

SB815 SD1

Measure Title: RELATING TO REAL ESTATE DISCLOSURE.
Report Title: Real Estate Disclosure; Albizia Trees
Description: Requires disclosure of albizia trees in a disclosure statement as part of the sale or transfer of real estate assets. (SD1)
Companion:
Package: None
Current Referral: WTL, CPH
Introducer(s): RUDERMAN, GABBARD, Ihara, K. Rhoads, Riviere

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**Monday, February 26, 2018
10:00 AM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 815, SENATE DRAFT 1
RELATING TO REAL ESTATE DISCLOSURE**

Senate Bill 815, Senate Draft 1 proposes to amend real estate disclosure requirements under Section 508D-15, Hawaii Revised Statutes, to require sellers of real property to disclose to potential buyers the presence of albizia (*Falcataria moluccana*) trees on the property being sold as well as trees that are clearly visible from that property. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comments.**

Albizia trees pose a substantial threat to infrastructure and individuals through the potential for limb fall. Due to their extreme height, the threat posed by albizia is relevant not only to properties on which they are rooted, but on adjacent properties where branches and other debris may fall during high wind events.

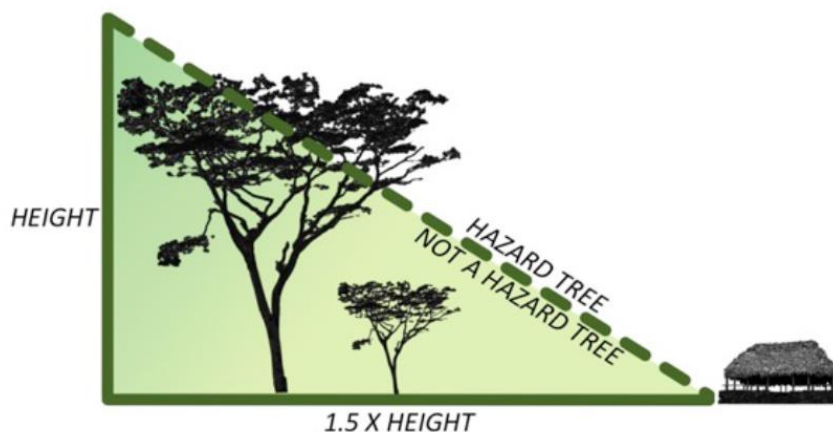
With regard to language in Senate Draft 1 requiring the disclosure of any trees visible from a property, the Department notes that visual line of sight to an albizia tree is not indicative of whether or not that tree is a hazard. From a property on one side of a valley, hundreds of albizia trees may be visible on the opposite side of the valley that pose no threat to the property in question. The Department recommends using an objective standard for the definition of "hazard" albizia trees and offers the definition used in the *Strategic Plan for the Control and Management of Albizia in Hawaii* adopted by the Hawaii Invasive Species Council (HISC): "the term 'hazard tree' as defined in this strategic plan applies to all albizia trees whose height is greater than eight feet, and are growing within a distance of less than 1.5 times its height from roads, structures, power lines, hiking trails, areas of congregation, or anything of value, and whose failure will impact the aforementioned."

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

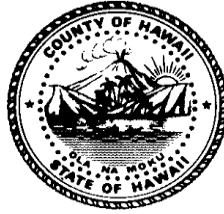


Source: *Strategic Plan for the Control and Management of Albizia in Hawaii*, Hawaii Invasive Species Council (2018). Available at <http://dlnr.hawaii.gov/hisc/plans/albizia/>.

The Department is the administrative host of the HISC, and notes that on January 18, 2018, the HISC adopted the *Strategic Plan for the Control and Management of Albizia in Hawaii* as a guiding document for future policy and management actions regarding albizia. Objective L3.3 of this plan recommends requiring real estate disclosure for properties with large albizia (or for properties with large albizia on neighboring properties). The full plan is available at <http://dlnr.hawaii.gov/hisc/plans/albizia/>.

Thank you for the opportunity to comment on this measure.

Eileen O'Hara
Council Member
Council District 4



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Chair: Environmental
Management Committee

Vice Chair: Planning Committee and
Agriculture, Water & Energy
Sustainability Committee

County of Hawaii
Hawaii County Council

25 Aupuni Street, Suite 1402 • Hilo, Hawai'i 96720

Senator Rosalyn H. Baker
Chair, Senate Committee on Commerce, Consumer Protection, and Health
Hawai'i State Senate

February 22, 2018

Re: In Support of Senate Bill 815, from Hawai'i County Council District 4
To be heard by CPH on 02-26-18 at 10:00AM in conference room 229

Aloha Chair Baker and Committee Members:

I'm writing to express my support for Senate Bill 815, which requires disclosure of albizia trees within one hundred fifty feet of residential properties upon transfer of ownership. These trees are plentiful in the District of Puna, which I was elected to represent, and they negatively affect the lives of my constituents in a number of ways. This bill would allow for much-needed transparency and education regarding the hazards these trees pose.

Homeowners in Puna have long known of the damage these trees can do. Albizias grow quickly, with shallow roots and heavy trunks. Spreading roots damage streets, sidewalks, waterlines, and home foundations. Falling branches and trees damage power and telephone lines, fencing, roofs, and various structures. Finally, the extent of damage within Puna following Hurricane Iselle was overwhelmingly due to albizias coming down in the high winds. Homes were destroyed, power lines were ruined, and roads were impassable.


As a representative and decades-long resident of the District of Puna, I do not hesitate to support any measure to regulate the risk albizias pose. This bill would help those unfamiliar with albizias to understand an unforeseen potential risk in the purchase of their property. Please consider the amount of damage that could be thwarted by passing this bill, and contact me if you have any questions about my support or knowledge of the area.


Sincerely,

Eileen O'Hara
Council Member
Council District 4



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February 26, 2018

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce, Consumer Protection and Health
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 815, SD1, Relating to Real Estate Disclosure

HEARING: Monday, January 26, 2018, at 10:00 a.m.

Aloha Chair Baker, Vice Chair Tokuda, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its over 9,500 members. HAR provides comments on S.B. 2567, SD1 which requires disclosure of albizia trees in a disclosure statement as part of the sale or transfer of real estate assets.

Under Hawai'i Revised Statutes 508-D, the law already imposes a broad obligation upon sellers of residential property to disclose all material facts. Material fact means "any fact, defect, or condition, past or present, that would be expected to measurably affect the value to a reasonable person of the residential real property being offered for sale." Current industry practice, under our Seller's Real Property Disclosure Statement, provides for disclosure from any damage caused by tree roots.

HAR believes it is a better industry practice to have a broad disclosure law, as it is difficult to list specific items to the exclusion of other issues. From a practical perspective, it would be impossible to foresee every specific issue in all cases. Every real estate transaction is different and each island has its own unique issues. Therefore, a broad disclosure law better cover a variety of situations.

Enclosed, please find a copy of the current Seller's Real Property Disclosure Statement and reference to the pertinent section.

Mahalo for the opportunity to testify on this measure.



SB-815-SD-1

Submitted on: 2/24/2018 12:41:31 AM

Testimony for CPH on 2/26/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

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Submitted on: 2/21/2018 5:37:41 PM

Testimony for CPH on 2/26/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Cathy Goeggel	Testifying on behalf of Animal Rights Hawai'i	Support	No

Comments:

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Submitted on: 2/23/2018 8:57:51 PM

Testimony for CPH on 2/26/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Culina	Individual	Support	No

Comments: