

SB 688



STATE OF HAWAII
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COMMITTEE ON ENERGY AND ENVIRONMENT

COMMITTEE ON WATER, LAND, AND HOUSING

SB 688, RELATING TO ENVIRONMENTAL ASSESSMENTS

Testimony of Gary Hooser
Interim Director of the Office of Environmental Quality Control

February 10, 2011

1 **Office's Position:** While supporting the intent of SB688, the Office of Environmental Quality
2 Control strongly feels that this debate and decision-making should be conducted at the
3 Environmental Council level.

4 **Fiscal Implications:** Exempting actions involving affordable housing projects located within
5 residential or commercial zoned areas can save funds and time for applicants and agencies
6 proposing such activities.

7 **Purpose and Justification:** The Environmental Council is authorized to make, amend and
8 repeal rules implementing the Chapter 343, HRS. As a matter of practice, the Environmental
9 Council reviews and concurs to lists of proposed actions that an agency deems to be exempt from
10 the preparation of an environmental assessment – similar to the activities described in the SB688.

11 In 2007, at the behest of the Office of the Governor, the Environmental Council amended
12 Section 11-200-8, Hawaii Administrative Rules to include an eleventh class of actions relating to
13 the acquisition of lands for the purpose of affordable housing.

1 OEQC's concern with this proposal is that this is just one of various measures introduced
2 this session to amend Chapter 343, HRS. Rather than amending the statutes piece by piece, we
3 prefer the comprehensive approach proposed and recommended by the University of Hawaii
4 study, the Final Report on Hawaii's Environmental Review System, completed in October, 2010.

5 So, although we recognize the need to support affordable housing, we hope proponents
6 can work with the appropriate agencies through the Environmental Council process to exempt
7 projects prescribed in SB688. A list of all exempt activities by departments and counties is
8 available on the OEQC website.

9 Thank you for the opportunity to testify.



**Testimony to the Senate Committees on Energy and Environment & Water,
Land, and Housing
Thursday, February 10, 2011 at 4:30 p.m.
Conference Room 225, State Capitol**

**RE: SENATE BILL NO. 688 RELATING TO ENVIRONMENTAL
ASSESSMENTS**

Chairs Gabbard and Dela Cruz, Vice Chairs English and Solomon, and Members of the Committees:

The Chamber of Commerce of Hawaii provides the below comments on S.B. No 688.

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 purpose of this Act is to exempt actions involving the construction of or changes or modifications to affordable housing located within areas zoned for residential or commercial use where the activity does not require a rezoning designation or a variance from environmental assessment requirements.

While we support the intent of creating more predictability of developers of affordable housing projects, we believe the subject legislation points to the need to clarify Chapter 343 HRS.

The bill proposes to exempt these types of project if the development occurs in areas already zoned for residential or commercial development. Our understanding is that Chapter 343 HRS, when properly applied, is triggered at the first discretionary permit, which is usually zoning. Once the property is zoned, the subsequent approvals are generally ministerial, which should *not* trigger Chapter 343 HRS.

The proposed language indicates the need for a review of how Chapter 343 HRS is being interpreted and applied. We would point to the two bills HB No. 1409 and SB No. 614, which were submitted by the Chamber to address the problems with Chapter 343 HRS.

Thank you for this opportunity to express our views.

HISTORIC HAWAII FOUNDATION

VIA WEB: <http://www.capitol.hawaii.gov/emailtestimony>

To: Sen. Mike Gabbard, Chair
Sen. Kalani English, Vice Chair
Committee on Energy and Environment

Sen. Donovan Dela Cruz, Chair
Sen. Malama Solomon, Vice Chair
Committee on Water Land and Housing

From: Kiersten Faulkner
Executive Director, Historic Hawai'i Foundation

Committee Date: Thursday, February 10, 2011
4:30 p.m.
Conference Room 225

Subject: **SB688, Relating to Environmental Assessments**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in opposition to SB688, Relating to Environmental Assessments. The bill would exempt certain projects from conducting an environmental assessment (EA), despite meeting triggers that would otherwise require an EA.

