



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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KEALI' I S. LOPEZ
DIRECTOR

JO ANN UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE
ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013

MONDAY, FEBRUARY 25, 2013
2:30 P.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 453, H.D. 1 - RELATING TO RENEWABLE ENERGY

DESCRIPTION:

This measure proposes to exempt entities that provides, sells, or transmits power generated by a renewable energy system to an electric utility, lessee, or tenant from the definition of a public utility.

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") supports the intent of H.B. No. 453, H.D. 1 and offers the following comments.

COMMENTS:

This bill provides an opportunity for renters to be able to benefit from the cost-savings of renewable energy systems, such as solar photovoltaic ("solar pv") systems, without having to incur the cost of installing the systems themselves. It further

provides landlords with investment opportunities that could ultimately benefit both the landlord and the tenant.

Insofar as a landlord who places a renewable energy system on the property that is occupied by the tenant, exception (M) to Hawaii Revised Statutes Section 269-1 already provides that the landlord would not be a “public utility.” This is consistent with the Public Utilities Commissions’ (“PUC”) decision and order in the Maui Kele Shopping Center request for declaratory ruling Docket No. 2011-0329.

This bill would make it clear that a landlord who places a renewable energy device on a property that is not occupied by the tenant or lessee and who provides energy to the tenant would similarly not be a public utility. The Consumer Advocate agrees with the concept that landlords in these situations should not be regulated by the PUC and should also be exempted from the definition of a public utility. On the other hand, the Consumer Advocate is concerned with the potential effects such a situation may have on the safety and reliability of the electric utility’s grid.

Finally, the Consumer Advocate is concerned that tenants and lessees who may not be on equal bargaining power with landlords and lessors may not receive any cost-savings benefits that this bill contemplates. Tenants and lessees need to be provided adequate protection in this bill that would assure them that they would not be subjected to economic hardship at the hand of an unscrupulous landlord. The Consumer Advocate suggests that the legislature consider adding the following language to this bill that will assure tenants and lessees that they will never have to pay their respective landlords or lessors an amount that exceeds the rate charged by the electric utility:

. . . provided further that the rate schedule charged to the lessee or tenant for the power generated by the renewable energy system shall under no circumstances be greater than the rate charged per kilowatt hour by the electric utility and shall be established for the duration of the lease and that the lease agreement entered into by the lessee or tenant reflects such rate schedule and provides disclosure that the rate can never be greater than the rate charged by the electric utility. Any disputes concerning the requirements of this provision shall be resolved pursuant to the provisions of the lease agreement and/or Chapter 521 of the Hawaii Revised Statutes, the residential landlord-tenant code, if applicable.

Thank you for this opportunity to testify.

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

FEBRUARY 25, 2013
2:30 p.m.

MEASURE: H.B. No. 453, H.D. 1
TITLE: Relating to Renewable Energy

Chair McKelvey and Members of the Committee:

DESCRIPTION:

This measure proposes to create a specific exemption from the definition of “public utility” under Section 269-1, Hawaii Revised Statutes, for landlords and lessors who sell electricity produced by renewable energy systems located on the landlord’s or lessor’s property to tenants and lessees occupying such property.

POSITION:

The Public Utilities Commission (“Commission”) would like to offer the following comments for the Committee’s consideration.

COMMENTS:

The Commission would ask the Legislature to proceed cautiously when considering additional exemptions to the definition of public utility. Not all landlord-tenant agreements are standardized and safeguards should be in place to ensure that property owners selling electricity to tenants do not reach a level where they are acting as a de facto public utility. Existing case law and precedent on the matter would result in the same outcome that this measure is trying to achieve, but would allow the Commission to review a specific set of facts and then issue a declaratory ruling.

H.B. No. 453, H.D. 1
Page 2

The Legislature would need to consider whether H.B. No. 453, H.D. 1 provides adequate safeguards for the consumer that may not have a choice in the decision to purchase electricity.

Thank you for the opportunity to testify on this measure.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
Richard C. Lim
Director
Department of Business, Economic Development, and Tourism
before the
House Committee on Consumer Protection & Commerce

Monday, February 25, 2013
2:30 PM
State Capitol, Conference Room 325

in consideration of

HB 453 HD1 RELATING TO RENEWABLE ENERGY.

