

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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COMMISSION ON WATER RESOURCE MANAGEMENT
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committees on
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS
and
WATER & LAND**

**Friday, February 1, 2013
8:00am
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 931
RELATING TO SHORELINE VEGETATION**

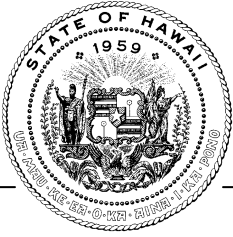
House Bill 931 proposes to make permanent Act 160, Session Laws of Hawaii (SLH) 2010. The Department of Land and Natural Resources (Department) strongly supports this Administration measure.

Act 160 requires landowners in shoreline areas to ensure that public transit beach corridors are passable and free from human-induced, enhanced, or unmaintained vegetation that blocks transit.

Landowners that induce or allow their vegetation to grow below the shoreline would be asked to remove or trim the vegetation. If the landowner fails to comply, the Act allows the Department to issue a notice of violation to the landowner, assess penalties under Chapter 183C, Hawaii Revised Statutes (HRS), and to charge landowners for the cost of removal if the landowner fails to remove an obstruction. Act 160 however is scheduled to sunset on June 30, 2013.

The Department has been successfully utilizing Act 160 to compel offending landowners to cut back vegetation that inhibits lateral shoreline access or extends seaward of the shoreline as defined in Section 205A-1, HRS. Thus, Act 160 has been an effective tool to protect lateral shoreline access.

The Department supports this measure as it will make permanent the requirement on landowners that abut the shoreline to control the spread of vegetation that emanates from their private property onto public beaches.



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

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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, AND
HAWAIIAN AFFAIRS**
AND
HOUSE COMMITTEE ON WATER AND LAND
Friday, February 1, 2013
8:00 AM
State Capitol, Conference Room 325

in consideration of
HB 931
RELATING TO SHORELINE VEGETATION.

Chairs Hanohano and Evans, Vice Chairs Cullen and Lowen and Members of the House Committees on Ocean, Marine Resources, and Hawaiian Affairs and Water and Land.

Administration Bill House Bill 931, Relating to Shoreline Vegetation, proposes to make permanent Act 160, Session Laws of Hawaii (SLH) 2010, to require the removal of landowner's induced or cultivated vegetation that interferes or encroaches seaward of the shoreline.

The Office of Planning supports HB 931 to repeal the sunset date June 30, 2013, by amending section 7 of Act 160, SLH 2010.

Thank you for the opportunity to provide testimony on this measure.

lowen2-Anosh

From: cullen2 -Jolyn on behalf of omhtestimony
Sent: Wednesday, January 30, 2013 3:31 PM
To: waltestimony
Subject: FW: *Submitted testimony for HB931 on Feb 1, 2013 08:00AM*

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Wednesday, January 30, 2013 8:05 AM
To: omhtestimony
Cc: henry.lifeoftheland@gmail.com
Subject: *Submitted testimony for HB931 on Feb 1, 2013 08:00AM*

HB931

Submitted on: 1/30/2013

Testimony for OMH/WAL on Feb 1, 2013 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Curtis	Ililani Media	Support	No

Comments:

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HB931
RELATING TO SHORELINE VEGETATION
House Committee on Ocean, Marine Resources, and Hawaiian Affairs
House Committee on Water and Land

February 1, 2013

8:00 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment (BAE) **SUPPORTS** HB931, which would remove the sunset provision for legal mechanisms that have helped to ensure greater public access to our beaches and shoreline areas.

Hawai'i's beaches and shoreline areas provide numerous benefits to the Native Hawaiian community and the public that are critical to our cultural values and kama'āina way of life. Our beaches and shoreline areas provide a place to bond with 'ohana and friends, help to foster positive youth development and an early appreciation for our natural resources, and provide for a variety of recreational activities, such as surfing and fishing, that have been staples of local life for generations. Moreover, access to the shoreline and the resources in the nearshore environment is critical to Native Hawaiian cultural perpetuation and constitutionally protected traditional and customary gathering practices.

Accordingly, our laws have repeatedly recognized the public nature of our shoreline areas and the right of the public to access the shoreline.¹ OHA has also always been a strong advocate for shoreline access in Hawai'i and has actively worked to address a range of potential threats to our beaches and shoreline areas.

Unfortunately, the limited resources of our state agencies present significant challenges to protecting the public's right to access and use our beaches and shorelines. As this bill recognizes, particular challenges have arisen with respect to shoreline vegetation originating on private property, which may block lateral access along the shoreline and otherwise diminish the public's physical ability to safely use these areas. **This bill therefore reinforces and protects the rights of the public by making permanent legal enforcement mechanisms ensuring that private landowners take responsibility over plants that encroach upon our public beaches and shorelines.**

Therefore, OHA's BAE Committee urges the committees to **PASS** HB931. Thank you for the opportunity to testify.

¹ See *In re Ashford*, 440 P.2d 76 (1968) (recognizing that under tradition, custom, and usage, public lands extend to the highest wash of the waves during the season of the year when the waves are highest); *County of Hawaii v. Sotomura*, 517 P.2d 57, 62-63 (1973); *Diamond v. State*, 145 P.3d 704 (2006); see also HRS §§ 46-6.5, 115-4, -5, -9.

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From: omhtestimony
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Subject: FW: Submitted testimony for HB931 on Feb 1, 2013 08:00AM
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To: omhtestimony
Cc: moh@hawaiiirealtors.com
Subject: Submitted testimony for HB931 on Feb 1, 2013 08:00AM

HB931

Submitted on: 1/31/2013
Testimony for OMH/WAL on Feb 1, 2013 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Myoung Oh	Hawaii Assn. of Realtors	Oppose	Yes

Comments:

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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