The State's environmental review statute provides an important mechanism by which impacts to historic and cultural properties are disclosed and agreements made to avoid, minimize or mitigate any adverse effects that could be foreseen from the proposed action. An important trigger for the environmental assessment is the presence of properties that are designated on the Hawai'i State or National Registers of Historic Places.

The historic registers are not in and of themselves regulatory or protective; instead, the historic registers provide a rigorous and disciplined review process in order to determine which sites, buildings, districts or objects meet the criteria for historic significance and integrity. Once designated, these properties are found to be worthy of preservation and to be important to the history of a local community, the state or the nation.

In order to then ensure that these historic sites are preserved, state and local governments enact other statutes and regulations to identify appropriate historic treatments, including environmental assessments. The EA is critical to ensure that the sites are not only identified, but that any action that could harm them is disclosed and openly discussed, with the intent to then avoid or minimize adverse effects.

Historic Hawai'i Foundation

680 Iwilei Road, Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • FAX: 808-523-0800 • www.historichawaii.org

Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

This mechanism should be followed regardless of the proposed use of the historic site. Affordable housing can be provided within historic buildings. However, it can either be beneficial or adverse, depending on how it is accomplished. It would be inappropriate to exempt historic properties from the environmental assessment merely because affordable housing is contemplated. Instead, the state and communities should look for ways in which historic structures can be rehabilitated and used to provide housing in a way that celebrates the history and legacy of the area.

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation. HHF's 850 members and numerous additional supporters work to preserve Hawai'i's unique architectural and cultural heritage and believe that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

Therefore, HHF recommends that SB688 be amended to retain the provision that an environmental assessment be required for actions that propose a use within designated historic sites.

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February 8, 2011

Senate Committee on Energy and Environment

Senator Mike Gabbard, Chair

Senator J. Kalani English, Vice Chair

Senate Committee on Water, Land, and Housing

Senator Donovan M. Dela Cruz, Chair

Senator Malama Solomon, Vice Chair

Public Hearing: February 10, 2011, 4:30 p.m., Room 225

Re: SB 688, Relating to Environmental Assessments

Dear Chairs, Vice Chairs, and members of the Committee,

I oppose Senate Bill 688.

This bill would amend HRS §343-5 to include a statutory exemption for affordable housing, as defined in section 201H-57(b). While affordable housing projects are a beneficial and important part of addressing housing issues in the State, it is equally important that the environmental impacts of development be considered. Bypassing the environmental review process would also mean depriving the public of an opportunity to learn about and comment on development in their communities.

Moreover, the addition of new exemptions should be pursued through the exemption process described in HAR §11-200-8 and in the Environmental Council rules. The statute is not an appropriate vehicle for adding new exemptions, if these exemptions are warranted. Adding new statutory exemptions may open the door to other similar legislation, which unnecessarily occupies legislators with matters for which another process already exists.

Thank you for the opportunity to testify.

Nicole Lowen

MA Candidate

Department of Urban and Regional Planning

University of Hawaii at Manoa

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Honolulu, HI 96916

Testimony for ENE/WLH 2/10/2011 4:30:00 PM SB688

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Nancy Davlantes
Organization: Individual
Submitted on: 2/9/2011

Comments:

All development projects using state funds, including those that may be necessary for other reasons, should be required to assess environmental impacts. Exemptions from environmental review should be dealt with through rules, not statute. Once an exception is made for one type of project, other exceptions are sure to follow.

Testimony for ENE/WLH 2/10/2011 4:30:00 PM SB688

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Jerome Bautista
Organization: Individual
Submitted on: 2/9/2011

Comments:

While it is important for more affordable housing to be available, ignoring environmental assessment is the wrong way to go about it. It is a very short sighted solution that could cause environmental and health repercussions. It is better to be safe than to be sorry, and long term planning should include environmental assessments to preserve the natural beauty of the little land we have left. We should be more cognizant of our environment, the people that live there, and the rules which we have to ensure that we are all doing the right thing.