
A BILL FOR AN ACT

RELATING TO ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that electric clothes
2 dryers make up over ten per cent of many households' total
3 energy use. Reducing the use of electric clothes dryers
4 statewide could substantially decrease the amount of energy that
5 households use and thereby reduce the amount of fossil fuels
6 used to generate electricity in the State.

7 The legislature finds that simple clotheslines make
8 efficient use of two abundant resources, the sun and the wind,
9 to dry clothing. For aesthetic reasons, however, many
10 homeowners' associations prohibit the use of clotheslines or
11 render them ineffective through unreasonably restrictive
12 regulation. The legislature further finds that although
13 aesthetic concerns still exist today, they are not necessarily
14 incompatible with environmental and energy security concerns,
15 especially in the current context of high energy costs, climate
16 change issues, and Hawaii's goal of increasing energy
17 independence and maintaining an aesthetically pleasing
18 environment.

1 The purpose of this Act is to prohibit real estate
2 contracts, agreements, and rules from precluding or rendering
3 ineffective the use of clotheslines on the premises of single-
4 family dwellings or townhouses.

5 SECTION 2. Chapter 196, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§196- Placement of clotheslines. (a) Notwithstanding
9 any law to the contrary, no person shall be prevented by any
10 covenant, declaration, bylaws, restriction, deed, lease, term,
11 provision, condition, codicil, contract, or similar binding
12 agreement, however worded, from installing a clothesline on any
13 single-family residential dwelling or townhouse that the person
14 owns or in an area reserved for the exclusive use of the person.
15 Any provision in any lease, instrument, contract, or other
16 document listed above contrary to the intent of this section
17 shall be void and unenforceable.

18 (b) Any private entity may adopt rules that reasonably
19 restrict the placement and use of clotheslines for the purpose
20 of drying clothes on the premises of any single-family
21 residential dwelling or townhouse; provided that those
22 restrictions do not prohibit the use of clotheslines altogether

1 or deny access to air or sunlight reasonably necessary for the
2 effective use of the clotheslines. No private entity shall
3 assess or charge any homeowner any fees for the placement of any
4 clothesline located in an area the homeowner owns or in an area
5 reserved for the exclusive use of the homeowner.

6 (c) For the purposes of this section:

7 "Clothesline" means a rope, cord, or wire or similar device
8 on which laundry is hung to dry.

9 "Private entity" means any association of homeowners,
10 community association, condominium association, cooperative, or
11 any other non-governmental entity with covenants, bylaws, and
12 administrative provisions with which the homeowner's compliance
13 is required."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

Report Title:

Solar Energy; Clotheslines

Description:

Allows the use of clotheslines on any privately owned single-family residential dwelling or townhouse. (SD1)



SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

April 7, 2009, 10:00 A.M.

Room 229

(Testimony is 3 pages long)

TESTIMONY IN STRONG SUPPORT OF HB 1273 HD1 SD1

Chair Baker and members of the committee:

The Blue Planet Foundation strongly supports House Bill 1273 HD1 SD1, ensuring that Hawai'i homeowners have the choice to save money and save energy by using a clothesline to dry their clothes. We greatly appreciate the amendments made by the previous Senate committee to clarify that homeowners will be allowed to use a clothesline for its intended purpose—drying clothes—not just disallowing their prohibition.

Electric clothes dryers can consume upwards of 10% of a household's energy demand. Reducing the use of clothes dryers could substantially decrease the amount of fossil fuel electricity that Hawai'i's households require. Unfortunately, many homeowner associations prohibit the use of using the sun to dry clothes—clotheslines—and some simply make it very difficult to use a clothesline. For example, the Declaration of Covenants, Conditions, and Restrictions for the Ewa by Gentry development state that "...no outside clothes line or other outside clothes drying or airing facilities shall be maintained on any lot unless the same are screened from view and are not visible from neighboring property." While such an aesthetic condition might have been acceptable 20 years ago, it makes no sense today to restrict smart energy-saving behavior given what we now know about global climate change.

While we know this clothesline measure has drawn chuckles from some, its value is very serious: to provide residents the option of reducing their energy use if they chose. Given the cost of electricity and urgent need to move toward energy independence, Hawai'i homeowners should have the choice to save money and save energy by using the hot sun and trade winds to

Jeff Mikulina, executive director • jeff@blueplanetfoundation.org

55 Merchant Street 17th Floor • Honolulu, Hawai'i 96813 • 808-954-6142 • blueplanetfoundation.org

dry their clothes. This may sound frivolous, but when you consider that the average family produces over one ton of greenhouse gas annually from typical electric clothes dryer usage, any restriction on clothesline use seems inappropriate. Yet this measure doesn't prevent any homeowner association rules on clothesline usage, only those that are unreasonable. Clotheslines also save money. Families switching to a clothesline can expect to save hundreds annually on their electricity bill.

This measure is a logical extension to the bill passed into law in 2005 prohibiting restrictions that prevent individuals from installing solar energy devices on houses or townhomes that they own.

