

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
WATER, LAND, & OCEAN RESOURCES**

**Friday, February 11, 2011
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 926
RELATING TO SHORELINE SETBACK**

House Bill 926 prohibits inclusion of accreted lands in determining the shoreline setbacks in counties with population over greater than five hundred thousand. Among other things, this bill recommends amendments to Sec. 205A-43, Hawaii Revised Statutes (HRS), to add language to establish that the setback along the shoreline shall not be less than 20 feet from "any accreted lands" along the shoreline.

The Department of Land and Natural Resources (Department) does not support House Bill 926 as it is currently worded, which is based on the definition of "Accreted lands" contained in Section 171-1, HRS. Accreted lands are vaguely defined as "lands formed by the gradual accumulation of land on a beach or shore along the ocean by the action of natural forces." The Bill lacks specific guidance for identifying "accreted lands" for the purposes of calculating shoreline setbacks.

It is the Department's understanding that the intent of the measure is to provide additional protection of lands that have been claimed under the State's accretion laws. Should this be the case, the Department feels that the term "any accreted lands" should be qualified as follows:

(c) For the purposes of this section "accreted land" shall be those lands judicially decreed or registered under the State's accretion laws.

In addition, the Department is not supportive of proposed modifications that would calculate setbacks based on "accretion rates". Using average annual accretion rates to calculate shoreline setbacks would result in a setback line being positioned makai of the certified shoreline, thereby

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

potentially placing new construction on submerged lands and threatening public health, welfare, and safety.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
MARY LOU KOBAYASHI
Planning Program Administrator, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES
Friday, February 11, 2011
9:00 AM
State Capitol, Conference Room 325

in consideration of
HB 926
RELATING TO SHORELINE SETBACK.

Chair Chang, Vice Chair Har, and Members of the House Committee on Water,
Land and Ocean Resources.

We have the following comments regarding HB 926 Relating to Shoreline
Setback. HB 926 amends Sec. 205A-43, Hawaii Revised Statutes (HRS), to add
language that for any county with a population greater than five hundred thousand, the
setback along the shoreline shall not be less than twenty feet from the shoreline or twenty
feet from any accreted lands along the shoreline, whichever is greater. For the purposes
of this bill, accreted lands are defined as having the same meaning as in Sec. 171-1, HRS.
According to Sec. 171-1, HRS, accreted lands are lands formed by the gradual
accumulation of land on a beach or shore along the ocean by the action of natural forces.

The definition of accreted lands in Sec. 171-1, HRS, does not provide guidance as
to a starting point and a starting date for these accreted lands formed by the accumulation

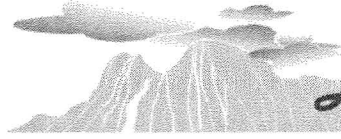
of land on a beach or shore. Lands have been accreting and eroding for generations. It is possible that homes have been built on lands that have accreted in the past. The proposed language does not provide sufficient guidance to determine where and when the accreted lands occur.

We support the intent of this bill. We recommend that HB 926 make the following amendment to Sec. 205A-43, HRS, to take into account erosion and accretion rates for shoreline setbacks.

Sec. 205A-43, HRS, is amended by amending subsection (a) to read as follows:

"(a) Setbacks along shorelines are established of not less than twenty feet and not more than forty feet inland from the shoreline~~[-]~~, unless the shoreline setback line is established based on average annual shoreline erosion or accretion rates. The department shall adopt rules pursuant to chapter 91, and shall enforce the shoreline setbacks and rules pertaining thereto."

Thank you for the opportunity to offer these comments.



Hawaii's Thousand Friends

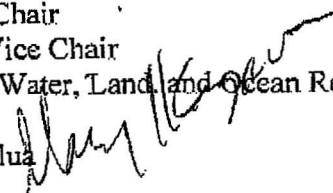
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Aloha:

Hawaii's Thousand Friends strongly supports HB926 which provides essential protection for our valuable beaches. These beaches, which are so valuable to our life style as well as our economy, are under attack by special interests for short-term personal and economic gain. Construction too close to the water and hardening of the shoreline with structures such as seawalls has been undeniably proven to cause the loss of the beach such as in Lanikai. This Bill will help to protect our beaches and our future. Please adopt HB926.

Charles A. Prentiss, Ph.D., President, Hawaii's Thousand Friends

TO: Rep. Jerry L. Chang, Chair
Rep. Sharon E. Har, Vice Chair
House Committee on Water, Land, and Ocean Resources

FROM: Mary Ikagawa, Kailua 

RE: HB 926. Shoreline setbacks. Scheduled to be heard by WLO on
Friday, 02-11-11 9:00AM in House conference room 325

I support this bill with the following change to eliminate the language that limits this benefit to the island of Oahu. This is a proactive step that will protect our shorelines and people's use of them in perpetuity. There is no reason all islands and their residents should not benefit equally.

205A-43 Establishment of shoreline setbacks and duties and powers of the department. (a) Setbacks along shorelines are established of not less than twenty feet and not more than forty feet inland from the shoreline. ~~provided that, in any county with a population greater than five hundred thousand,~~ The setback along the shoreline shall not be less than twenty feet from the shoreline or twenty feet from any accreted lands along the shoreline, whichever is greater.