



LAND USE RESEARCH
FOUNDATION OF HAWAII

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LATE TESTIMONY

April 3, 2017

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair
Senate Committee on Water and Land

Comments and Concerns in Opposition to HB 437, HD2, SD1 RELATING TO COASTAL ZONE MANAGEMENT - Prohibits variances for installation of shoreline hardening structures in shoreline areas, unless a public hearing is held, the applicant demonstrates that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to shoreline erosion, and the object, structure, or activity cannot reasonably be protected by relocating it outside of the shoreline area. Effective 7/1/2050.)

JDL Hearing: Tuesday, April 4, 2017, 9:45 p.m., in Conference Room 016

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. LURF's mission 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 intent of this measure, but **opposes the current version of HB 437, HD2, SD1**, which will apply to, and could affect thousands of miles of shoreline on each of the Hawaiian Islands and thousands of landowners, and existing State and county structures and future projects.

Under the circumstances, LURF submits that the most prudent course would be for this Committee **defer this measure until the 2018 Legislative Session**, which would allow a Working Group of the proponents of this bill, affected landowners, government agencies and other affected stakeholders to review the issues which gave rise to this bill; apply science and legal considerations, and if warranted, submit a report in December 2017, which could propose legislation, or otherwise address various shoreline variance issues.

HB 437, HD2, SD1. This measure would prohibit variances for installation of shoreline hardening structures in shoreline areas, unless a public hearing is held; and the applicant will be forced to demonstrate that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to shoreline erosion; and applicants for variances will be required to satisfy, among other things, the following vague, and arbitrary and unreasonable requirements:

“the object, structure or activity that is the subject of the variance cannot reasonably be protected by relocating it outside of the shoreline area...”

LURF’s Position. While this bill may have been well-intended, LURF is **opposed** to the current version of HB 437, HD2, SD1 and respectfully requests that this Committee **defer this bill**, based on, among other things, the fact that this measure:

- **Lacks “transparency,” any background facts, purpose and intent clause.** This measure will have a major impact along the shoreline, however, it lacks any purpose and intent – not even one word. Perhaps the real purpose or intent is known but is intentionally undisclosed, or a secret, or perhaps the drafter just forgot to add a purpose or intent, or maybe it was mistakenly omitted - - nevertheless, for whatever reason, the lack of transparency makes it impossible for an informed or educated review, discussion, review of and consideration of this bill by this Committee or any affected or interested parties, and also makes it virtually impossible to propose any reasonable amendments;
- **Has been hastily proposed without consideration, consultation, or discussion with key state-wide stakeholders.** The lack of a purpose and intent clause is very curious, however, even more suspicious is the fact that the proponents did not engage, discuss or consult with those stakeholders who would be most affected (including, but not limited to major shoreline land owners, the tourism industry, each of the counties, etc.);
- **Is unnecessary**, because the current law already requires notice to abutting owners and any persons who have requested notice of shoreline variances; requires a public hearing under Chapter 91, Hawaii Revised Statutes (HRS), and will only allow a waiver of the hearing requirement if certain specific criteria and conditions are satisfied;
- **Is not based on scientific considerations or data.** The proposed new legal criteria for a variance (“cannot reasonably be protected by relocating it outside of the shoreline area”) is not based on any scientific standards, and
- **The proposed new legal criteria for a variance (“cannot reasonably be protected by relocating it outside of the shoreline area”) is unreasonably vague, subjective and imposes an arbitrary requirement which is unduly prescriptive, biased and intended to prohibit even reasonable variances; and**

- **The proposed legal criteria for a variance (“cannot reasonably be protected by relocating it outside of the shoreline area”) will result in unintended consequences which could delay or stop a number of private shoreline projects as well as shoreline construction planned by the Department of Land and Natural Resources’ (DLNR), Department of Transportation (DOT), including, among others, protection of fishponds, protection of Waikiki Beach and other shoreline areas, harbors, roads and the reef runway at the Honolulu International Airport.**

Given the above, LURF must respectfully **oppose HB 437, HD2, SD1** and requests that this measure **be held in this Committee.**

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: *Submitted testimony for HB437 on Apr 4, 2017 09:45AM*
Date: Monday, April 3, 2017 3:52:53 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Barry	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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LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
To: JDL Testimony
Cc: 333cory@gmail.com
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 10:29:54 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Harden	Individual	Support	No

Comments: Aloha legislators, Please support this bill. Shoreline hardening can just make problems worse at the original site. Hardening can also cause problems at other sites. You can't stop sea level rise with walls! mahalo, Cory Harden

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: jen.mather@gmail.com
Subject: *Submitted testimony for HB437 on Apr 4, 2017 09:45AM*
Date: Monday, April 3, 2017 10:17:06 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Mather	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: jennahia@yahoo.com
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 11:02:30 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Noelani Ahia	Individual	Support	No

Comments: I strongly support this bill for the protection of our reefs, who's survival is directly linked to our own! Mahalo

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: keani_nwr@msn.com
Subject: *Submitted testimony for HB437 on Apr 4, 2017 09:45AM*
Date: Monday, April 3, 2017 5:10:27 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Keani Rawlins-Fernandez	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: michelleanderson@usa.net
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Tuesday, April 4, 2017 7:41:40 AM

HB437

Submitted on: 4/4/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
michelle anderson	Individual	Support	No

Comments: No more seawalls!

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Cc:
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 3:11:35 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Tina Wildberger	Individual	Support	No

Comments: This is so important to preserving our mother reef Olowalu and all of our coastal shore line for generations to come. We will have to reconcile that managed retreat is the only solution for sea level rise. Please hear and support this bill. No more sea walls.

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