

SB 1164

RELATING TO SPECIAL SHORELINE ENCROACHMENT EASEMENTS

Provides the Board of Land and Natural Resources discretion to grant easements for less than fair market value for structures that were authorized by a government authority and constructed landward of the shoreline within the record boundary of the landward property at the time of construction, but are now located seaward of the shoreline on public land.

WTL, JDL

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

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

**Before the Senate Committee on
WATER AND LAND**

**Thursday, January 31, 2013
1:15 PM
State Capitol, Conference Room 225**

**In consideration of
SENATE BILL 1164
RELATING TO SPECIAL SHORELINE ENCROACHMENT EASEMENTS**

Senate Bill 1164 proposes to provide the Board of Land and Natural Resources (Board) the discretion to grant easements for less than fair market value for structures that were authorized by a governmental authority and constructed landward of the shoreline within the record boundary of the landward property at the time of construction, but are now located seaward of the shoreline on public land. The Department of Land and Natural Resources (Department) strongly supports this Administration measure.

Many of these structures were constructed mauka of the shoreline by private landowners to benefit their property, i.e., as shoreline protection structures. Over the years, many of these structures are now situated within or seaward of the shoreline and are a liability concern. In exchange for the granting of an easement, the Department requires insurance and indemnity protection. The problem under current law is that the Board must charge fair market value as determined by an appraiser for the easement. This bill seeks to remedy that problem by allowing the Board the discretion to grant the easement at below fair market value if the structure was authorized by a governmental authority and originally constructed landward of the shoreline within the record boundary of the landward property at the time of construction, but are now located seaward of the shoreline on public land

Considering that the structures were originally built on private property, an exemption from Section 171-53(c), Hawaii Revised Statutes (HRS), likely would not compromise the State's fiduciary obligations. In addition, given the volume of easements that are expected to be processed, this exemption would greatly expedite the disposition process. Allowing the easements to be granted at less than fair market value via a streamlined processⁱ would assist in encouraging compliance from littoral landowners entering into easements with the State. By resolving the liability and indemnity issues, taxpayers will have greater protection from potential

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

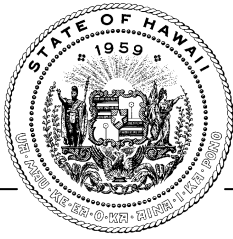
ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

legal and financial liability against the State with regard to these structures. By facilitating compliance from landowners, this bill will reduce the burden on staff resources from having to pursue enforcement actions.

ⁱ The appraisal process under Section 171-17, HRS, can sometimes be expensive and time consuming.



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
SENATE COMMITTEE ON WATER AND LAND
Thursday, January 31, 2013
1:15 PM
State Capitol, Conference Room 229

in consideration of
SB 1164
RELATING TO SPECIAL SHORELINE ENCROACHMENT EASEMENTS.

Chair Solomon, Vice Chair Shimabukuro, and Members of the Senate Committee on
Water and Land.

Administration Bill SB 1164, Relating to Special Shoreline Encroachment Easements,
provides the Board of Land and Natural Resources discretion to grant easements for less than fair
market value for structures that were authorized by a governmental authority and constructed
landward of the shoreline within the record boundary of the landward property at the time of
construction, but are now located seaward of the shoreline on public land.

The Office of Planning (OP) administers Hawaii Revised Statutes Chapter 205A,
Hawaii's Coastal Zone Management (CZM) law, which implements the CZM Act passed by the
U.S. Congress in 1972. The purpose of HRS Chapter 205A is to "provide for the effective
management, beneficial use, protection, and development of the coastal zone." L. 1997, c 188
§1. OP offers comments on SB 1164 as follows:

Climate change adaptation priority guidelines were enacted by Act 286, Session Laws of Hawaii 2012. Sea level rise will likely be accelerated by climate change. Due to the dynamic nature of the location of the shoreline, the proposal from SB 1164 may promote structures within the shoreline area toward coastal hazards, including storm waves and coastal erosion. This policy could potentially increase the risk of coastal hazard threats to life and property along the shoreline.

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

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: i.pestana@yahoo.com
Subject: Submitted testimony for SB1164 on Jan 31, 2013 13:15PM
Date: Wednesday, January 30, 2013 3:09:44 PM

SB1164

Submitted on: 1/30/2013

Testimony for WTL on Jan 31, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Ikaika Pestana	Individual	Oppose	No

Comments: I strongly oppose this bill as it will put a restriction on the publics right to access all of the shore line and it will hasten the erosion of our public beaches. If anything the legislature should increase the set back distance for all future buildings, not grandfather structures that have hastened erosion and now lie within the ocean. This bill favors rich wealthy people over the publics interest and should die in committee. If not soon we won't have any more beaches, just lots of sea walls.

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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To: [WTLTestimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB1164 on Jan 31, 2013 13:15PM*
Date: Wednesday, January 30, 2013 11:25:27 AM

SB1164

Submitted on: 1/30/2013

Testimony for WTL on Jan 31, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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Cc: neil@soest.hawaii.edu
Subject: Submitted testimony for SB1164 on Jan 31, 2013 13:15PM
Date: Wednesday, January 30, 2013 10:32:13 AM

SB1164

Submitted on: 1/30/2013

Testimony for WTL on Jan 31, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Neil Frazer	Individual	Oppose	No

Comments: If enacted, this bill would effectively relieve private landowners from the burden of removing structures such as sea walls that are now in tidal waters but were built for the private benefit of those landowners. That is wrong, I think. Landowners who build near the ocean should clearly understand that their structures will eventually fall into the ocean and require clean-up, and that they will have to pay for that clean up.

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