



**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

February 7, 2013, 2:45 P.M.

Room 225

(Testimony is 4 pages long)

TESTIMONY IN STRONG SUPPORT OF SB 988

Chairs Gabbard and Baker members of the committees:

The Blue Planet Foundation strongly supports SB 988, relating to the disclosure of energy consumption to lessees. SB 988 is about protecting tenants' rights, reducing landlords' costs, and making Hawaii more energy independent. It can help to achieve this simply by requiring transparency in the leasing process. By spurring an "energy conversation" in that process, there will be no more hidden energy costs for landlords and tenants. Everyone will benefit from a lease property market that works more efficiently and from shipping less money out of Hawai'i to pay for imported fossil fuels. In this testimony, we highlight how these economic benefits will work, and we describe why potential questions about burdens or privacies are eliminated.

Blue Planet respectfully requests that this measure be amended to include residential leases in the energy efficiency disclosure requirement. Approximately 41% of Hawaii residents are renters¹, and the monthly utility bill can be a substantial portion of the monthly cost of living. Transparency in the residential rental market would help residents make better choices and would encourage landlords to invest in energy efficiency, such as solar water heaters.

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

Rising fossil fuel prices have all of us looking for solutions to reduce the increasing burden of energy costs. Lessees feel this squeeze even more acutely. In a lease property, tenants are not always able to take steps to reduce their energy bill—such as upgrading the air conditioning

¹ US Census Bureau 2010, <http://quickfacts.census.gov/qfd/states/15000.html>

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

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

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

Luckily, simple solutions can help achieve this win-win by unlocking the split incentive and providing more information. By simply requiring that energy consumption be made part of the leasing process, SB 988 incentivizes both landlords and tenants. Everyone can save money, without adding to our State governments' budget.

In 2009, the legislature took a similar step to make the market for real property more efficient, by requiring an energy disclosure when property is sold, by enacting H.R.S. § 508D-10.5. Just as SB 988 can benefit both landlords and tenants, energy disclosures benefit both buyers and sellers. Indeed, H.R.S. § 508D-10.5 was enacted with the title “Energy-efficiency consumer information in sale **or lease** of real property.” Despite this, the text only included sales. SB 988 takes the sensible step of completing the loop and including leased/rented property.

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

An energy disclosure is very similar to other simple requirements in our current lease process; and it is not an extraordinary burden. For example, landlords are currently required to disclose information about topics such as lead paint² and the landlord's agents.³ These pose no extreme burden. House Bill 1407 simply elevates energy information into the same pre-rental process

² See, e.g., Lead Disclosure Rule, U.S. Dep't Housing and Urban Development, http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/disclosure.

³ See H.R.S. § 521-43.

that landlords are already conducting. When renting a property, the landlord will provide information about energy costs for the last three months the premises were occupied. Most landlords will have this information readily at hand from energy bills, or if the energy bills are in the name of the prior tenant, the landlord can obtain this information from the prior tenant as part of the standard move-out process.

In the relatively less frequent situations where neither option is available to the landlord, SB 988 should provide a mechanism for landlords to obtain information directly from the utility. Blue Planet recommends the following language:

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

There should be little privacy concern; the information available to a landlord is simply the energy consumed by the landlords' *own* real property. This language would also protect the utility, authorizing it to provide that information to the landlord, in the unlikely event the landlord doesn't have other access to it.

The approach taken by SB 988 is to allow landlords to provide energy information straight from the energy bill, rather than requiring some type of special calculation. This standardization can help to eliminate potential confusion in the multi-tenant context, and is fair for everyone. In addition, SB 988 does not require a landlord to complete additional forms or file additional paperwork with the government. This distinguishes SB 988 from the approach taken by the energy disclosure requirements in Maine. Recognizing the power of energy disclosures, Maine requires landlords to fill out a disclosure form, with specific information about things such as heating system tested efficiency (including a required minimum), insulation, window composition, and appliances.⁴ Even with these requirements, the Maine PUC's report to the legislature concluded:

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

⁴ Information about Maine's program is *available at* <http://www.maine.gov/mpuc/online/forms/EnergyEfficiencyDisclosure.html>

requirement that is consistent in all situations is fair and easy to understand.

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

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

However, even with such mechanisms in place, SB 988 can help to make sure that our rental market operates as efficiently as possible. Tenants that are currently suffering hidden energy costs, will instead be able to compare “apples to apples” when deciding where to live. Landlords that take advantage of opportunities like on-bill financing will have an advantage, because those benefits will be clear to all prospective tenants.

We respectfully urge you not to leave tenants and landlords in the dark about energy consumption. Please forward SB 988.

Thank you for the opportunity to testify.

SB988

Submitted on: 2/7/2013

Testimony for ENE/CPN on Feb 7, 2013 14:45PM in Conference Room 225

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|------------------------------|---------------------------|---------------------------|
| David Arakawa | Land Use Research Foundation | Oppose | No |

Comments: LURF supports renewable energy and energy efficiency, however, it must oppose SB 988, which proposes to require the landlord or lessor of a commercial property to provide written disclosure of energy costs to a prospective lessee before execution of the rental agreement. Requires oral disclosure of energy costs to a prospective lessee for an oral lease agreement at or before commencement of the tenancy. Allows a lessee to terminate the rental agreement, without liability, if the landlord or lessor fails to disclose energy costs. LURF's opposition is based on the following: 1. There is no purpose, reason or justification for the imposition of such a requirement, especially when it targets a limited portion of the state residents. 2. The factual situations and realities applicable to commercial leases, create obstacles to compliance with SB 988. Among other things: • Energy cost information for most ground leases is not available to landlords. Most ground leases, pay their own electricity and energy costs, thus the landlord or lessor does not have access to such energy cost information. • Energy cost information for some building space tenants is not available to landlords. Some tenant spaces are separately metered and the tenants, pay their own electricity and energy costs, thus the landlord or lessor does not have access to such energy cost information. • Energy cost information for some building space tenants, who pay Common Area Maintenance ("CAM") is not available to landlords. For some buildings, the energy costs are included in the CAM, and thus the landlord or lessor does not have access to the actual energy cost information for a particular unit.