



COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
HAWAII CHAPTER

March 17, 2013

The Hon. Cindy Evans, Chair, and  
Members of the House Committee on  
Water & Land

Re: Testimony in **Opposition** to S.B. No. 1166, S.D.1 Relating to the Conveyance Tax  
Hearing Date and Time: 8:35 a.m., March 18, 2013  
Conference Room 325, Hawaii State Capitol

Dear Chair Evans and Members of the Committee:

I am submitting this testimony on behalf of NAIOP Hawaii in **opposition** to S.B. No. 1166, S.D. 1 relating to the conveyance tax. 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 has submitted testimony to the Legislature since the 1990s, voicing its concerns regarding the potential misuse of the conveyance tax. Unfortunately, the concerns voiced by NAIOP over the years have largely come to fruition, through dramatic increases in rates of the tax and diversion of tax revenues into areas unrelated to the conveyance tax.

The purpose of the conveyance tax was to cover the costs of running the Bureau of Conveyances. It was never intended to be a revenue-generating tax. However, over time various non-conveyance uses for the conveyance tax revenue have been proposed and implemented by the Legislature. While these causes might be worthy, they were never intended to be supported by the conveyance tax. There is simply no nexus between the tax and what it is being used for.

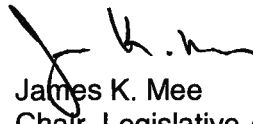
The rates of the tax have also been increased dramatically in the past several years. At this point it has become a punitive surtax on many real estate transactions. It is no longer a conveyance tax but a type of capital gains tax surcharge. However, it is more onerous than a true capital gains tax, because not just the gain on the transfer is taxed, but instead the entire face value of the transaction. Indeed, even if the conveyance is at a loss, the tax is imposed. And it is a hidden tax, because it only shows up as an expense line item on a closing statement.

We believe the continuing misuse of this tax is harmful to the economy and reinforces the perception of Hawaii as a high-tax jurisdiction which is to be avoided for investment and business purposes.

The Hon. Cindy Evans and Members of the House Committee on Water & Land  
March 17, 2013  
Page 2

Thank you for the opportunity to testify on this measure. We would urge that it be held in committee.

Respectfully,

A handwritten signature in black ink, appearing to read "J. K. Mee".

James K. Mee  
Chair, Legislative Affairs Committee



LAND USE RESEARCH  
FOUNDATION OF HAWAII

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(808) 521-4717  
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March 17, 2013

Representative Cindy Evans, Chair  
Representative Nicole Lowen, Vice Chair  
House Committee on Water & Land

**Comments, Concerns and Opposition to SB 1166, SD1, Relating to the Conveyance Tax. (Increases Conveyance Tax on certain transactions; directs an undisclosed per cent of Conveyance Tax proceeds to the Natural Area Reserve Fund for watershed protection and invasive species control.)**

**Monday, March 18, 2013, 8:35 p.m., in Conference Room 325**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide **comments, concerns and opposition** to the current form of this bill. LURF supports the increased funding for the Rental housing Trust Fund ("RHTF") and the Natural Area Reserve Fund ("NARF"), however, it believes that such increases should be done in a legal and financially responsible manner, which complies with the recommendations made by the State Auditor in her 2012 report, entitled "*Study of the Transfer of Non-General Funds to the General Fund*" A Report to the Governor and the Legislature of the State of Hawaii, Report No. 12-04, dated July 2012 ("*2012 Auditor's Report*").

Thus, LURF respectfully requests that this Committee **defer SB 1166, SD1**, because the proposers of the bill have never discussed or engaged in a collaborative process with the parties who would be most affected by this bill. A deferral would have the following advantages:

- Provide the opportunity for important discussions among stakeholders affected by this legislation and other stakeholders affected by taxes and the general fund, regarding the conclusions and recommendations in the *2012 Auditor's Report*.
- Allow the proposers of this measure to provide information regarding the current status of the NARF, how much the increase is expected to generate, and explain why they are asking for increases in taxes for NARF. The *2012 Auditor's Report*, which recommended that NARF be repealed, also confirmed that as of the end of Fiscal Year 2011-2012, NARF had a total unspent balance of \$5,213,000 funds in its account; including an unencumbered balance of \$2,213,000.