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of HB 453, HD1. This measure would exempt owners and lessors who install renewable energy systems on their property and sell the electricity generated to their tenants or lessees on the premise from the definition of "public utility."

We believe this bill will allow renters and lessees the ability to take advantage of lower priced, fixed rate renewable energy, accelerating the adoption of renewable energy in Hawaii and helping the State meet its clean energy objectives. We respectfully defer to the Public Utilities Commission (PUC) regarding the regulatory aspects of this bill, and to the Consumer Advocate regarding the implementation of rates a non-utility generator could charge a tenant.

Thank you for the opportunity to offer these comments.

NEIL ABERCROMBIE
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

WRITTEN ONLY

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

February 25, 2013 at 2:30 p.m.
State Capitol, Room 325

In consideration of
H.B. 453, H.D. 1
RELATING TO RENEWABLE ENERGY.

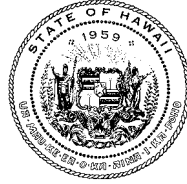
HHFDC ***supports the intent*** of H.B. 453, H.D. 1, but defers to the Department of Business, Economic Development and Tourism, the Public Utilities Commission and the Consumer Advocate.

HHFDC supports sustainable housing development, as well as renewable energy systems that provide more affordable, fixed utility costs for tenants.

Thank you for the opportunity to provide written comments on this bill.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Consumer Protection & Commerce

Date: Monday, February 25, 2013

Time: 2:30 p.m.

Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 453, H.D. 1, Relating to Renewable Energy

The Department of Taxation (Department) supports H.B. 453, H.D. 1 and provides the following information and comments for your consideration.

This measure exempts landlords who install renewable energy systems on their property and sell the electricity to their tenants from being considered a public utility and thus being subject to the public service company tax. The Department prefers landlords in this situation not be considered public utilities subject to the public service company tax but rather that they be considered regular business taxpayers subject to the general excise tax. The Department believes this is simpler for taxpayers and is more in keeping with the intent of these respective taxes.

Thank you for the opportunity to provide comments.

Testimony before the House Committee on Consumer Protection and Commerce

H.B. 453, H.D. 1 -- Relating to Renewable Energy

**Monday, February 25, 2013
2:30 pm, Conference Room 325**

By Colton Ching

Hawaiian Electric Company, Inc.

Chair McKelvey, Vice Chair Kawakami and Members of the Committee:

My name is Colton Ching. I am the Vice President of Energy Delivery at Hawaiian Electric Company. I am providing written testimony on behalf of Hawaiian Electric Company and its subsidiary utilities, Maui Electric Company and Hawaii Electric Light Company (the "Hawaiian Electric Companies").

The Hawaiian Electric Companies support the general intent of H.B. 453, H.D. 1, which proposes to exempt from the definition of "public utility" under Section 269-1, Hawaii Revised Statutes ("HRS"), landlords and lessors who sell electricity produced by renewable energy systems located on the landlord or lessor's property to tenants and lessees occupying such property. However, the Hawaiian Electric Companies offer that the bill is unnecessary given that the current exception to the definition of "public utility" found in HRS § 269-1(2)(M) already exempts the situation where a landlord or lessee provides electricity to a tenant or lessee from a renewable energy source. Further, the Hawaiian Electric Companies offer the following comments and suggested amendment for the Committee's consideration.

As a matter of policy, the Hawaiian Electric Companies are strongly committed to a clean energy future, but the bill does not specifically address the issue of compliance with interconnection requirements. It is important for customers who would like to interconnect a distributed generator as covered in this bill to continue to be required to participate in the Hawaiian Electric Companies' Rule 14H review process and comply with the requirements and standards for interconnection.

In addition, this measure may also introduce the potential for wheeling energy.¹ For example, in those situations where a landlord or lessor is located on the same or contiguous property but are separately metered from its tenants to the electric utility's system (e.g., townhome or multi-dwelling unit), the utilities would be required to wheel electrical energy between the landlord or lessor and the tenant through the utilities distribution system. Wheeling is a complex process which raises many operational, regulatory, legal, and ratemaking issues. In addition, under retail wheeling the determination of the appropriate place for third-parties to pay for the use of the utility's distribution system can be lengthy and delay customer benefits.

We therefore suggest that the Committee consider the following amendment to the bill, which will eliminate the situation where the landlord and tenant who are on the same or contiguous properties attempt to use a common renewable energy system through separate utility connections. In addition, by requiring systems to be limited to those instances where they are behind a single utility meter and service connection, any movement of power will occur behind the meter where the utility is not affected.

- Pg. 7, line 10-14, Section 2(N)(ii): *“Provides, sells or transmits the power generated from that renewable energy system to an electric utility or to a lessee or tenant on the person’s property where the renewable energy system is located **and in which the owner or lessor and the tenant are served by the same utility meter and service connection;**”*

Thank you for the opportunity to testify.

¹ “Wheeling” is the term that is used in the electricity industry to describe the sale and transfer of electricity over a grid of wires. “Retail wheeling” is the term used to describe the sale of electricity from a generator of electricity to a home or business over transmission and distribution lines.



Hawaii Solar Energy Association
Serving Hawaii Since 1977

Before the House on Consumer Protection and Commerce
Monday, February 25, 2013, 2:30 am, Conference Room 325
HB 453 HD 1: RELATING TO RENEWABLE ENERGY

Aloha Chair McKelvey, Vice-Chair Kawakami, and members of the House Committee on Consumer Protection and Commerce,

On behalf of the Hawaii Solar Energy Association (HSEA), I would like to testify **in strong support for HB 453 HD 1**, which exempts landlords and lessors who install renewable energy systems on their property from the definition of “public utility.” HSEA is a non-profit trade organization that has been advocating for solar energy since 1977, with an emphasis on residential distributed generation and commercial for both solar hot water (SHW) and photovoltaics (PV). We currently represent 66 companies, and our members include installers, contractors, manufacturers, distributors, the utility, and others. With 35 years of advocacy behind us, HSEA’s goal is to work for a sustainable energy future for all of Hawaii.

Solar is key to our green energy future

Hawaii is dangerously dependent upon imported fossil fuels, and the cost and uncertainty of fossil fuels will only increase. Recent reports have indicated that oil may reach \$180/barrel or more by 2020, and scientists have found that climate change has exacerbated global warming more than they believed, with recent data showing that the Antarctic is warming three times the previously predicted rate. Transforming our electrical grid to a green energy infrastructure will bring both added security and stability to our state’s economy, and also contribute to an overall reduction of greenhouse gasses for everyone.

Both property owners and tenants would benefit if property owners could sell electricity generated from renewable sources

A recent report completed by Harcourt, Brown & Carey for the on-bill financing docket currently before the PUC found that 41% of all Hawaii residents rent. The commercial sector is similarly situated. Only in rare circumstances are renters able to take advantage of renewable energy technology, and under the current definition of “public utility” a landlord who installs renewable energy and sells electricity to tenants on that land would be considered a public utility, no matter how small the installation, or the fact that the energy does not leave the property boundaries. This bill would create an exemption that would allow and encourage landlords who have the means to install renewables, and sell the electricity generated to tenants on the same property. Not only would this benefit tenants and give them the potential to use “clean energy,” but it would also add to the overall value of the property. This bill is a win-win for all, and would include renters in our clean energy future.

Thank you for the opportunity to testify.

Leslie Cole-Brooks
Executive Director
Hawaii Solar Energy Association



HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

February 25, 2013, 2:30 P.M.

Room 325

(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 453 HD1

Chair McKelvey and members of the Consumer Protection & Commerce Committee:

The Blue Planet Foundation supports HB 453 HD1, ensuring that landlords who provide renewable energy to tenants are not erroneously classified as a “utility.”

Hawaii must do all it can to help residents—homeowners and renters alike—use renewable energy as a solution to high energy prices and detrimental reliance on fossil fuels. But current rules unfortunately prolong a “split incentive” problem in many rental contexts. Where a landlord would be responsible for purchasing renewable energy equipment, but the tenant would be responsible for paying the energy bill, their incentives are not aligned. Landlords would spend, but tenants would save. Thus, while many homeowners are accessing renewable energy, solutions for tenants have been more scarce. House Bill 453 HD1 helps to unlock these split incentives by allowing landlords to recoup the upfront cost of renewable energy from the savings that tenants will enjoy on their bills. House Bill 453 HD1 achieves this without imposing onerous regulations on landlords, and without imposing additional regulatory duties on the Public Utilities Commission.

We respectfully urge the committee to forward HB 453 HD1.

Thank you for this opportunity to testify in support.



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

February 25, 2013, 2:30 P.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 453 HD 1

Aloha Chair McKelvey and members of the Committee:

The Sierra Club, Hawaii Chapter, with over 10,000 dues paying members and supporters statewide, respectfully *supports* HB 453 HD1. This measure would allow a landowner to install renewable energy and distribute this power among tenants, thus removing a barrier towards more adoption of clean energy.

Programs similar to what is proposed have been very successful in encouraging the adoption of PV and hastening the transition to non-fossil sources. This measure potentially allows a *hui* of people to invest in renewable energy and take advantage of the benefits, even if they do not own a home.

This measure would provide a strong incentive for individuals and businesses to invest in the power plants of tomorrow (today).

Mahalo for the opportunity to testify.



CATHOLIC CHARITIES HOUSING DEVELOPMENT CORPORATION

House Committee on Consumer Protection and Commerce
Monday, February 25, 2013 at 2:30 p.m.
State Capitol, Conference Room 325

HB453: Relating to Renewable Energy

Testimony in SUPPORT of HB453

Testimony of Edward Ontai, Executive Director, Catholic Charities Housing Development Corporation

Chair McKelvey, Vice Chair Kawakami and Committee Members

Catholic Charities Hawaii **supports** Senate HB453, the bill that exempts landlords and lessors who install renewable energy systems on their property and sells to their tenants and lessees from the definition of "public utility".

Catholic Charities Housing Development Corporation, incorporated as a 501(c)(3) in 1999 set on a course to own, develop, and manage real estate properties with the intent to provide affordable housing for the elderly, special needs individuals and other socially or economically disadvantaged persons and families in the State of Hawai'i. As a natural extension, Catholic Charities Housing Development Corporation has undertaken the development of affordable housing for the working poor and other vulnerable populations.

The statute as written is a disincentive for landlords to develop renewable energy systems for tenants. The exemption that HB453 would offer the landlord or lessor could enable organizations such as ours to invest in renewable solutions for our lessees. We see the direct potential benefits to our disadvantaged tenants.

Thank you for the opportunity to testify in support of this matter.

Sincerely,

Edward Ontai
Executive Director
Catholic Charities Housing Development Corporation



Castle & Cooke
Hawai'i

Harry A. Saunders
President

680 Iwilei Road, Suite 510
Honolulu, Hawai'i 96817
O'ahu: (808) 548-4811 • Fax (808) 548-2980
Lāna'i: (808) 565-3000 • Fax (808) 565-3312

Email submittal: CPNtestimony@capitol.hawaii.gov

Testimony by Harry Saunders
President, Castle & Cooke Hawaii
February 22, 2013

Before the HOUSE COMMITTEE on

CONSUMER PROTECTION & COMMERCE

February 25, 2013

2:30 pm

Room 325

In Support of HB453 HD1
RELATING TO RENEWABLE ENERGY.

Chair McKelvey, Vice Chair Kawakami and Members of the House Consumer Protection & Commerce Committee.

Castle & Cooke Hawaii supports HB453 HD1 as it proposes to exempt landlords and lessors who install renewable energy systems to their property from the definition of "public utility".

This measure would encourage property owners and lessors to consider viable renewable energy programs that can help to reduce our reliance on foreign oil.

Mahalo for your consideration of our testimony. If you have any questions, please feel free to contact us.

Harry Saunders, President
Castle & Cooke Hawaii
aktsukamoto@castlecooke.com
548-4884

Richard Mirikitani, Senior Vice President and Counsel
Castle & Cooke Hawaii
rmirikitani@castlecooke.com
548-4890

Carleton Ching, Vice President - Community and Government Relations
Castle & Cooke Hawaii,
cching@castlecooke.com
548-3793

House Committee on Consumer Protection and Commerce
Monday, February 25, 2013 at 2:30 p.m.
State Capitol, Conference Room 325

HB453: Relating to Renewable Energy

Testimony in SUPPORT of HB453

Jay Fidell, President ThinkTech Hawaii

Chair McKelvey, Vice Chair Kawakami and Committee Members

As president of ThinkTech Hawaii, which is a small nonprofit and a commercial tenant, I **support** Senate HB453, the bill that exempts landlords and lessors who install renewable energy systems on their property and sells to their tenants and lessees from the definition of "public utility".

