments in relation to this bill:

Disclosure statements will be based upon the positive determination of live LFA infestations on property. There needs to be a clear and defined mechanism by which homeowners engage in the sale of residential real property to obtain identification of LFA with some form of certification process. There is no system currently existing to certify the identification. The Department has the ability to render definitive identifications but does not have the capacity to do so. The Department is requesting the ability to charge fees for identification services and an increase in capacity for the identification of plant pests. Currently the Department is used by some pest control



operations to render identifications they should be making on their own to comply with pesticide regulations. However, the scale of identifications for the purposes of this bill indicates the department would interfere with unique business opportunities. This bill also does not offer clear guidelines for procedures for sampling to accurately determine if little fire ants are present. Existing protocols currently used focus on sampling of ants in the yard and do not include trees and foliage or internal to the residents. It should also be noted that condominiums present unique challenges—a unit for sale may be impacted by a building being infested, not just the individual unit for sale. These issues need to be addressed. A consequence of this bill could be abuse of pesticide law using non-licensed or non-labeled products to execute quick reduction in foraging populations without control of the actual colony.

We thank you for the opportunity to provide comments.



# **HAWAII PEST CONTROL ASSOCIATION**

Century Square – 1188 Bishop St., Ste. 1003\*Honolulu, HI 96813-3304  
Telephone (808) 533-6404 • Fax (808) 533-2739

March 28, 2024

Testimony To: House Committee on Consumer Protection & Commerce  
Representative Mark M. Nakashima, Chair

Presented By: Tim Lyons, CAE  
Executive Director

Subject: S.B. 3329, SD 1, HD 1 – RELATING TO THE LITTE FIRE ANTS.

Chair Nakashima and Members of the Committee:

I am Tim Lyons, Executive Director of the Hawaii Pest Control Association and we have **comments** regarding this bill.

We believe that the bill has good intentions and information regarding a prior little fire ant infestation, and this could be vital information. We agree that it should indicate in the information disclosed to provide when there was a treatment for the little fire ants including the date and who did the treatment. If there were multiple treatments recently, a prospective buyer can take some comfort. If on the other hand there was only one (1) treatment or the treatment occurred some time ago, then the real possibility exists of reinfestation, and they should be informed and made aware of that.

Therefore, we agree and recommend the amendments in S.D. 1, H.D. 1.

The current seller disclosure statement does ask about "...mites, ticks, ants..." (generally) but not Little Fire Ants which are far more of a problem than regular ants and it does not ask for disclosure of by whom a treatment was made, only "when" so this bill fills that gap on information to a prospective buyer.

Thank you for the opportunity to testify.

*Seller's Real Property Disclosure Statement*

YES	NO	NTMK	NA	
47) [ ]	[ ]	[ ]	[ ]	] Were any of the improvements to this Property built under an owner-builder permit?
47a) [ ]	[ ]	[ ]	[ ]	] (a) Date of Final Inspection Approval by the County: _____
48) [ ]	[ ]	[ ]	[ ]	] Is the Seller/Builder a licensed contractor who is providing warranties?
49) [ ]	[ ]	[ ]	[ ]	] Have you given any release or waiver of liability, or release from a warranty to any government agency, contractor, engineer, architect, land surveyor, or landscape architect, for any defect, mistake, or omission in the design or construction of this Property?
50) [ ]	[ ]	[ ]	[ ]	] Has the roof been repaired or replaced?
50a) [ ]	[ ]	[ ]	[ ]	] (a) When and by whom? _____
50b) [ ]	[ ]	[ ]	[ ]	] (b) What is the age of the roof? _____
50c) [ ]	[ ]	[ ]	[ ]	] (c) Are there any transferable warranties?
51) [ ]	[ ]	[ ]	[ ]	] Has there been any evidence or presence of mold, mildew and/or fungus?
51a) [ ]	[ ]	[ ]	[ ]	] (a) If yes, was there treatment? When and how? _____
52) [ ]	[ ]	[ ]	[ ]	] Has there been any evidence or presence of any pests (e.g., roaches, fleas, bedbugs, mites, ticks, ants, rats, centipedes, etc.)?
52a) [ ]	[ ]	[ ]	[ ]	] (a) If yes, was there treatment? <u>When and how?</u> _____
53) [ ]	[ ]	[ ]	[ ]	] Has there been any evidence or presence of wood destroying organisms in the improvements (e.g., termites, powder post beetles, dry rot, carpenter ants/bees, etc.)?
53a) [ ]	[ ]	[ ]	[ ]	] (a) If yes, was there treatment? When and how? Has there been professional treatment? List who treated and date(s). _____
53b) [ ]	[ ]	[ ]	[ ]	] (b) Is there any known damage to the improvements caused by wood destroying organisms?
53c) [ ]	[ ]	[ ]	[ ]	] (c) Has the damage been repaired?
53d) [ ]	[ ]	[ ]	[ ]	] (d) Are there any warranties for treatment or repairs? Who provides the warranties and dates of warranties?