- Recent, July 1, 2012 increases in funding will still apply and other funds will maintain status quo. Deferral will allow the Rental Housing Trust Fund ("RHTF") to retain its current increased percentage, as of July 1, 2012, from twenty-five per cent to thirty per cent; the NARF's twenty per cent share will remain status quo; and the rates of the Conveyance Tax will remain status quo.
- Provide for transparent, collaborative and meaningful opportunities for the proposers to discuss the impact of and alternatives to, this proposed measure with the Stakeholders who are most affected on each island.
- 1. Review and discussion regarding other legal and voluntary alternatives are available to increase funding and support for the NARF, watersheds, and invasive species.
  - Current and proposed funding support through county board of water supply charges.
  - Funding through voluntary donations by rental car lessors or hotel room guests. (Compare, HB 760, HD1, SD1, which requires lessors of rental motor vehicles to include an option to the lessee in the motor vehicle agreement to contribute a sum to the department of land and natural resources for the preservation and protection of the environment, fifty percent to the NARF and fifty percent to the Land Conservation Fund ("LCF"), beginning July 1, 2015.)
  - Voluntary income tax refund check-off box for NARF, watersheds and invasive species. (Compare, HB 571, which proposed to permit all Hawaii taxpayers to voluntarily designate a specified amount of the taxpayer's income tax refund to be deposited into the State's Early Learning Trust Fund.)
- Review and discussion regarding conveyance tax exemptions for landowners who already provide affordable housing, or otherwise support or partner with NARF, watershed and invasive species programs.

**SB 1166, SD1.** The stated purpose of this bill is to increase the amount of Conveyance Tax and portions of the tax's revenues directed toward watershed protection and invasive species control, however, the SD1 version deleted all of the per cent increases for NARF and left the amounts of the increases unspecified and undisclosed. This bill proposes to:

- Substantially increase the amount of Conveyance Tax charged on all transfers or conveyances of realty or any interest therein (including sales, leases, subleases, assignments, transfers, conveyances, etc.), and the sale of condominiums and residences (for which the purchaser is ineligible for a county homeowner's exemption on property tax), with a value of over \$2 million. (The prior version of this bill included substantial and specific percentage increases in the Conveyance Tax, however the SD1 amended the bill to leave the increases unspecified and undisclosed);
- Change the percentage of the Conveyance Tax to be used and expended for general fund purposes by an unspecified and undisclosed amount. (The prior version of this bill included specific provisions to reduce by fifteen percent the percentage of Conveyance Tax to be used and expended for general fund purposes, decreasing

its total only twenty five percent, however the SD1 amended the bill to leave the increases undisclosed);

- Direct an additional five percent to the RHTF, increasing its total thirty percent (which is already provided for in the existing law and went into effect as of July 1, 2013); and
- Change the percentage of the Conveyance Tax to be used and expended for Natural Area Reserve Fund (“NARF”), including additional purposes of watershed protection and invasive species control, by an unspecified and undisclosed amount. (Currently the NARF receives a twenty percent portion of the Conveyance Tax proceeds. However, the prior version of this bill included specific provisions to substantially increase the percentage by an additional fifteen percent, bringing the proposed NARF total of the Conveyance Tax to thirty-five percent, however the SD1 amended the bill to leave the increases unspecified and undisclosed.).

**LURF’s Position.** Over the past several decades, LURF’s members are the State’s leaders in providing affordable housing and are also the foremost partners with the Nature Conservancy and other organizations in setting aside, partnering and serving as stewards of natural lands for conservation and watershed purposes.

LURF supports the increased funding of the RHTF through the Conveyance Tax, because there is a “clear nexus and benefit-user linkage.” However, LURF opposes the use of the Conveyance Tax to fund NARF, because it targets only sellers in real estate transactions and is an unreliable source of income, because it fluctuates with the economy and housing market. LURF also believes that the NARF is so important, that it deserves annual funding through broad taxes on the public and the State General Fund.

While LURF strongly supports funding for affordable housing, natural area reserves programs, preserving watersheds and controlling invasive species, LURF is in **strong opposition to SB 1166, SD1, and recommends that it be held by this Committee**, based on, among other things, that the Legislature and Administration is on notice that it violates Hawaii law, and is therefore illegal to continue the funding of these programs through the conveyance tax, which is paid by sellers of real property and has “no clear nexus or benefit-user linkage.”

It appears that the intent of SB 1166, SD1 is to find additional sources of funding for NARF by increasing Conveyance Tax revenues for the transfer of “luxury” properties. However, that Auditor has concluded that the NARF *does not have a clear link* with its funding source (individuals and companies involved in real estate transactions) and that it should be repealed; there are other alternatives to increase the funding for NARF; it unfairly targets and imposes substantial unintended negative consequences on local families that own land and other large *Kama`aina* landowners who have significant interests in Hawaii’s real estate community; and creates a major disincentive for businesses which wish to expand or relocate their operations in Hawaii.

