



Hawaii Solar Energy Association
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**TESTIMONY OF THE HAWAII SOLAR ENERGY ASSOCIATION
IN REGARD TO HB 2523, RELATING TO SOLAR TAX CREDITS
BEFORE THE
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
ON
THURSDAY, FEBRUARY 4, 2016**

Chair Lee, Vice-Chair Lowen 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 this committee to expedite 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.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 03, 2016 7:52 AM
To: EEPtestimony
Cc: leslie@dercouncil.org
Subject: *Submitted testimony for HB2523 on Feb 4, 2016 08:00AM*

HB2523

Submitted on: 2/3/2016

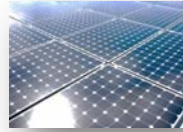
Testimony for EEP on Feb 4, 2016 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Leslie Cole-Brooks	DER Council of Hawaii	Support	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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HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 4, 2016, 8 A.M.

Room 325

(Testimony is 3 pages long)

TESTIMONY IN SUPPORT OF HB 2523 WITH PROPOSED AMENDMENTS

Aloha Chair Lee, Vice Chair Lowen, and Committee members:

Blue Planet Foundation supports HB 2523, amending H.R.S. § 196-7(b) to implement default rules for the installation of solar energy devices (such as photovoltaic panels or solar water heaters) in situations where a homeowners association or similar private entity has not adopted rules for such installations. Below, we suggest a clarifying amendment that would ensure that HB 2523 doesn't erroneously prevent residents from participating in common utility solar programs. We also recommend adopting a provision to ensure that residents can utilize clotheslines, which are another form of solar power.

The basic intent of H.R.S. § 196-7(b) is to remove unnecessary barriers for residents in multi-use who wish to install solar energy devices. By 2006, homeowners associations and similar private entities were required to adopt rules regarding the installation of solar equipment. With clear rules and procedures, residents would know exactly how to proceed if they wish to install solar equipment. To the extent that an association has adopted rules as required by H.R.S. § 196-7(b), default rules are an appropriate and sensible solution. Notably, this concept of "default rules" is commonly utilized in the context of homeowner's associations. For example, condominium associations are required to adopt bylaws to operate the association, but in the absence of applicable bylaws, default rules are set forth in statute.¹

Blue Planet recommends two amendments to the measure:

(1) Amendment to remove ambiguity regarding eligible solar energy devices.

We caution against one potential ambiguity in the current draft of HB 2523. Section 2, amending H.R.S. 196-7(g)(1), states:

"Nothing in this subsection shall be deemed to prohibit a private entity from requiring, as a condition of approval of an installation proposal, that: (1) **The placed solar energy device serve only the**

¹ For example, H.R.S. Ch. 514B and Ch. 414D set forth default rules for the operation of the board of nonprofit condominium associations, but those default rules can be replaced by the association's bylaws.

single-family residential dwelling or townhouse unit owned by the person who submitted the installation proposal . . .” (emphasis added)

We note that under the former net energy metering tariff, and under the new grid-supply tariff, a solar energy device may sometimes export energy from the solar device to the grid. Thus, it is unclear if under that grid-export situation the device “serve[s] only the single-family residential dwelling or townhouse unit owned by the person who submitted the installation proposal.” Functionally, it is likely that the energy would flow out of the solar device and be consumed by the nearest utility customer that is using energy. This is normal, and it is fully contemplated under the utilities’ rooftop solar programs.

We suggest clarifying HB 2523 by adding the underlined language:

“Nothing in this subsection shall be deemed to prohibit a private entity from requiring, as a condition of approval of an installation proposal, that: (1) The placed solar energy device be installed pursuant to an approved utility interconnection agreement or serve only the single-family residential dwelling or townhouse unit owned by the person who submitted the installation proposal . . .”

(2) Amendment to address clotheslines (i.e. using solar power to dry clothes).

Much like solar photovoltaics and solar hot water, clotheslines can use clean energy (from the wind and sun) to lower household energy bills. But presently, apartment or condominium associations are not required to implement rules allowing for the use of clotheslines.

We recommend adding a new section, amending H.R.S. § 196-8.5 to ensure that condominium and apartment associations allow residents to use clotheslines, subject to reasonable restrictions:

Section 196-8.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

(a) Notwithstanding any law to the contrary, no person shall be prevented by any covenant, declaration, bylaws, restriction, deed, lease, term, provision, condition, codicil, contract, or similar binding agreement, however worded, from installing a clothesline on any single-family residential dwelling, apartment, condominium, or townhouse that the person owns. Any provision in any lease, instrument, or contract contrary to the intent of this section shall be void and unenforceable.

(b) Every private entity may adopt rules that reasonably restrict the placement and use of clotheslines for the purpose of drying clothes on the premises of any single-family residential dwelling, apartment, condominium, or townhouse; provided that those restrictions do not prohibit the use of clotheslines altogether. A reasonable restriction is any restriction that is necessary to protect:

- (1) Public health and safety, including but not limited to ensuring safe access to and rapid evacuation of buildings;
- (2) Buildings from damage;
- (3) Historic or aesthetic values, when an alternative of reasonably comparable cost and convenience is available; or
- (4) Shorelines under shoreline setback provisions pursuant to section 205A-43.

No private entity shall assess or charge any homeowner any fees for the placement of any clothesline.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 03, 2016 8:50 AM
To: EEPtestimony
Cc: carl@votecampagna.com
Subject: *Submitted testimony for HB2523 on Feb 4, 2016 08:00AM*

HB2523

Submitted on: 2/3/2016

Testimony for EEP on Feb 4, 2016 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Campagna	Individual	Support	No

Comments:

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February 3, 2016

VIA WEB TRANSMITTAL

LATE

Hearing Date: Thursday, February 4, 2016

Time: 8:00 a.m.

Place: Conference Room 325

Committee on Energy & Environmental Protection
House of Representatives, the 28th Legislature
Regular Session of 2016

Re: Community Associations Institute's **Testimony Supporting** HB 2523

Dear Chair Chris Lee, Vice Chair Nicole E. Lowen and Committee members:

I am the Chair of the Community Associations Legislative Action Committee ("CAI"). We represent the condominium and community association industry.

Although we believe that it is rare that applicable condominiums, community and homeowner associations have not yet adopted rules for the placement of solar energy devices as required by HRS §196-7, HB 2523 does serve a legitimate purpose of bridging the "gap" where a private entity has not complied with the law and adopted the required rules. Therefore, CAI supports HB 2523. Thank you.

Sincerely yours,

Christian P. Porter, Chair of CAI LAC Hawaii



LATE

February 3, 2016

VIA WEB TRANSMITTAL

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