



Before the House Committee on Consumer Protection and Commerce
Wednesday, February, 17, 2016, 9:30 a.m., room 329
HB 2523 HD 1: RELATING TO RENEWABLE ENERGY

Aloha Chair McKelvey, Vice Chair Woodson, Members of the Committee,

On behalf of the Distributed Energy Resources Council of Hawaii, I would like to testify in strong support for HB 2523 HD 1 with one suggested amendment, which establishes association rules for the placement of solar devices in the absence of a private entity adopting rules. The DER Council is a nonprofit trade organization formed to assist with the development of distributed energy resources and smart grid technologies to support an affordable, reliable, and sustainable energy supply for Hawaii.

HRS 196-7 provides for the placement of solar energy devices on single family homes and townhouses under the control of a homeowner's association ("HOA"). The law mandates that individual HOAs draft rules that guide the placement of solar devices, and outlines limits which the HOAs must observe in their guidelines. If no rules are drafted and available in house rules, the homeowner is put in limbo such that the homeowner cannot install a device without permission, and the HOA's failure to adopt rules as per HRS 196-7 means the resident has no guidelines to follow. In this situation, the only remedy is for the homeowner to sue its HOA, in which case the homeowner would prevail as the HOA has ignored the law by not drafting rules. However, most homeowners do not have the time, money, or desire to sue their HOA in order to force the HOA to comply with the law, in addition to the potentially charged action of causing the HOA to spend association money in defending its wrongful action.

HRS 196-7 which directs HOA to draft rules for the placement of solar devices has been in effect since December 31, 2006—8 years—yet many HOAs have yet to draft rules, and HOAs are notorious for preventing or thwarting their residents from installing solar, in flagrant violation of the law.

The DER Council therefore supports HB 2523 HD 1 as it presents a simple and straightforward solution in the cases where a HOA has failed to draft rules for the placement of solar devices for their residents. The proposed amendments direct the homeowner to file an application to the HOA. The HOA then has 30 days to respond to the application. The HOA can draft rules in the interim, approve the application, or deny the application—but not for the reason that they do not have rules in place. The homeowner may install the device if the HOA does not respond after 30 days. The homeowner must meet all permitting and interconnection requirements as per the rules and regulations in place with the utility and individual counties.

The DER Council respectfully requests one amendment to HB 2523 HD 1. We believe that HB 2523 HD 1 would be more effective if, upon receipt of an application to install a solar energy device, the HOA would have the following choices: to approve the application, approve with modification, or deny based upon HOA rules drafted as per HRS 197-6. We're concerned that the "out" to deny an application without rules in place will create another loophole where an HOA could deny an application for the placement of solar simply because they don't want solar on the property. If that were to occur, homeowners would be in the same position they are in now—such that their only remedy is to sue their HOA.

Thank you for the opportunity to testify

Leslie Cole-Brooks
Executive Director
The Distributed Energy Resources Council of Hawaii



Hawaii Solar Energy Association
Serving Hawaii Since 1977

LATE TESTIMONY

**TESTIMONY OF THE HAWAII SOLAR ENERGY ASSOCIATION
IN REGARD TO HB 2523, RELATING TO RENEWABLE ENERGY
BEFORE THE
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
ON
WEDNESDAY, FEBRUARY 17, 2016**

Chair McKelvey, Vice-Chair Woodson and members of the committee, my name is Hajime Alabanza, and I represent the Hawaii Solar Energy Association, Inc. (HSEA)

HSEA supports HB 2523 with some comments. This measure amends §196-7 to allow condominiums, communities, and homeowner associations to allow homeowners to place solar energy devices on single-family residential dwellings and townhouse units. Most importantly, this bill also specifies a timeframe by which these rules should go into effect.

We encourage the committee to support the passage of this bill. Currently, solar customers who have been conditionally approved for NEM agreements prior to the October 2015 NEM decision would be in danger of losing their approvals. Conditional NEM approvals expire one year after they are granted. The sooner this bill is passed, the fewer conditional NEM approvals will be removed from the queue.

In general, it is important to allow homeowners the freedom to install solar devices on their homes, whether their homes are single-family dwellings, townhouses, or condominiums. In addition, it is important to close loopholes in the Hawaii Revised Statutes that might otherwise extend the time, ad infinitum, it might take for a solar system application to be approved by a housing association.

We support the new amendments in HB 2523 HD 1 at pg. 8 section 2 (g) (1) addressing ambiguity in the language of the bill. Energy created by a grid tied solar system under the CGS option will likely export excess energy onto the grid and this energy will likely be consumed by the nearest user.

Thank you for the opportunity to testify.