Today, renters and tenants are at an extreme disadvantage in living a sustainable lifestyle because landlords and lessors are not incentivized to invest in renewable energy systems for their properties. This bill will provide for a consistent application of an exemption that will take away any disincentives for the investor.

I support the provision that provides for rate disclosure at the time of the lease, for the duration of the lease.

Thank you for the opportunity to testify in support of this matter.

Sincerely,

Jay Fidell
1001 Bishop Street, Suite 710
Honolulu, Hawaii 96813
Telephone 780-9254



House Committee on Consumer Protection and Commerce
Monday, February 25, 2013 at 2:30 p.m.
State Capitol, Conference Room 325

HB453: Relating to Renewable Energy

Testimony in SUPPORT of HB453

Frank Striegl, Senior Vice President, Capital Projects, Carmel Partners

Chair McKelvey, Vice Chair Kawakami and Committee Members

Carmel Partners **supports** House Bill 453 (HD1), the bill that exempts landlords and lessors who install renewable energy systems on their property and sell the electricity generated to their tenants or lessees on the premise from the definition of "public utility".

Carmel Partners is a real estate investment company that acquires, rehabilitates and operates multi-family communities in Hawaii. We have been doing business in Hawaii for the last eight years and continue to commit to investing in Hawaii. We create quality communities using innovative ideas and solutions to enhance the value for our residents. Our first priority is to our tenants and prospective tenants.

According to the Center on Budget and Policy Priorities, at the end of 2012, 43% or 194,900 households in Hawaii are renters. Of those, 74% or 143,900 spend 30% or more of their income on housing. SB19 could help many of these households. Renters should be able to enjoy the many benefits of renewable energy that today is reserved for property owners.

The current statute, which would classify a landlord as a public utility if they provide renewable energy to tenants is a huge disincentive. HB453 would ensure consistent application of the exemption and could encourage investment to benefit the tenants served.

We see multiple benefits to the tenants, who to date, have not been able to participate in renewable energy initiatives, including raising the consciousness of sustainable living and energy efficiency habits as well as being offered potentially more stable energy rates.

We also support that HB453 includes appropriate provisions to protect tenants by providing that the rate schedule for the electricity charged to the lessee or tenant be reflected in the lease agreement for the duration of the lease. This would ensure transparency and encourage landlords to make it attractive to tenants in a competitive market.

Thank you for the opportunity to testify in support on this matter.

Carmel Partners

A handwritten signature in blue ink, appearing to read "Frank Striegl", written over a horizontal line.

Frank Striegl, SVP

GSF LLC
1288 Ala Moana Blvd · Apt 35A
Honolulu HI 96814
808.429.7815 o · 808.356.0455 f
gary@gsfhi.com

House Committee on Consumer Protection and Commerce
Monday, February 25, 2013 at 2:30 p.m.
State Capitol, Conference Room 325

HB453: Relating to Renewable Energy

Testimony in SUPPORT of HB453

Testimony of Gary Furuta, GSF, LLC

Chair McKelvey, Vice Chair Kawakami and Committee Members

GSF, LLC **supports** Senate HB453, the bill that exempts landlords and lessors who install renewable energy systems on their property and sells to their tenants and lessees from the definition of "public utility".

GSF, LLC serves as development consultant for various non-profit development corporations that develop very low-income rental projects ($\leq 60\%$ Area Median Income). In managing the affordable rentals we are always looking for ways of reducing operating expenses, e.g., photovoltaic, that will benefit tenants.

The current statute discourages landlords to develop and provide renewable energy systems for their tenants.

This legislation would facilitate lessors to provide stable energy rates to their tenants, the constituents who would otherwise not benefit from renewable energy.

We support the provision to protect tenants by providing that the rate schedule for the electricity charged to the lessee or tenant be reflected in the lease agreement for the duration of the lease.

Thank you for the opportunity to testify in support of this matter.