**The proposed increases in the conveyance tax on the transfer of real estate are inappropriate, improper, and illegal, given that:**

**1. The Hawaii Conveyance Tax was never intended as a revenue-generating tax.**

Hawaii Revised Statutes (“HRS”), Chapter 247 (Conveyance Tax), was purposefully enacted in 1966 to provide the State Department of Taxation (“DoTax”) with informational data for the determination of market value of properties transferred, and to assist the DoTax in establishing real property assessed values. In short, the sole intent of the conveyance tax was originally to cover the administrative costs of collecting and assessing said informational data, which necessarily entails the recording of real estate transactions, as performed by the Bureau of Conveyances.

Since the enactment of HRS Chapter 247, however, the State Legislature has proposed, and has successfully implemented changes to the law 1) to allow application of conveyance tax revenue to a number of non-conveyance type uses (land conservation fund; rental housing trust fund; and natural area reserve fund) to the point where there is no longer any clear nexus between the benefits sought by the original Act and the charges now proposed to be levied upon property-holding entities transferring ownership; and 2) also to increase the tax rates to the point where said revenues now appear to far exceed the initially stated purpose of the Act.

These expansions and deviations which go beyond the scope of the original intent of the conveyance tax law are concerning since the proposed bills, particularly if unlawfully targeting recent transactions involving the sale of interests in private entities which own real property in the State, could be characterized as imposing an improper penalty, hidden tax, or surcharge, which may be subject to legal challenge.

**2. SB 1166, SD1, appears to be illegal and in violation of Sections 37-52.3 and 37-52.4, Hawaii Revised Statutes (“HRS”), because it attempts to use the Conveyance Tax to increase the NARS and other similar funds which do not have a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program.**

The NARF is a special fund which is subject to Sections 37-52.3 and 37-52.4 HRS. Criteria for the establishment and continuance of special and revolving funds were enacted by the 2002 Legislature through Act 178, SLH 2002, Sections 37-52.3 and 37-52.4, HRS. To be approved for continuance, a special fund must:

- a. serve the purpose for which it was originally established;
- b. reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process;
- c. provide an appropriate means of financing for the program or activity; and
- d. demonstrate the capacity to be financially self-sustaining.

The first and second criteria are nearly identical to those in Act 240, SLH 1990, codified in Section 23-11, HRS, requiring the Auditor to review all legislative bills in each session to establish new special or revolving funds. The 1990 Legislature determined it was fiscally prudent to establish a review for all proposed special and revolving funds and to have the Auditor perform a one-time review of existing funds.

**3. SB 1166, SD1, is inconsistent with the recommendation of the 2012 State Auditor's report to the Governor and legislature, which recommended the termination of the NARF.** The following information is from the *2012 Auditor's Report*.

The *2012 Auditor's Report* was prompted by House Concurrent Resolution No. 166, which requests the Auditor to conduct a study regarding the transfer of non-general funds to the general fund in light of the Hawai'i Supreme Court decision, *Hawaii Insurers Council v. Linda Lingle, Governor, State of Hawai'i, et al. ("Insurers Council lawsuit")*. In December 2008, the court ruled that the Legislature violated the Separation of Powers doctrine in an unconstitutional raid of an insurance special fund.

In House Concurrent Resolution No. 166, the 2011 Legislature asked the Auditor to look at the appropriateness of transferring non-general funds, including special and revolving funds, to the general fund, determine the source of the moneys, and determine whether the moneys are used for a public purpose. However, for purposes of this study, the Auditor limited its focus to the appropriateness of using special and revolving funds as a means of financing particular programs and directing moneys accumulated in these types of funds to the general fund to address budget shortfalls in a sluggish economy.

In July 2012, the Office of the State Auditor issued its *2012 Auditor's Report* to the Governor and Legislature, which applied the criteria in Sections 37-52.3 and 37-52.4, HRS, to forty-seven (47) funds and accounts that were the subject of general fund transfer authorizations during FY2009, FY2010, and FY2011, including the NARF.

The *2012 Auditor's Report* included the Auditor's analysis of the NARF and concluded:

“...the Natural Area Reserve Fund has minimal linkage between the benefits and the fund revenue, which comes from conveyance taxes paid on real estate transactions. The fund supports programs such as the Natural Area Partnership and Forest Stewardship programs, projects undertaken in accordance with watershed management plans, and the Youth Conservation Corps. Individuals that pay this tax may benefit from the Natural Area Reserves program, but so do other Hawai'i residents and visitors to the state.”

The *2012 Auditor's Report* further concluded that the NARF did not meet the criteria for continuance, because was no clear linkage between the benefits sought and the source of funding. The State Auditor concluded that and that the NARF and similar programs, which benefit Hawai'i's residents and visitors as a whole, should be supported by funding from a broader tax base because of the broad public benefit; and that such programs should be supported from the State general fund, rather than from the Conveyance Tax charged only individuals and companies. The Auditor further concluded that the NARF fund earmarked by the Legislature should be repealed and that the unencumbered balance should lapse to the General Fund.

In a letter dated June 18, 2012 commenting on the draft *2012 Auditor's Report*, the State Director of Finance has stated that “*In general, we agree with your recommendations*” and did not dispute or object to the Auditor's conclusion that the NARF did not meet the criteria for continuance as a special fund, and that the NARF should be repealed and the unencumbered balance should lapse into the General Fund.

Likewise, in a letter dated June 22, 2012 commenting on the draft 2012 Auditor's Report, the State Attorney General did not dispute or object to the Auditor's conclusion that the NARF did not meet the criteria for continuance as a special fund, and that the NARF should be repealed and the unencumbered balance should lapse into the General Fund.

4. **If SB 1166, SD1 is enacted, it could result in a class action lawsuit against the State.** As noted above, the Auditor has concluded that the NARF did not meet the criteria for continuance of a special fund, because was no clear link between the benefits sought and user or beneficiary charges; and that the NARF should be repealed. Also, the State Budget Director and Attorney General, appear to concur with the Auditor's findings and recommendations regarding the NARF. If the Legislature disregards the recommendations of the State Auditor to repeal the NARF, the State could be faced with a class-action lawsuit by all persons who have paid conveyance taxes. The lawsuit would include some of the same reasoning that the Hawaii Supreme Court used against the State in the *Insurer's Council* lawsuit.
5. **The NARF is so important, that it deserves annual funding through broad taxes on the public and the State General Fund, perhaps supplemented by voluntary contributions by Hawaii's taxpayers and visitors – rather than through the Conveyance Tax, which targets few, is unreliable and fluctuates with the housing market.** The *2012 Auditor's Report* included the following explanation:

“Designating revenue for specific purposes flows from the “benefit theory” of public finance, which postulates that those who benefit from a program should pay for it. Revenue earmarking is more defensible when there is a clear benefit-user charge as opposed to when there is no such linkage and earmarking is used solely as a political shield to protect a program by providing it with an automatic means of support.”

The *2012 Auditor's Report* also found that the NARF fell into the category of a “revenue earmark” with “no clear benefit-user charge” and that the NARF “is used solely as a political shield to protect a program by providing it with an automatic means of support.”

LURF also agrees with the State Auditor's finding that the beneficiaries of such conservation and preservation programs are state residents as a whole, and programs such as NARF are so important that they should be supported by funding from a broader tax on all state residents, because of the broad state benefit.

6. **SB 1166, SD1 may have unintended consequences**, especially to our island families who own large properties and may want to transfer property within their family. The measure will also have major negative consequences for many of Hawaii's large *kama`aina* landowners who may be transferring large properties for agricultural farms, housing developments, environmental programs, or other developments which would serve the community and create needed employment.



**7. The proposed measure creates a significant disincentive for business in Hawaii.** At a time where Hawaii is attempting to encourage business expansion in, and attract business operations to Hawaii, SB 1166, SD1 actually creates a disincentive, and will have a substantial negative impact on persuading new and existing businesses to open or expand in Hawaii, or to relocate their operations to this State. The proposed additional cost of doing business in Hawaii as a result of these bills would certainly appear to negatively outweigh any positive revenue impact resulting from the imposition of conveyance taxes pursuant to the measures.

**8. The imposition of increased conveyance taxes as proposed by SB 1166, SD1 will drive up the cost of lands for agricultural production, affordable and market homes, and commercial development.**

- The proposed imposition of the conveyance tax on transfers which affect **agricultural lands** will be passed on to farmers and other agricultural operators, making it even harder for agriculture to survive in Hawaii.
- The proposed imposition of the conveyance tax on transfers which affect **land intended for housing developments** will be passed on to home buyers, will increase the price of homes, and will exacerbate the affordable housing problem in Hawaii.
- The proposed imposition of the conveyance tax onto transfers which affect **commercial properties** will also be passed on to small businesses, creating yet another substantial financial burden on them.

**9. Other legal and voluntary alternatives are available to increase funding, or incentivize support for the NARF, watersheds, and invasive species.**

- Funding through county board of water supply charges. We understand that some counties are providing watershed funding through a portion of their water fee charges, which are a broad-based fee that paid by all users, residents and visitors alike.
- Funding through voluntary donations by rental car lessors or hotel room guests. HB 760, HD1, SD1, which requires lessors of rental motor vehicles to include an option to the lessee in the motor vehicle agreement to contribute a sum to the department of land and natural resources for the preservation and protection of the environment beginning July 1, 2015.
- Voluntary income tax refund check-off box for NARF, watersheds and invasive species. This would be a broad-based voluntary program for all residents and companies that pay Hawaii State income tax, similar to HB 571, which proposed to permit all Hawaii taxpayers to designate a specified amount of the taxpayer's income tax refund to be deposited into the State's Early Learning Trust Fund.
- Exemption for landowners who already provide affordable housing, or support watershed and invasive species programs. Most of Hawaii's large landowners already partner with DLNR, Nature Conservancy and other environmental partners to steward and support Hawaii's watersheds and to address invasive

species problems. These landowners should be provided exemptions from the Conveyance Tax.

Understanding the importance of the Conveyance Tax issues raised by SB 1166, SD1 and the above-referenced major unintended and overall negative impacts, **LURF respectfully requests that this bill be held in this Committee** to allow stakeholders, including, but not limited to government agencies, the public, private landowners, legal experts and other interested parties to meet and work together to come to a consensus regarding the bill's provisions, consequences and alternatives of funding NARF through the general fund and perhaps supplemental funding by voluntary contributions by Hawaii's taxpayers and visitors.

Thank you for the opportunity to provide comments and concerns relating to this proposed measure.



# Sierra Club Hawai'i Chapter

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

## HOUSE COMMITTEE ON WATER AND LAND

March 18, 2013, 8:35 A.M.  
(Testimony is 2 pages long)

### TESTIMONY IN SUPPORT OF SB 1166 SD1

Aloha Chair Evans and Members of the Committee:

The Sierra Club, Hawai'i Chapter, with 10,000 dues-paying members and supporters, **supports** SB 1166 SD1. This bill would provide funding for the protection of priority watershed forests and protection of Hawai'i's environmental heritage.

The forests that provide our drinking water are just one example of "free services" that are provided by nature and consumed by the human economy--services that have immense economic value, but that go largely unrecognized and uncounted until they have been lost. Many of those services are indispensable to the people who exploit them, yet are not counted as real benefits, or as part of GNP.

Janet Abramovitz writes in WorldWatch's State of the World 1997, "A forest's watershed protection values alone can exceed the value of its timber. Forests also act as effective water pumping and recycling machinery, helping to stabilize the local climate. And through photosynthesis, plants generate life-giving oxygen and hold vast amounts of carbon in storage, which stabilizes the global climate." Unfortunately, these services aren't "free." Without proper management and protection, they will fail to provide the products we require: clean water, topsoil, and scenic areas, fresh air, and habitat.

Hawaii's watersheds also contain some of the best native Hawaiian ecosystems on state-managed land. While programs to protect these areas struggle for budget appropriations annually, resource experts estimate that at least \$11 million is needed annually to maintain the integrity of the watersheds for our children and future generations.

Our natural resource areas protect unique Hawaiian plants, animals, and ecosystems on 109,000 acres of public-trust lands. These areas include habitat for threatened and endangered species, and portions of essential watersheds that support our economy and way of life. Protection for these areas is seriously underfunded and understaffed. The result is increasing encroachment by invasive species, decrease in healthy habitat for native plants and animals, and the loss of the native essence of Hawai‘i.

We appreciate that this bill proposes a source of permanent funding and would provide support in future years. Please move this measure forward.

Mahalo for the opportunity to testify.

lowen1-Kyli

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**From:** Windward Ahupua`a Alliance [info@waa-hawaii.org]  
**Sent:** Sunday, March 17, 2013 7:25 PM  
**To:** waltestimony  
**Subject:** SB 1166 SD1- RELATING TO THE CONVEYANCE TAX

Submitted By:

Shannon Wood, *President*  
**Windward Ahupua`a Alliance**  
P.O. Box 6366  
Kane`ohe, HI 96744  
Voicemail: 808/247-6366; Cellular: 808/223-4481 or 808/224-4496 (personal)  
Website: <http://www.waa-hawaii.org>; E-mail: <mailto:info@waa-hawaii.org>

**COMMITTEE ON WATER & LAND**

Representative Cindy Evans, Chair  
Representative Nicole E. Lowen, Vice Chair

8:30 am  
Monday, March 18, 2013  
Conference Room 325

**SB 1166 SD1- RELATING TO THE CONVEYANCE TAX**

**Increases the conveyance tax on certain real estate transactions and directs an additional amount of conveyance tax revenues to the natural area reserve fund for watershed protection and invasive species control. Effective 07/01/2050. (SD1)**

The *Windward Ahupua`a Alliance*, a **501c3** Hawai`i non-profit corporation established in July, 2002, stands in strong support of **SB 1166 SD1** which will provide a portion of the funding for watershed protection.

In addition to planning & implementing how & where we will live, work & play, **WAA** also advocates for setting long-term watershed protection policies based upon *ahupua`a* concepts at county & state levels as well as mitigating the impacts of climate change & rising sea levels around the world by working on public policy changes at all three levels of government.

Mahalo for the opportunity for supporting **SB 1166 SD1- RELATING TO THE CONVEYANCE TAX**

**lowen1-Kyli**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 17, 2013 6:46 PM  
**To:** waltestimony  
**Cc:** hawaii hunting association@hawaiiantel.net  
**Subject:** Submitted testimony for SB1166 on Mar 18, 2013 08:35AM

**SB1166**

Submitted on: 3/17/2013

Testimony for WAL on Mar 18, 2013 08:35AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tom Lodge	Individual	Comments Only	No

Comments: Oppose this measure. Watersheds in Hawaii get water from rain. When the rain stops, we in east Hawaii will have to boil sea water I guess. Invasive plants need to be removed from our forests for a lot of reasons, but to protect our water resources here in Hawaii isn't one of them and it would be nice if those responsible for the watersheds care were more forthright about it. Much Aloha, Tom Lodge

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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**lowen1-Kyli**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 17, 2013 8:53 PM  
**To:** waltestimony  
**Cc:** Amybrinker@mac.com  
**Subject:** \*Submitted testimony for SB1166 on Mar 18, 2013 08:35AM\*

**SB1166**

Submitted on: 3/17/2013

Testimony for WAL on Mar 18, 2013 08:35AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Amy Brinker	Individual	Support	No

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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COMMITTEE ON WATER AND LAND  
Representative Cindy Evans, Chair  
Representative Nicole Lowen, Vice Chair

Testimony of the Oahu Invasive Species Committee in support of SB 1166 Relating to the  
Conveyance Tax

Monday March 18th Conference Rm 325

The Oahu Invasive Species Committee supports SB 1166 which would provide critical funding to keep Hawaii's forests and watersheds healthy. The Oahu Invasive Species Committee has eradicated and stopped the spread of many high-threat invasive plants by removing them before they move into Hawaii's Natural Area Reserves.

The Natural Area Reserve fund has supported much needed conservation and creates jobs for the green-collar economy. Keeping the watershed health requires hiring staff to go out and remove invasive plants. It has been an important source of funding for OISC, but despite this, OISC has been critically short of funds for the past several years.

Fully protecting Hawaii's watersheds requires more funding than the state has traditionally dedicated to conservation. This bill will correct that. NAR funds are highly leveraged; every dollar from the NAR fund creates another dollar of conservation funding to match it. An investment now by the legislature will ensure the sustainability of Hawaii's fresh water supply for future generations. Thank you for the opportunity to comment.

Sincerely,

Oahu Invasive Species Committee





## STATEMENT IN SUPPORT OF Watershed Protection and Invasive Species Control

The Hawai'i Conservation Alliance (HCA) is a cooperative collaboration of conservation leaders representing 24 state and federal agencies, educational institutions, and nonprofit organizations. HCA's mission is to provide unified leadership and advocacy on conservation issues critical to Hawai'i. Collectively, we are responsible for managing the biodiversity of Hawai'i's lands and waters with more than 1,600 square miles of land and 140,000 square miles of marine area designated for biodiversity protection. HCA strives to manage these resources in a manner that integrates Native Hawaiian approaches and knowledge systems with conventional conservation efforts to care for Hawai'i's 'āina and people.

The HCA strongly supports watershed protection and invasive species control as outlined in the watershed protection plan, "The Rain Follows the Forest," released by the Department of Land and Natural Resources (DLNR). This proposal advances broad goals of community sustainability, ecosystem integrity, and biodiversity conservation by: 1) controlling key threats to priority watersheds, including invasive plant and animal species, fire, and plant diseases; 2) restoring the integrity and water retention capacity of these watersheds through protection and replanting of native species; and 3) educating Hawai'i's public as to the value of ecologically intact watersheds. By providing effective forest management, this initiative helps to replenish streams and aquifers diminished by decades of ecological neglect.

The HCA further supports watershed protection and invasive species control as key objectives within the broader goals and management efforts of the Alliance, including:

- 1) Reversing ecosystem degradation;
- 2) Enhancing ecosystem functioning and resulting goods and services;
- 3) Preservation of native ecosystems;
- 4) Increasing the diversity of native species;
- 5) Maintaining native biodiversity for future generations; and
- 6) Ensuring a sustainable management of Hawai'i's natural resources for island communities.

The HCA will support and contribute to Hawai'i's watershed restoration and invasive species control efforts through:

- 1) Collaboration between state, federal, non-profit, and community partners;
- 2) Management of adjacent land parcels by members such as Kamehameha Schools, National Park Service, and The Nature Conservancy;
- 3) Enhancing biosecurity efforts to prevent emergence of new threats;
- 4) Facilitation of funding opportunities through agencies such as the National Oceanic and Atmospheric Administration, Natural Resource Conservation Service, and U.S. Forest Service; and
- 5) Increasing community, cultural, and technical capacity for state efforts in support of sustainable land to sea watershed management.

Effective watershed protection, including the control of damaging invasive species, must become a top priority for Hawai'i in order to protect native biodiversity, agriculture, human health, and quality of life.

NEIL ABERCROMBIE  
Governor

SHAN TSUTSUI  
Lieutenant Governor



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## Testimony of the HAWAI'I INVASIVE SPECIES COUNCIL

### Before the House Committee on WATER AND LAND

Monday, March 18, 2013  
8:35 AM

Hawai'i State Capitol, Room 325

### In consideration of Senate Bill 1166 RELATING TO THE CONVEYANCE TAX

Senate Bill 1166 increases the conveyance tax on certain high value properties (those over \$2M in value) and directs an additional ten per cent of conveyance tax proceeds to the natural area reserve fund for watershed protection and invasive species control. This bill further adds invasive species projects, including the Hawai'i Invasive Species Council, as designated beneficiaries of natural area reserve funds. **The Hawai'i Invasive Species Council strongly supports this bill.**

In addition to supporting the Rental Housing Trust Fund, the conveyance tax provides revenue to conservation programs to offset the environmental demands of rapidly expanding development in Hawai'i. Current recipients of conveyance tax revenues include the Legacy Land Conservation Program and the natural area reserve fund, which in turn supports conservation projects including, but not limited to, the Natural Area Reserve System, the Watershed Partnerships, and the island-based Invasive Species Committees.

The increase in conveyance tax described by this bill would affect those properties valued above \$2M, which in FY12 accounted for approximately 2% of properties sold in Hawai'i.

The *A New Day in Hawai'i* plan established by Governor Abercrombie describes the importance of protecting Hawai'i's watersheds for local water production, as well as the critical need to prevent and control invasive species that negatively impact Hawai'i's ecosystems. The Governor's Watershed Initiative (also known as *The Rain Follows the Forest*) and the Hawai'i Invasive Species Council (an interdepartmental council of State cabinet members created to address invasive species issues) are established programs that address these essential goals in the *A New Day in Hawai'i* plan.

The annual cost of the *The Rain Follows the Forest* program is estimated at \$11M. In addition the Hawai'i Invasive Species Council has provided as much as \$4M annually to projects focusing on prevention, control, research and outreach regarding invasive species. In FY12 the legislature provided for *The Rain Follows the Forest* \$2.5M in Capital Improvement Program funding and designated \$2.5M of special funds at the Department of Land and Natural Resources.

Since its creation by the legislature in 2003, the Hawai'i Invasive Species Council has not been provided with a dedicated funding source. While \$2M annually was originally provided in general funds from the legislature, no general funds have been provided since FY09. Special funds provided by the Division of Forestry and Wildlife at the Department of Land and Natural Resources have allowed the Hawai'i Invasive Species Council to maintain an annual budget, which in FY13 is supporting 17 projects across the state. These projects protect our shores from nonnative marine organisms found on ship hulls or in ballast water, assist homeowners with the control of stinging invasive ants, control damaging forest pests such as *Miconia calvescens*, and support the control of pests such as the coqui frog. Senate Bill 1166 would add the Hawai'i Invasive Species Council as a designated beneficiary of the natural area reserve fund, finally providing this program with a dedicated funding source.