**E. DEFECTS, REPAIRS OR REPLACEMENTS (Past or present): Check items listed below if you are aware of any past or present defects, repairs or replacements. If checked, use the same number and describe in Section G.**

(54) [ ]	]	Air conditioning	(67) [ ]	]	Fences/Perimeter Walls	(80) [ ]	]	Solar Water Systems
(55) [ ]	]	Appliances	(68) [ ]	]	Fire Sprinkler System	(81) [ ]	]	Solar/Photovoltaic Systems
(56) [ ]	]	Bathubs/showers/Basins/Toilets	(69) [ ]	]	Fireplace/Chimney	(82) [ ]	]	Spa/Hot Tub/Sauna
(57) [ ]	]	Ceilings	(70) [ ]	]	Floors/Floor Coverings	(83) [ ]	]	Swimming Pool
(58) [ ]	]	Ceiling Fans	(71) [ ]	]	Foundations/Slabs	(84) [ ]	]	Ventilation Systems
(59) [ ]	]	Central Vacuum Systems	(72) [ ]	]	Gutters	(85) [ ]	]	Walkways
(60) [ ]	]	Counters/Cabinets	(73) [ ]	]	Heating Systems	(86) [ ]	]	Walls Exterior/Trim
(61) [ ]	]	Decking/Railings/Lanai	(74) [ ]	]	Lawn Sprinkler System	(87) [ ]	]	Walls Interior/Baseboards/Trim
(62) [ ]	]	Doorbells	(75) [ ]	]	Plumbing	(88) [ ]	]	Water Features
(63) [ ]	]	Doors (all types)	(76) [ ]	]	Roofs/Eaves/Skylights	(89) [ ]	]	Water Heater
(64) [ ]	]	Driveways	(77) [ ]	]	Security Systems	(90) [ ]	]	Window Coverings
(65) [ ]	]	Electrical Systems Switches, etc.	(78) [ ]	]	Sinks/Faucets	(91) [ ]	]	Windows/Screens
(66) [ ]	]	Electronic Controls/Remotes	(79) [ ]	]	Smoke Detectors	(92) [ ]	]	Other <u>x</u>

**F. CONDO SPECIFIC: Do any of the following conditions exist? If "yes", use the same number and describe in Section G.**

YES	NO	NTMK	NA	
93) [ ]	[ ]	[ ]	[ ]	] Does this unit include parking? If yes, how many? _____
93a) [ ]	[ ]	[ ]	[ ]	] (a) [ <input checked="" type="checkbox"/> ] Assigned [ ] Unassigned
93b) [ ]	[ ]	[ ]	[ ]	] (b) [ ] Covered [ ] Partial [ ] Uncovered [ ] Private Garage [ ] Carport
93c) [ ]	[ ]	[ ]	[ ]	] (c) [ ] Standard [ ] Compact [ ] Tandem
94) [ ]	[ ]	[ ]	[ ]	] Do you have knowledge of any parking problems for your apartment?
95) [ ]	[ ]	[ ]	[ ]	] Do you have assigned and/or deeded storage space outside of your apartment?
96) [ ]	[ ]	[ ]	[ ]	] Were additions, modifications, and/or alterations made to your Property without obtaining required association approval?
97) [ ]	[ ]	[ ]	[ ]	] Are there any restrictions/prohibitions imposed upon pet ownership?
98) [ ]	[ ]	[ ]	[ ]	] Is your dwelling sprinklered for fire protection?
99) [ ]	[ ]	[ ]	[ ]	] Has there been any damage to your Property due to leakage or water penetration from apartments above or adjacent to your apartment or damage due to leakage or water penetration to apartments below your apartment?
100) [ ]	[ ]	[ ]	[ ]	] Are you aware of any defects to the common or limited common elements affecting the unit?
101) [ ]	[ ]	[ ]	[ ]	] Are you aware of any litigation affecting your complex?

**G. Reference Question Number and Explanation. List any additional material facts. List any attachments or exhibits:**

BUYER'S INITIALS & DATE

SELLER'S INITIALS & DATE

March 28, 2024

**The Honorable Mark M. Nakashima, Chair**

House Committee on Consumer Protection & Commerce  
State Capitol, Conference Room 329 & Videoconference

**RE: Senate Bill 3329, SD1, HD1, Relating to Little Fire Ants**

**HEARING: Thursday, March 28, 2024, at 2:00 p.m.**

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR **opposes** Senate Bill 3329, SD1, HD1, which requires the disclosure of any little fire ant infestation as part of any sale of residential real property. Effective 7/1/3000.

