

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 House Committee on
CONSUMER PROTECTION & COMMERCE**

**Wednesday, March 14, 2018
2:00 PM**

State Capitol, Conference Room 329

**In consideration of
SENATE BILL 815, SENATE DRAFT 2
RELATING TO REAL ESTATE DISCLOSURE**

Senate Bill 815, Senate Draft 2 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 hazard trees that are on adjacent property. **The Department of Land and Natural Resources (Department) supports this measure.**

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. The Department supports amendments in Senate Draft 2 to provide an objective standard, such as the *ANSI A300 Tree Risk Assessment Standard*, for the definition of a "hazard" albizia tree on neighboring properties.

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.

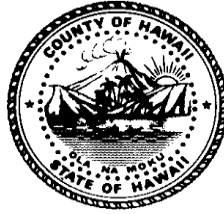
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Eileen O'Hara
Council Member
Council District 4



Phone: (808) 965-2712
Fax: (808) 961-8912
Email: eileen.ohara@hawaiiicounty.gov

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

Representative Roy M. Takumi
Chair, House Committee on Consumer Protection & Commerce
Hawai'i State House of Representatives

March 12, 2018

Re: In Support of Senate Bill 815, from Hawai'i County Council District 4
To be heard by CPC on Wednesday, 03-14-18 at 2:00PM in House conference room 329

Aloha Chair Takumi 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



 | 808-733-7060

 | 808-737-4977

 | 1259 A'ala Street, Suite 300
Honolulu, HI 96817

March 14, 2018

The Honorable Roy Takumi, Chair

House Committee on Consumer Protection and Commerce
State Capitol, Room 329
Honolulu, Hawaii 96813

RE: S.B. 815, SD2, Relating to Real Estate Disclosure

HEARING: Wednesday, March 14, 2018, at 2:00 p.m.

Aloha Chair Takumi, Vice Chair Ichiyama, 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 **opposes** S.B. 815, SD2 which requires disclosure of albizia trees and associated risks in a disclosure statement as part of the sale or transfer of residential real property

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." 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 covers a variety of situations.

Additionally, specifying albizia, as well as including associated risks, to the exclusion of hundreds of other possible material facts related to any given property begs the question as to whether the Legislature meant that other facts, defects or conditions are not important because they are not particularly enumerated. The result is unnecessary ambiguity, confusion and possible unforeseen consequences, results or interpretations. It is a much better course of action to rely upon the clear, consistent and broad definition currently contained in HRS 508D that can be comfortably applied to the wide range of circumstances that arise in real estate transactions.

Mahalo for the opportunity to testify on this measure.



SB-815-SD-2

Submitted on: 3/13/2018 1:43:07 PM

Testimony for CPC on 3/14/2018 2:00:00 PM

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

Comments: