



**DEPARTMENT OF BUSINESS,
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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ENERGY & ENVIROMENTAL PROTECTION

Tuesday, February 12, 2013
8:30 a.m.
State Capitol, Conference Room 325

in consideration of
HB 1406
RELATING TO SOLAR ENERGY.

Chair Lee, Vice Chair Thielen, and Members of the Committee.

DBEDT supports HB 1406 which requires private entities (any association of homeowners, community association, condominium association, cooperative, or any other non-governmental entity with covenants, bylaws, and administrative provisions with which the homeowner's compliance is required) to submit a copy of their duly adopted rules to the Real Estate Commission of the State regarding the placement of solar energy devices on or before the due date of their next condominium association biennial registration. This bill also provides that private entities that fail to submit a copy of their rules shall lose their tax exempt status. The provisions of Chapter 196-7 were established so that a person shall not be "prevented...from installing a solar energy device on any single-family residential dwelling or townhouse that the person owns."

The provisions of 196-7 (b) presently require adoption of rules to facilitate the installation of solar devices. Based on the number of phone calls to our office, and our conversations with frustrated and even exasperated home or townhouse owners who wish to install solar devices, it appears that private entities have not adopted rules or the rules have not addressed the intent of (b) as required. The provisions proposed in this bill would address and strengthen the intent of 196-7 and help to avoid potential circumstances for litigation.

Section 514B-103(2) references the Real Estate Commission. We defer to the Real Estate Commission on these matters.

Thank you for the opportunity to provide this testimony.

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Hawaii Solar Energy Association
Serving Hawaii Since 1977

Before the House Committee on Energy and the Environmental Protection
Tuesday, February 12, 2013, 8:30 am, Conference Room 325
HB 1406: RELATING TO SOLAR ENERGY

Aloha Chair Lee, Vice-Chair Thielen, and members of the House Committee on Energy and Environmental Protection,

On behalf of the Hawaii Solar Energy Association (HSEA), I would like to testify **in support of HB 1406**, which requires private entities to submit a copy of their duly adopted rules regarding the placement of solar energy devices on or before the due date of their next condominium association biennial registration. HB 1406 provides that private entities that fail to submit a copy of their rules shall lose their tax exempt status.

Purpose of law on placement of solar energy devices

Under HRS 196-7 (Placement of solar energy devices), every private entity, such as a home owner's association, "shall adopt rules by December 31, 2006, that provide for the placement of solar energy devices." The purpose of HRS 196-7 was to ensure that the installation of solar energy devices in housing overseen by home owner's associations such as townhouses and condominiums could be accomplished in a straight forward and efficient manner. By mandating that the association adopt rules for the placement of solar energy devices, any home owner would have clear guidance and installations would not be delayed by any extra approval process.

Current law difficult to enforce

However, in many circumstances, home owner associations have failed to adopt rules that provide guidance as to the placement of solar energy devices. This has lead to long delays, and in some cases has prevented homeowners from installing solar due to a lack of guidance or approval from their association. In such a situation, the homeowner is stuck in limbo, with legal action as the only option.

HB 1406 a straightforward solution

The benefit of this legislation is it provides an enforcement mechanism which will not cost the homeowner or the state. To comply, all the association needs to do is adopt rules that provide for guidance on the placement of solar energy devices. Once this is done, the requirements of the statute are satisfied (so long as the rules fall within the guidelines provided in HRS 196-7), and the homeowner can install solar energy in alignment with the association's rules.

Thank you for the opportunity to testify.

Leslie Cole-Brooks
Executive Director
Hawaii Solar Energy Association



HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 12, 2013, 8:30 A.M., Room 325
(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF HB 1406

Chair Lee, Vice-Chair Thielen, and members of the Committee:

The Blue Planet Foundation **supports** HB 1406, to ensure that H.R.S. § 196-7 is being implemented by the entities required to enact rules regarding the placement of solar devices. Without those rules, many households are left in an unfair state of limbo with regard to their statutory right to utilize the power of the sun and wind to reduce their energy costs. By amending H.R.S. § 196-7 and providing a penalty for failing to adopt the required rules, HB 1406 will save ratepayers money.

However, we request one clarifying amendment. H.R.S. § 196-7 states that:

Solar energy device means any identifiable facility, equipment, apparatus, or the like, including a photovoltaic cell application, that is applicable to a single-family residential dwelling or townhouse and makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for generation; provided that "solar energy device" shall not include skylights or windows.

Based on this text, Blue Planet Foundation believes that the definition includes clotheslines and other mechanisms that households can use to "reduce the use" of electric or gas powered clothes dryers, which are are "dependent upon fossil fuel for generation."

Nonetheless, we understand that other parties may erroneously interpret "solar energy device" to exclude clotheslines. Thus, we request that HB 1406 clarify this term, in the interest of providing guidance to the entities responsible for preparing the required rules:

Solar energy device means any identifiable facility, equipment, apparatus, or the like, including a photovoltaic cell application, that is applicable to a single-family residential dwelling or townhouse and makes use of solar energy for heating, cooling, drying, clothes-drying, or reducing the use of other types of energy dependent upon fossil fuel for generation; provided that "solar energy device" shall not include skylights or windows.

Thank you for this opportunity to testify.

Jeff Mikulina, executive director • jeff@blueplanetfoundation.org

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P.O. Box 976
Honolulu, Hawaii 96808

February 11, 2013

Honorable Chris Lee
Honorable Cynthia Thielen
Energy and Environmental Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 1406/OPPOSE**

Dear Chair Lee, Vice-Chair Thielen and Committee Members:

I chair the CAI Legislative Action Committee. CAI supports the goal of energy independence but opposes HB 1406. CAI is willing to work with interested stakeholders to develop an appropriate and narrowly tailored alternative to the needlessly punitive and coercive approach reflected in the bill.

Also, HB 1406 unfairly targets condominium associations. The phrase "private entity" is defined in HRS Section 196-7(f) to include non-condominium entities, but only condominiums would be sanctioned. This is odd, since many condominiums do not even meet the "single-family residential dwelling or townhouse" criteria specified in HRS Section 196-7(a).

HB 1406 does not provide the means or direction for the Real Estate Commission ("REC") to determine what entities are subject to sanction. It is also unclear as to whether REC is supposed to pass on the sufficiency of rules presented to it. That could involve REC in needless and cumbersome fact finding.

CAI respectfully suggests that HB1406 be deferred. An educational campaign should be considered. CAI has multiple means through which to inform its membership about the requirements of HRS Section 196-7.

Very truly yours,

Philip Nerney

Philip Nerney

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 10, 2013 3:57 PM
To: EEPtestimony
Cc: gomem67@hotmail.com
Subject: Submitted testimony for HB1406 on Feb 12, 2013 08:30AM

HB1406

Submitted on: 2/10/2013

Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Matsumoto	Individual	Oppose	No

Comments: This bill is flawed for what it is intended to produce and not clearly thought out. It further reflects the lack of understanding of AOAOs and their functioning. First, proposing to take away an AOAO's ability to utilize the non-profit tax status for failure to comply with submitting a copy of the rules for placement of solar energy devices is improper, as the action targets the association that only acts on the direction of the members' majority decision. Second, an association is not a separate entity, but rather the face of the membership. Third, the bill does not provide the recipient of the placement rules, and does that entity want that additional cost driving responsibility anyway. Cost-benefit analysis? Fourth, since there are different configurations of AOAOs (high rise condos, one story townhouses, two story townhouses with some units having two stories and some only one level, three story townhouses with various combinations of the levels in a unit) this bill is not workable for every configuration. For example, for a high rise condo, there would be multiple units under a given roof area, so that roof is technically over as many of the units directly below. Now, who has rights over this common area? For a two story townhouse, with separate units on the first and second floors, who would have the rights to the roof area above their units? And for a three story townhouse, the same question exists for each of the different configurations. The only case where this bill would make any sense would be those of a single unit that makes up all the levels from top to bottom of the building. It might be easy to say, let each condo/townhouse figure it out, but when you deal with individuals whose greatest asset is probably their condo/townhouse, how reasonable would you believe it would be to come to some kind of majority decision, and you'd end up anyway with a win-lose proposition and end up with a highly disruptive community environment. Is this what is intended as an outcome? Based on the above, request the bill be deferred. For clarification, I do advocate utilizing alternate energy sources, and have both water and PV systems installed.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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