Current law (Hawaii Revised Statutes 508-D) imposes a broad obligation upon sellers of residential property to disclose all material facts. Material fact means "any fact, defect, or condition, past or present, that would be expected to measurably affect the value to a reasonable person of the residential real property being offered for sale." The seller would have to disclose to the buyer any material facts that are within the knowledge and control of the seller or observed from visible, accessible areas.

HAR believes material facts include known pest infestations. Question 10 on our *Seller's Real Property Disclosure Statement* ("SRPDS") form asks the seller if there has been any evidence or presence of any pest (e.g. roaches, fleas, bedbugs, mites, ticks, **ants**, rats, centipedes). Moreover, if the seller indicates there is a presence of pests, they are then asked in a follow-up question (10a) if there has been any treatment and, if so, when, how, and by whom. We provided a screenshot of the relevant section of our SRPDS and attached it to our testimony.

A broad disclosure law is more effective because it is difficult to list every possible item for disclosure to the exclusion of others. Given the unique nature of each real estate transaction and the diverse issues on different islands, it is difficult to anticipate every scenario. We do not want to set the precedent to require the need to constantly update state statute every time a new scenario is identified. The broad disclosure law on all material facts as currently written is better suited to address a wide range of current and future situations.

As such, HAR believes that it is not necessary to specifically mandate disclosure of fire ants in statute as such pests are already covered as a material fact disclosure requirement.

Mahalo for the opportunity to testify on this measure.

- |      | YES | NO  | NTMK | NA  |   |
|------|-----|-----|------|-----|---|
| 5)   | [ ] | [ ] | [ ]  | [ ] | Have you given any release or waiver of liability, or release from a warranty to any government agency, contractor, engineer, architect, land surveyor, or landscape architect, for any defect, mistake, or omission in the design or construction of the Property? |
| 6)   | [ ] | [ ] | [ ]  | [ ] | Is the property sprinklered for fire protection?  |
| 7)   | [ ] | [ ] | [ ]  | [ ] | Is the property equipped with smoke and/or carbon monoxide detectors? How many? Are they wired into the electrical system?  |
| 8)   |     |     |      |     | What is the age of the main roof and the roofing of any other addition(s)? _____  |
| 8a)  |     |     |      |     | Has the roof been [ ] replaced, [ ] repaired, or [ ] treated? If checked, describe in Section G.  |
| 9)   | [ ] | [ ] | [ ]  | [ ] | Has there been any evidence or presence of mold, mildew, or fungus interior or exterior?  |
| 9a)  |     |     |      |     | If yes, has there been treatment? [ ] Yes [ ] No. If yes, describe when, how, and by whom in Section G.   |
| 10)  | [ ] | [ ] | [ ]  | [ ] | Has there been any evidence or presence of any pest (e.g., roaches, fleas, bedbugs, mites, ticks, ants, rats, centipedes)?  |
| 10a) |     |     |      |     | If yes, has there been treatment? [ ] Yes [ ] No. If yes, describe when, how, and by whom in Section G.   |
| 11)  | [ ] | [ ] | [ ]  | [ ] | Has there been any evidence or presence of wood destroying organisms in the improvements (e.g., termites, powder post beetles, dry rot, carpenter ants, bees, etc.)?  |
| 11a) |     |     |      |     | If yes, has there been treatment? [ ] Yes [ ] No. If yes, describe when, how, and by whom in Section G.   |
| 11b) | [ ] | [ ] | [ ]  | [ ] | Is there any known damage to the improvements caused by wood destroying organisms?  |
| 11c) | [ ] | [ ] | [ ]  | [ ] | Has the damage been repaired? If yes, list repairs.   |
| 12)  | [ ] | [ ] | [ ]  | [ ] | Are there any transferable warranties (appliances, pest treatment, roof, photovoltaic, other)?  |

**SB-3329-HD-1**

Submitted on: 3/26/2024 12:00:16 PM

Testimony for CPC on 3/28/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

WOULD BE GOOD TO KNOW OFFICIALLY, BUT LFA'S ARE ALREADY EVERYWHERE.

MAHALO!



**SB-3329-HD-1**

Submitted on: 3/26/2024 5:54:12 PM

Testimony for CPC on 3/28/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lois Crozer	Individual	Support	Written Testimony Only

Comments:

I support this bill specifically calling out little FIRE ANTS in the disclosure. The real estate agents can write it in if they have to. We need to protect our neighborhoods and pets.