

LATE



February 10, 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 11, 2011 at 3:30 p.m. in CR 225

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 support the general intent of this bill, we must testify **in strong opposition to the current version of 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 adds 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 new Chapter created in 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 we, as a community, should work to conserve more energy, LURF believes that the choice of energy conservation devices should be governed by market forces and government incentives, rather than by government regulations. The grounds for LURF's objections include, among other things, the following:

- The present system of rebates and incentives are working, 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.
- 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.
- Philosophically, this is the classic "carrot versus the stick" approach to influencing people's behavior. We prefer the "carrot" approach and would recommend that incentives be increased for developers of new residential projects who install energy conservation devices, rather than require 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 in projects of six or more residential units.
- The purported purpose of the bill is to significantly reduce the State's dependence on imported oil over time, however, it is curious that this bill does not require cool roofs to be installed on all state buildings, and industrial or resort properties. Instead, it only focuses on government requirements which would increase the costs of new residential and commercial developments. If the stated purpose of the bill is true, then government should impose the same requirements upon itself.

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

- **Unfunded Mandate.** SB 1365 would require all Counties by January 1, 2012 to "adopt and enforce rules, ordinances, and guidelines to take all reasonable actions to implement and enforce this chapter." Such a state law that requires the counties to establish and enforce rules, based on a state initiative or policy, could be an "unfunded mandate," which the counties could refuse to implement.
- **Effective Date.** The bill, which would go into effect on July 1, 2011, is impracticable and not feasible especially in these hard economic times faced by developers and even small lot owners who want to develop multi-family residential units.

For these reasons, we respectfully **request that SB 1365 be held** in Committee.

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