

# SB1365

**Measure Title:** RELATING TO ENERGY.

**Report Title:** Cool Roofs; Residential Construction; Commercial Construction; Energy Conservation

**Description:** Establishes specific performance standards and mandates the use of cool roofs on all new residential and commercial construction in Hawaii beginning in 2012.

**Companion:**

**Package:** None

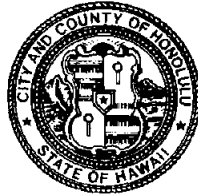
**Current Referral:** ENE/PGM, CPN

Pasted from <[http://www.capitol.hawaii.gov/session2011/lists/measure\\_indiv.aspx?billtype=SB&billnumber=1365](http://www.capitol.hawaii.gov/session2011/lists/measure_indiv.aspx?billtype=SB&billnumber=1365)>

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

PETER B. CARLISLE  
MAYOR



DAVID K. TANOUE  
DIRECTOR

JIRO A. SUMADA  
DEPUTY DIRECTOR

February 24, 2011

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

Dear Chair Baker and Members:

**Subject: Senate Bill No. 1365  
Relating to Energy**

The Department of Planning and Permitting (DPP), **opposes** Senate Bill No. 1365, in its current form. This bill adds to the Hawaii Revised Statutes (HRS) a chapter to mandate that the construction of all new residential and commercial projects only use cool roof materials.

While the department supports the goal of reducing the dependency on foreign oil we are uncomfortable with the language of this bill as it might violate both State and Federal laws prohibiting the restriction of trade and commerce. This bill mandates a specific type of material and construction precluding all others for portion of new construction. While this is one method of reducing energy use in the construction of a building, there are numerous other construction methods and materials which would also reduce energy use. By placing a restriction to only one component, this restricts and increases the cost of construction.

Our primary objection to this proposed bill is that it violates HRS 46-1.5 which empowers the counties to make and enforce all matters pertaining to inspections of buildings. This requirement imposes an administrative requirement upon building permits not mandated by the county enforcement agency and therefore is in violation of this Chapter.

Please file this bill or amend it to address the concerns expressed in this testimony.

The Honorable Rosalyn H. Baker, Chair  
and Members of the Committee on Commerce  
and Consumer Protection

State Senate

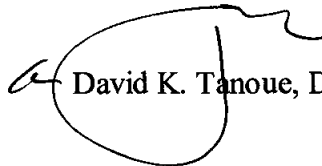
Re: Senate Bill No. 1365

February 24, 2011

Page 2

Thank you for the opportunity to testify.

Very truly yours,

  
David K. Tanoue, Director

DKT: jmf  
sb1365-CoolRoof-th.doc



**Testimony to the Senate Committee on Commerce and Consumer Protection  
Thursday, February 24, 2011 at 11:00 a.m.  
Conference Room 229, State Capitol**

**RE: SENATE BILL NO. 1365 RELATING TO ENERGY**

Chair Baker, Vice Chair Taniguchi, and Members of the Committee:

The Chamber of Commerce of Hawaii ("Chamber") opposes SB 1365 relating to Energy.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

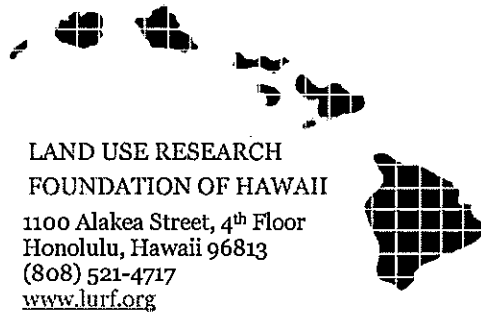
The Chamber of Commerce of Hawaii is opposed to bills such as SB 1365 that "Mandates" citizens to build in a certain way. The bill states that the use of cool roofs will facilitate a decrease in dependency on foreign oil by the State and assist in reaching the goal of producing seventy per cent of the State's energy from clean sources by 2030.

No one disagrees with the intended goal of moving the state toward becoming more energy self sufficient. The concern is the approach to achieving the goal.

In other Cities or municipalities, government has led by example by "Mandating" that all government projects achieve a certain green or sustainable design standard. In so doing, the design professionals and contractors in these Cities were educated and developed the necessary hands on experience to build a green or sustainable project. AFTER the design professionals and contractors gained this experience, there were incentives created based on their hands on experience, to encourage the private projects to incorporate green or sustainable design. People were able to see that costs and benefits of changing behavior and moving toward more energy efficiency.

We would encourage the legislature to consider the use of incentives to influence the market. From a public policy perspective, this mandate on new home construction focuses essentially on the few hundred or thousand new residential units constructed annually. It does not address the existing 500,000 homes on Oahu that have already been constructed. We believe incentives that would encourage the existing 500,000 to install energy conservation devises would have a more immediate impact than focusing on only new home construction.

We strongly encourage that SB 1365 be held. Thank you for the opportunity to share our views with you.



February 24, 2011

Senator Mike Gabbard, Chair and Senator J. Kalani English, Vice Chair  
Committee on Energy and Environment  
Senator Will Espero, Chair and Senator Michelle Kidani, Vice Chair  
Committee on Public Safety, Government Operations and Military Affairs

**Opposition to SB 1365, Relating to Energy** (Establishes specific performance standards and mandates the use of cool roofs on all new residential and commercial construction beginning in 2012.)

**Thursday, February 24, 2011 at 11:00 a.m. in CR 229**

My name is David Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

While LURF and its members support and employ solar energy or comparable renewable energy devices, and therefore support the general intent of this bill, LURF must testify **in strong opposition to SB 1365**.

Instead of mandatory legislation, the legislature should encourage making installation of cool roofs or comparable renewable energy devices cost-neutral to new homebuyers and developers by providing up front credits and incentives to developers to counteract the increased costs of such devices and the resulting increased prices of new homes.

**SB 1365**. The purpose of this bill is to promote energy conservation, reduce the State's dependence on foreign oil, and decrease the heat island effect by establishing specific performance standards mandating the use of cool roofs in all new residential and commercial construction in Hawaii.

SB 1365 proposes to amend the Hawaii Revised Statutes (HRS) by adding a new chapter specifically dedicated to the use of cool roofs as a mandate for any permit for the construction of any new residential or commercial structure on or after January 1, 2012.

The Committee report by Senate Committees on Energy and Environment and Public Safety, Government Operations and Military Affairs found "promoting energy conservation, reducing the State's dependence on imported oil, and combating what is

known as the 'heat island effect' can be achieved by this measure's requirements that cool roofing materials be used to upgrade the performance standards of new roofs." *Senate Standing Committee Report No. 340*. However, this is a fallacy, because the better way to encourage homeowners to install cool roofs on not only new homes but existing homes is through incentives like tax credits and government rebate programs.

The new HRS Chapter proposed by SB 1365 includes four sections:

- **Section 1** includes defining cool roof, cool roof material, low sloped roof, new construction, and steep slope roof.
- **Section 2** entitled requirements would require no permit to be issued after January 1, 2012 unless the residential or commercial structure's roof uses cool roof materials. SB 1365 makes an exception to the cool roof requirement and does not require it for new residential structures "that do not use electrical or other energy-consuming cooling systems."
- **Section 3** includes exemptions and variance process which shall be deemed approved if not denied by energy resources coordinator within 30 days of application of receiving the application.
- **Section 4** relies on counties for enforcement powers and does not appropriate any funding. The proposed bill requires the Counties to adopt and enforce rules, ordinances, and guidelines to take all reasonable actions to implement this new chapter.

**LURF's Position.** While cognizant that the State and the community, should work together to conserve more energy, LURF believes that the choice between, and use of energy conservation devices should be governed by market forces and government incentives, rather than by government regulations. The bases for LURF's position include, among other things, the following:

- The present system of rebates and incentives is effective, so that there is no need for any additional regulation or increased costs to new homeowners;
- The choice to install cool roofs should be left to each individual homeowner in projects with six or more residential units.
- LURF understands that the use of cool roofs on currently designed residences may have very minimal, if any effect on the transfer of heat. This is due to the experience of developers and contractors with the type of design of the residence; type of insulation now being utilized; and location where the insulation is being placed within the structure.
- Allowing developers and contractors based on their knowledge and building experience, to be innovative and objectively decide how best to address energy conservation concerns relating to design and construction, would be more practical and cost efficient.
- This mandatory legislation will increase the sales prices of homes in Hawaii since the cost of a cool roof and installation will be "passed-on" to the new homebuyers.
- The increased sales prices caused by this bill will adversely impact the ability of new homebuyers to qualify for mortgage loans.
- When applying the classic "carrot versus stick" philosophy to influencing human behavior, LURF prefers the "carrot" approach and would recommend that

incentives be increased for developers of new residential projects who install energy conservation devices, rather than requiring compliance through legislation. If the Legislature grants sufficient incentives and tax credits to developers of new residential development projects, then the impact of this legislation could be cost-neutral for new homebuyers.

- The purported purpose of SB 1365 is to significantly reduce the State's dependence on imported oil over time, however, this bill does not require cool roofs to be installed on all State buildings, and industrial or resort properties. Instead, it focuses only on requirements which would increase the cost of new residential and commercial developments. Based upon the stated purpose of the bill, the same requirements should be imposed uniformly on all types of properties, including those that are government-owned.

**Other Concerns.** The bill's requirements are subjective, confusing and impractical:

- **Unfunded Mandate.** SB 1365 would require all counties to "adopt and enforce rules, ordinances, and guidelines to take all reasonable actions to implement and enforce this chapter" by January 1, 2012. Such a state law that requires the counties to establish and enforce rules based on a state initiative or policy could be considered to be an "unfunded mandate," which the counties could refuse to implement.
- **Impractical Effective Date.** The bill, which would go into effect on July 1, 2011, is impractical and unfeasible especially in these hard economic times faced by builders including developers, and even small lot owners who want to develop multi-family residential units.

For these reasons, LURF **strongly opposes SB 1365** and respectfully requests that the bill **be held in Committee.**

Thank you for the opportunity to express our concerns on this matter.

The Pacific Resource  
**PARTNERSHIP**



Testimony of C. Mike Kido  
External Affairs  
The Pacific Resource Partnership

Senate Committee on Commerce & Consumer Protection  
Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

SB 1365 – RELATING TO ENERGY  
Thursday, February 24, 2011  
11:00 am  
Conference Room 229

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

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Carpenters Union.

PRP would like to comment on the current version of SB 1365 – Relating to Energy which establishes specific performance standards and mandates the use of cool roofs on all new residential and commercial construction in Hawaii beginning in 2012.

PRP believes in the promotion of energy conservation and the reduction in the State's dependence on foreign oil, but instead of mandatory legislation, the legislature should encourage installation of cool roofs or comparable renewable energy devices cost-neutral to new homebuyers and developers by providing up front credits and incentives to developers to counteract the increased costs of such devices and the resulting increased prices of new homes. The choice of energy conservation devices should be governed by market forces and government incentives, rather than by government regulations.

Thank you for the opportunity to share our views with you and we respectfully request that the **current version of SB 1365 be held** in Committee.