



HOUSE COMMITTEE ON HOUSING

February 4, 2013, 8:45 A.M.

Room 329

(Testimony is 5 pages long)

TESTIMONY IN STRONG SUPPORT OF HB 1407

Chair Cabanilla, Vice-Chair Woodson, and members of the Committee:

The Blue Planet Foundation **strongly supports** HB 1407, relating to the disclosure of energy consumption to renters and lessees. HB 1407 is about protecting tenants' rights, reducing landlords' costs, and making Hawaii more energy independent. It can help to achieve this simply by requiring transparency in the rental process. By spurring an "energy conversation" in that process, there will be no more hidden energy costs for landlords and tenants. Everyone will benefit from a rental property market that works more efficiently and from shipping less money out of Hawai'i to pay for imported fossil fuels. In this testimony, we highlight how these economic benefits will work, and we describe why potential questions about burdens or privacies are eliminated.

A Rental Energy Disclosure Uses Simple Information to Help Achieve a Win-Win for Landlords and Tenants

Rising fossil fuel prices have all of us looking for solutions to reduce the increasing burden of energy costs. Renters feel this squeeze even more acutely. In a rental property, tenants are not always able to take steps to reduce their energy bill—such as installing energy efficient solar water heaters.

In many situations, the landlord has little incentive to install such equipment, because the increasing energy costs are paid by the tenant. Indeed, the landlord may be unaware of how much money is being lost to pay for energy, and thus unaware of the cost-effective opportunity for energy savings.

In other situations, energy costs may be included in the rent, such that tenants are not aware of how much of the rent check is going to pay energy costs, rather than going to the landlord. In this case, tenants have no information incentivizing them to use less energy.

In economic terms, these “split incentives” and “information asymmetries” currently create a lose-lose situation for landlords and tenants. Energy efficiency can turn this into a win-win. From a cost perspective, energy efficiency is powerful. There is wide consensus that efficiency is the most cost-effective form of energy in Hawai‘i. Thus, costs can be reduced if the landlord installs energy efficiency equipment. And if tenants know more about how their energy consumption impacts their rent, they can take simple conservation steps to further lower those costs. In our islands’ economic marketplace, these savings will likely be shared, with some going to the landlord, and some going to the tenant. A win-win.

Luckily, simple solutions can help achieve this win-win by unlocking the split incentive and providing more information. By simply requiring that energy consumption be made part of the rental process, HB 1407 incentivizes both landlords and tenants. Everyone can save money, without adding to our State governments’ budget.

In 2009, the legislature took a similar step to make the market for real property more efficient, by requiring an energy disclosure when property is sold, by enacting H.R.S. § 508D-10.5. Just as HB 1407 can benefit both landlords and tenants, energy disclosures benefit both buyers and sellers. Indeed, H.R.S. § 508D-10.5 was enacted with the title “Energy-efficiency consumer information in sale **or lease** of real property.” Despite this, the text only included sales. HB 1407 takes the sensible step of completing the loop and including leased/rented property.

A Rental Energy Disclosure is Not an Out-of-the-Ordinary Burden on Landlords

An energy disclosure is very similar to other simple requirements in our current rental process; and it is not an extraordinary burden. For example, landlords are currently required to disclose information about topics such as lead paint¹ and the landlord’s agents.² These pose no extreme burden. House Bill 1407 simply elevates energy information into the same pre-rental process that landlords are already conducting. When renting a property, the landlord will provide information about energy costs for the last three months the premises were occupied. Most landlords will have this information readily at hand from energy bills, or if the energy bills are in the name of the prior tenant, the landlord can obtain this information from the prior tenant as part of the standard move-out process.

¹ See, e.g., Lead Disclosure Rule, U.S. Dep’t Housing and Urban Development, http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/disclosure.

² See H.R.S. § 521-43.

In the relatively less frequent situations where neither option is available to the landlord, HB 1407 provides a path for landlords to obtain information directly from the utility. There should be little privacy concern; the information available to a landlord is simply the energy consumed by the landlords' own real property. HB 1407 also protects the utility, authorizing it to provide that information to the landlord, in the unlikely event the landlord doesn't have other access to it.