Senate Bill 1166 is a necessary and responsible measure that will provide funding for critical environmental programs to support the health of Hawai'i's ecosystems and our way of life. Therefore, the Hawai'i Invasive Species Council strongly supports this bill.

*The Hawai'i Invasive Species Council is an interagency collaboration established by Chapter 194, Hawai'i Revised Statutes, for the purpose of cabinet-level direction on invasive species prevention, control, research, and outreach issues in Hawai'i.*

## lowen1-Kyli

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 18, 2013 7:05 AM  
**To:** waltestimony  
**Cc:** jobykapua@hawaiiantel.net  
**Subject:** Submitted testimony for SB1166 on Mar 18, 2013 08:35AM

### **SB1166**

Submitted on: 3/18/2013

Testimony for WAL on Mar 18, 2013 08:35AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kapua Kawelo	Individual	Support	No

Comments: Healthy forests will become even more critical as we experience the likely effects of climate change, including more severe storms but overall less rainfall. • The Administration's goal of doubling the number of acres of watershed forest protected over the next decade requires approximately \$11 million per year, supporting an estimated 150 direct local jobs. • The conveyance tax bill would support this watershed protection through essential forest management programs and invasive species control. • The development and sale of real estate helps drive Hawaii's economy, but it also puts pressure on our natural resources, including water supplies. • Fresh water is clearly a limiting factor here in the middle of the Pacific. • Several locations in the state are experiencing ongoing drought, water management areas are being declared, climate change is likely to produce more severe storms but overall less rainfall, and the UH's 2011 Rainfall Atlas catalogues a century of declining rainfall that is worse in recent decades. • Fresh water is not a limitless resource that can forever be tapped to support our developed real estate. • It makes sense to spend a portion of conveyance tax revenue on protecting the sources of our fresh water.

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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**Testimony of the Hawaii Green Growth Initiative  
In Support of HB 935/SB 1166 Relating to the Conveyance Tax**

**Senate Committee on Ways and Means**

28 February 2013, 9:35am  
Conference Room 211

Audrey Newman  
Hawaii Green Growth Initiative  
P.O. Box 535  
Hoolehua, Hawai'i 96729

Aloha Chair Ige, Vice Chair Kidani, and Members of the Committee:

I am writing on behalf of the Hawaii Green Growth Initiative (HGG) in support of **HB 935/SB 1166 to provide critical funding for watershed protection and invasive species management through a strategic increase in the real estate conveyance tax**. HGG brings leaders from the energy, food and environmental sectors together to achieve Hawaii's sustainability goals and to be a model for building a green economy. HGG's members include more than 40 leaders from government, private, and non-profit organizations in Hawai'i.

HGG asks you to support HB 935/SB 1166 because it creates an innovative funding source to expand protection of Hawaii's watersheds and water supply, and to address our most pressing invasive pest species.

HGG recognizes the critical importance of Hawaii's watersheds and water supply to the long-term sustainability of our island economy, culture and environment. Watershed protection and restoration paired with invasive species removal significantly increases water availability by ensuring that our forests function to effectively absorb rain, deliver it into streams and aquifers, and decrease erosion and siltation, which also benefits our reefs and fisheries. Healthy watersheds also help to mitigate climate change and assist in the Hawaii Clean Energy Initiative's target by absorbing greenhouse gases.

The real estate conveyance tax provides an appropriate source for funding: the development and sale of real estate is driver of Hawaii's economy, but also strains our natural resources, including water supplies. Allocation of conveyance tax revenue to the Natural Areas Reserve Fund would increase much needed support for watershed protection through critical forest management programs, invasive species control, land acquisition, and other conservation programs.

We ask for your strong support of this bill. Protecting Hawaii's watersheds is the most cost-effective way to protect Hawaii's fresh water supply - this water is essential for Hawaii's residents, agriculture, environment, and energy (with the emerging potential for investment in biofuels). Implementation of this bill is an important investment in Hawaii's future.

As a partnership representing Hawaii's leaders in environment, food and energy, HGG asks for your support of HB 935/SB 1166. Mahalo nui for your time and consideration,



Audrey Newman  
Senior Advisor, Global Island Partnership (GLISPA)  
Promoting action for island conservation and sustainable livelihoods. [www.glispa.org](http://www.glispa.org)