Sincerely,



Gary Furuta

GSF, LLC

February 21, 2013



HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Monday, February 25, 2013, 2:30 a.m. – House Conference Room 325

TESTIMONY IN SUPPORT OF HB 453 RELATING TO RENEWABLE ENERGY

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

Distributed Energy Partners is a Hawaii based, owned, and operated firm specializing in the development of commercial-scale distributed renewable energy projects, which include solar, wind, and emerging technologies.

Distributed Energy Partners strongly supports HB 453, which would amend Hawaii Revised Statutes, Chapter 269 to clarify that property owners who install a photovoltaic system or other renewable energy systems on their property can sell power they generate to their tenants without being deemed to be a "public utility" under Chapter 269.

Under the current law, there is no such explicit exclusion for property owners who sell power they generate to their tenants. As a result, there is some ambiguity as to whether such property owners could be considered to be a "public utility" by the Public Utilities Commission. This ambiguity leads owners of shopping centers, apartment buildings, and other commercial properties to either shy away entirely from installing photovoltaic solar systems on their property, or to install much smaller systems that serve only the common areas of the building and not the tenants.

Passing HB 453 and clarifying that property owners will not be deemed to be a public utility solely for selling power they generate to their tenants will further Hawaii's interest in promoting renewable energy. Many of the commercial properties that would be benefitted from the passage of HB 453 are ideal candidates for photovoltaic solar systems, since they have a large daytime electricity load. The enactment of HB 453 would also benefit tenants by allowing them to share in the electricity savings to the property owner.

We also note that HBH 453 includes appropriate safeguards to protect tenants – specifically, the new exception would only apply where the electricity rate charged to the tenant by the property owner is fixed in advance and is part of the lease agreement between the property owner and the tenant.

Property owners should not be deemed a "public utility" solely for selling power they themselves generate on their property to tenants on that property. HB 453 would ensure that these property owners are not considered a public utility and would allow them to participate in Hawaii's clean energy initiatives. We support HB 453 and urge you to pass it as drafted. Thank you for the opportunity to provide this testimony.

Sincerely,

John Cheever



HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Monday, February 25, 2013 — 2:30 p.m. — Room 325

**HB 453, HD 1 Relating to Renewable Energy
Testimony in Support**

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

My name is Jon Wallenstrom and I am the President of Forest City Hawaii. Forest City Hawaii is principally engaged in the ownership, development, management and acquisition of commercial and residential real estate and land in Hawaii. It is currently involved in a partnership with the Hawaii Housing Finance and Development Corporation (HHFDC) to develop Kamakana Villages, a mixed-use community of 2,206 homes on the Big Island, of which more than 50% will be affordably priced. We have put in place six photovoltaic farms on Oahu and are one of the largest owners of clean, renewable energy assets in the State. Forest City is also one of the largest residential community and renewable energy developers in the state. At Forest City we leverage our real estate experience to create renewable energy projects. These developments help offset the high cost of energy in Hawaii for both our community as a whole, while also decreasing the state's dependence on fossil fuels.

I write in support of HB 453, HD1 which exempts landlords and lessors who install renewable energy systems to their property from the definition of "public utility". This exemption would enable companies such as Forest City to invest in renewable energy solutions for our lessees, resulting in benefits to tenants including an awareness of energy efficient lifestyles as well as potentially more stable energy rates.

Thank you for the opportunity to provide this testimony.



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

February 21, 2013

The Hon. Angus L. K. McKelvey, Chair, and
Members of the House Committee on
Consumer Protection & Commerce

Re: Testimony in Support of H.B. No. 453, HD1, Relating to Renewable Energy
Hearing Date and Time: 2:30 p.m., February 25, 2013
Conference Room 325, Hawaii State Capitol

Dear Chair McKelvey and Members of the Committee:

I am submitting this testimony on behalf of NAIOP Hawaii in **support** of H.B. No 453, HD1, relating to renewable energy. We are the Hawaii chapter of NAIOP, the Commercial Real Estate Development Association, which is the leading national organization for developers, owners and related professionals in office, industrial and mixed-use real estate. The local chapter comprises property owners, managers, developers, financial institutions and real estate related professionals who are involved in the areas of commercial and industrial real estate in the State of Hawaii.

NAIOP Hawaii supports this measure, which would allow landlords to provide renewable energy to tenants without becoming classified as a "public utility." We understand that certain landlords may have been deterred from developing renewable energy for provision to their tenants because they are concerned they will become subject to regulation by the Public Utilities Commission. This measure would clarify that the definition of "public utility" is not intended to cover such a situation.