The approach taken by HB 1407 is to allow landlords to provide energy information straight from the energy bill, rather than requiring some type of special calculation. This standardization can help to eliminate potential confusion in the multi-tenant context, and is fair for everyone. In addition, HB 1407 does not require a landlord to complete additional forms or file additional paperwork with the government. This distinguishes HB 1407 from the approach taken by the energy disclosure requirements in Maine. Recognizing the power of energy disclosures, Maine requires landlords to fill out a disclosure form, with specific information about things such as heating system tested efficiency (including a required minimum), insulation, window composition, and appliances.³ Even with these requirements, the Maine PUC's report to the legislature concluded:

The Group considered whether the disclosure form should be mandatory or voluntary, and concluded that landlords of all rental properties should be required to show the disclosure form to each tenant before the tenant commits to renting the property. **Dissemination is not overly onerous for landlords and a requirement that is consistent in all situations is fair and easy to understand.**

If, despite Maine's experience with a far more involved energy disclosure process, the committee still deems this process too burdensome, Blue Planet suggests amendments below to eliminate such concern.

A Rental Energy Disclosure Promotes Tenants Rights and Avoids Hidden Energy Costs.

Blue Planet believes that we should strive to provide renters with the same energy opportunities and rights as landlords. Indeed, we hope that solutions like the on-bill financing process, currently being worked on by the Public Utilities Commission, DBEDT, and others, will provide a method to enable landlords to install energy efficiency and renewable energy equipment for no up-front cost. Energy bill savings will pay for that upfront cost, and lower energy costs. Again, everybody wins.

³ Information about Maine's program is *available at* <http://www.maine.gov/mpuc/online/forms/EnergyEfficiencyDisclosure.html>

However, even with such mechanisms in place, HB 1407 can help to make sure that our rental market operates as efficiently as possible. Tenants that are currently suffering hidden energy costs, will instead be able to compare “apples to apples” when deciding where to live. Landlords that take advantage of opportunities like on-bill financing will have an advantage, because those benefits will be clear to all prospective tenants.

We respectfully urge you not to leave tenants and landlords in the dark about energy consumption

In the event that the committee feels—despite Maine’s experience—that the process as currently drafted is too onerous on landlords or that there is a privacy risk, we urge the committee not take drastic steps such as cutting out residential tenants. Residential tenants are in dire need of simple solutions to decrease living costs.

Instead, HB 1407 could be amended to allow a landlord to provide a written good faith estimate of energy costs, in the event that a good faith effort to obtain those costs directly from the energy bills is not successful. Blue Planet believes that the process as currently provided in HB 1407 will be the most effective for landlords and tenants. But the following language could alleviate concerns:

Section 2, adding H.R.S. Ch. 666A, can be amended as follows:

...

(e) In the event that the electricity or gas account is not held in the name of the landlord or the landlord’s agent, and despite good faith efforts the landlord is unable to obtain information about the electricity bills, this disclosure of monthly energy costs may be based information obtained from the electric or gas utility pursuant to paragraph (f) on a good faith written estimate by the landlord or the landlord’s agent.

...

~~(f) A gas or electric public utility shall provide, upon the request of a person who states in writing that the person is a landlord or agent of a landlord of premises which were or have been receiving electric or gas service from the public utility, the monthly electricity or gas cost over a three month period designated by the landlord or agent of the landlord. Upon receipt of such a request, the gas or electric public utility shall provide the requested information to the landlord or landlord’s agent within ten business days.~~

Section 3, amending H.R.S. § 521-43, can be amended as follows:

...

(4) In the event that the electricity or gas account is not held in the name of the landlord or the landlord's agent, and despite good faith efforts the landlord is unable to obtain information about the electricity bills, this disclosure of monthly energy costs may be based information obtained from the electric or gas utility pursuant to paragraph (6) on a good faith written estimate by the landlord or the landlord's agent.

...

~~(6) A gas or electric public utility shall provide, upon the request of a person who states in writing that the person is a landlord or agent of a landlord of premises which were or have been receiving electric or gas service from the public utility, the monthly electricity or gas cost over a three month period designated by the landlord or agent of the landlord. Upon receipt of such a request, the gas or electric public utility shall provide the requested information to the landlord or landlord's agent within ten business days.~~

Thank you for the opportunity to testify.