While we are searching for ways to reduce our dependency on fossil fuel, save residents' money, and decrease global warming pollution, let's not forget about the basic—and decidedly low-tech—approaches to energy conservation. This bill removes yet another barrier to local residents doing the right thing for the environment and the economy.

Last year this measure passed the legislature with broad support. The bill, however, was vetoed by the Governor. Governor Linda Lingle suggested that the bill of concern because it may invalidate community associations existing contractual bylaws or rules. We do not believe this is a concern for HB 1273 HD1 SD1 the following reasons:

1. House Bill 1273 HD1 SD1 allows the enactment of rules or bylaws governing clotheslines as long as they are not unreasonable.
2. Locally, Act 157 (2005), disallowing most restrictions on solar device usage, has not been challenged.
3. Case law is supportive. In *Applications of Herrick and Irish*, 82 Hawai'i 329 (1996): "In deciding whether a state law has violated the federal constitutional prohibition against impairment of contracts, U.S. Const., art. I, § 10, cl. 1, we must assay the following criteria: (1) whether the state law operated as a substantial impairment of a contractual relationship; (2) whether the state law was designed to promote a significant and legitimate public purpose; and (3) whether the state law was a reasonable and narrowly-drawn means of promoting the significant and legitimate public purpose."

4. The goal of HB 1273 HD1 SD1 is to promote a significant and legitimate public purpose, namely, the critical goal of reducing Hawaii's expensive dependency on imported fossil fuel.
5. Nationally, association rules have been invalidated or overridden in the past: Jim Crow laws and the FCC allowing satellite dishes are two significant examples.
6. The courts have often found that prohibiting the enforcement of pre-existing restrictive covenants does not violate the contracts clause. "There is no unconstitutional retroactive impairment of contract rights where the legislature operates pursuant to a strong state interest, does not drastically alter the pre-enactment right and does not unreasonably destroy reliance on the right." *Westwood Homeowners Association v. Tenhoff*, 745 P.2d 976, 983 (Ariz. App. 1987) (retroactive application of public policy prohibiting enforcement of restrictive covenants that bar group homes for the disabled in residential neighborhoods does not violate the contracts clause)¹

Blue Planet believes that HB 1273 HD1 SD1 is a fair, balanced, and necessary policy to remove yet another barrier for local residents to do the right thing in decreasing their energy use.

As Benjamin Franklin reminds us, "We must hang together...else, we shall most assuredly hang separately."

Thank you for the opportunity to testify.

¹ See also: *Ball v. Butte Home Health, Inc.* 70 Cal.Rptr.2d 246 (Cal App. 3 Dist. 1997) (retroactive application of law forbidding enforcement of restrictive covenants that prohibit group homes for the disabled does not violate the contracts clause).
Barrett v. Dawson, 71 Cal.Rptr.2d 899 (Cal.App.4 Dist. 1998) (retroactive application of statute prohibiting enforcement of restrictive covenant barring day cares homes in residential neighborhoods does not violate the contracts clause).



P.O. Box 3000
Honolulu, HI 96802-3000

April 3, 2009

Testimony for HB 1273, HD 1, SD 1 Relating to Household Energy Demand

Aloha Chair Baker, Vice Chair Ige and Members of the Committee on Commerce and Consumer Protection:

My name is Stephanie Ackerman. I am Vice President Public Policy and Communications for The Gas Company. Thank you for the opportunity to provide testimony on HB 1273, HD 1, SD 1 Relating to Household Energy Demand.

The Gas Company supports the intent of HB 1273, HD 1, SD 1 which would allow homeowners to erect or use a clothesline and have reasonable access to sun and wind to dry their clothes.

The Gas Company supports the State's initiatives to promote renewable energy, energy efficiency, and the diversification of energy resources. The Gas Company therefore supports measures that promote consumer choices in adopting efficient alternative energy solutions included in HB 1273, HD 1. SD1.

Thank you for the opportunity to offer these comments.

From: [Raetenno](#)
To: [CPN Testimony](#)
Cc: [Rep. Ken Ito](#); info@waa-hawaii.org
Subject: HB1273, HD1, SD1
Date: Friday, April 03, 2009 8:42:57 PM

Senator Rosalyn H. Baker, Chair

Senator David Y. Ige, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

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RELATING TO ENERGY.

Allows the use of clotheslines on any privately owned single-family residential dwelling or townhouse.

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Thank you for allowing me to send this testimony via email.

I belong to a small 20 unit (CPR) single family home development in Kaneohe. My husband and I **strongly support** this bill. We purchased this home in 2005 with an existing clothesline at the side yard. Now according to the association architectural committee guidelines (formed in 2007) we can no longer have clotheslines in our yard areas nor can we have one in our enclosed garages!

Having been a condo owner since 1990, I truly believe the townhouses, PUD's and single family associations can put together reasonable guidelines as to not affect the esthetics, curb appeal etc.

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Our electric bill has gone from an average of \$150 per month in 2007 to \$300 in 2008 and to current. This is a house with no Air conditioning and only 2 occupants and I still use the clothesline to hang all of our heavy clothing (ie: jeans, towels, rugs etc). So much for the Architectural Guidelines!

Thank you!

Raelene Tenno and William Guzman
808-368-3657
888-281-7221