Given Hawaii's efforts to lessen dependence on fossil fuel and to encourage development of alternative energy, it makes sense to encourage landlords to provide viable renewable energy programs that can lower the costs of electricity for tenants.

Thank you for the opportunity to testify on this measure.

Respectfully,

James K. Mee
Chair, Legislative Affairs Committee

February 25, 2013

The Honorable Angus McKelvey, Chair

House Committee on Consumer Protection & Commerce
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 453, H.D.1, Relating to Renewable Energy

HEARING: Monday, February 25, 2013 at 2:00 p.m.

Aloha Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,000 members. HAR **supports** H.B. 453, H.D.1, which exempts landlords and lessors who install renewable energy systems to their property from the definition of "public utility."

HAR believe the current statute, which would classify a landlord as a public utility if they provide renewable energy to tenants is a huge disincentive. The exemption that this measure would provide the landlord or lessor could encourage investment to benefit the tenants served, by providing them energy produced by renewable sources such as solar photovoltaic.

There are numerous benefits to the tenants, which includes an awareness of energy efficient lifestyle as well as potentially more stable energy rates.

Mahalo for the opportunity to testify.

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 21, 2013 4:07 PM
To: CPCtestimony
Cc: douglasperrine@yahoo.com
Subject: Submitted testimony for HB453 on Feb 25, 2013 14:30PM

HB453

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Perrine	Individual	Support	No

Comments: I offer my own situation as an example of why this measure needs to be passed. In good faith I invested a large sum of my own money to install a photovoltaic electric system on my rental property, with the intention of furthering Hawaii's renewable energy goals, contributing to a cleaner environment, and recouping my investment over a period of years. The State of Hawaii reimbursed me for 1/3 of the cost in the form of tax credits. I signed a lease with my tenants in which they agreed to pay me for the energy generated by the system. The tenants, however, did not pay for their electricity, and when I demanded payment, they threatened to sue me for illegally acting as an unlicensed power producer. After checking into Hawaii's laws, and upon advice of legal counsel, I gave up attempting to collect for the electricity, and disconnected the system. The system is now generating electricity which goes to the end of a wire, and no further, while HELCO is burning diesel fuel to supply the tenants' electric needs. Neither myself nor the State of Hawaii is receiving any return on our investments, and I have not installed the planned 2nd and 3rd phases of the system. More CO2 is being added to the atmosphere, the climate continues to degenerate, and we are dependent upon foreign sources for the fuel we are foolishly burning. If Hawaii does not take the simple steps to clarify that a landlord may legally charge tenants for renewable electricity generated on site, no landowner in his right mind would do as I have done and pay to install a renewable energy system.

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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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 22, 2013 7:48 AM
To: CPCtestimony
Cc: kaleikaumaka56@yahoo.com
Subject: *Submitted testimony for HB453 on Feb 25, 2013 14:30PM*

HB453

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Janel Tabion	Individual	Support	No

Comments:

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kawakami2 - Rise

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To: CPCtestimony
Cc: honu4@yahoo.com
Subject: *Submitted testimony for HB453 on Feb 25, 2013 14:30PM*

HB453

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Napua Han	Individual	Support	No

Comments:

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kawakami2 - Rise

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Cc: ohverit@yahoo.com
Subject: *Submitted testimony for HB453 on Feb 25, 2013 14:30PM*

HB453

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Akana	Individual	Support	No

Comments:

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Cc: airfale@gmail.com
Subject: *Submitted testimony for HB453 on Feb 25, 2013 14:30PM*

HB453

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
L. Faleafine	Individual	Support	No

Comments:

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Sent: Friday, February 22, 2013 7:52 AM
To: CPCtestimony
Cc: kenjikris@hawaiiantel.net
Subject: *Submitted testimony for HB453 on Feb 25, 2013 14:30PM*

HB453

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kris Higa	Individual	Support	No

Comments:

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 22, 2013 7:53 AM
To: CPCtestimony
Cc: maiyahbaby418@yahoo.com
Subject: *Submitted testimony for HB453 on Feb 25, 2013 14:30PM*

HB453

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lydia Cannon	Individual	Support	No

Comments:

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