

OFFICE OF ENVIRONMENTAL QUALITY CONTROL

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DAVID Y. IGE
GOVERNOR

SCOTT GLENN
DIRECTOR

(808) 586-4185

Testimony of
SCOTT GLENN, Director

before the
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Tuesday, February 12, 2019

8:30 AM

State Capitol, Conference Room 325

in consideration of
**HOUSE BILL 1403 HOUSE DRAFT 1
RELATING TO HOUSING**

Chair Lowen, Vice Chair Wildberger, and Members of the House Committee on Energy and Environmental Protection,

The Office of Environmental Quality Control (OEQC) administers Chapter 343, Environmental Impact Statements (EIS), Hawai'i Revised Statutes (HRS). The purpose of the EIS law is to "establish a system of environmental review which ensures that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations" (HRS § 343-1). Additionally, the OEQC serves "the Governor in an advisory capacity on all matters relating to environmental quality control," as directed in HRS § 341-3.

House Bill 1403 House Draft 1 proposes to exclude from Chapter 343, HRS, any development, pre-development, construction, or substantial rehabilitation that: (1) commences on a housing development project after July 1, 2019, and before July 1, 2026; and (2) uses moneys from the rental housing revolving fund established under section 201H-202.

The Environmental Council ("Council") promulgates administrative rules for the implementation of Chapter 343, HRS. The Council has recently completed rulemaking to repeal Hawai'i Administrative Rules (HAR) Chapter 11-200, Environmental Impact Statements, and promulgate HAR Chapter 11-200.1. Included in this update are provisions for exemptions for the construction of new affordable housing that is in the EIS law because of the use of state lands or funds.

The OEQC and the Environmental Council respectfully request that the Legislature defer making amendments to Chapter 343, HRS, including exclusions from the statute, while the new rules are moving into adoption and implementation during the spring of 2019. Should this measure move forward, the OEQC respectfully requests the House Committee on Housing to remove Section 2 pertaining to Chapter 343, HRS.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
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IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 12, 2019 at 8:30 a.m.
State Capitol, Room 325

In consideration of
H.B. 1403, H.D. 1
RELATING TO HOUSING.

The HHFDC **offers the following comments** on H.B. 1403, H.D. 1. We appreciate the intent of this bill, which seeks to hasten permitting and environmental review processes for affordable rental housing projects financed by the Rental Housing Revolving Fund (RHRF).

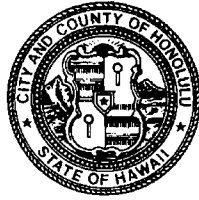
However, we do not believe that an exemption from environmental laws is necessary. The Environmental Council is nearing completion of an update of its Environmental Impact Statement (EIS) rules, Chapter 11-200, Hawaii Administrative Rules. The proposed rules include an exemption from preparation of an environmental assessment for the new construction of affordable housing. Pursuant to the proposed §11-200.1-15(c)(1), HAR, an affordable housing project can be exempt if it has the use of State or county lands or funds, or is located within Waikiki as the sole trigger for compliance with Chapter 343, HRS; is located in the State urban district; is consistent with the existing county zoning; and does not require variances for shoreline setbacks or siting in an environmentally sensitive area. The Environmental Council estimates the updated EIS rules will be effective in Spring 2019.

Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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February 12, 2019

The Honorable Nicole E. Lowen, Chair
and Members of the Committee on Energy
and Environmental Protection
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Lowen and Committee Members:

**Subject: House Bill No. 1403, HD 1
Relating to Housing**

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 1403, HD 1, which would require a county to approve, approve with modifications, or disapprove an application for a permit necessary for a housing development project within 30 days, or the application would be automatically approved. The Bill also would exempt certain projects from environmental impact statement requirements.

Housing projects nearly always require more than just a building permit before construction can begin. Is the land properly zoned? Is the project in a flood hazard zone? Does it meet height and density requirements? Is it in a special management area and require an EIS and city council approval? Is the project planned in an area that is known to have cultural artifacts? All of this – and more – come into play when reviewing a housing project and can take months to complete.

To require that all of these reviews be done in a 30-day period would be unrealistic. For one, there are many other agencies, including State and Federal agencies, that are involved in the review. Second, we have no control over how long applicants take to return an application with required corrections. Also, by rushing through an application, many deficiencies may be missed. These problems will be caught in the field by our inspectors, who could put a halt to the construction, revoke a permit, and cause unwelcomed delays. This Bill also would require an applicant to respond to a county's comments or questions in an application within five business days, or the 30-day approval mandate would not apply. We foresee this occurring more often than not because corrections to applications often are complicated and sometimes require major redesigns.

The DPP is reviewing our own building permit process with the goal of shortening the time it takes to process a permit. By requiring that certain projects leap-frog other projects to

The Honorable Nicole E. Lowen, Chair
and Members of the Committee on Energy
and Environmental Protection
Hawaii House of Representatives
February 12, 2019
House Bill No. 1403, HD 1
Page 2

meet the excessively short deadlines of House Bill 1403, HD1, will cause unwarranted delays in the processing of those other permits.

We agree that there is a severe shortage of affordable rental housing, no doubt about it. And we understand the urgency in providing housing for our most vulnerable population. But to bypass a county's review process would jeopardize the health and safety of the people we seek to protect, and put us in violation with the federal government.

Lastly, we understand the desire to exempt these affordable housing projects from the environmental impact disclosure process of Chapter 343. Care must be made, however, that properties with key environmental assets, such as archeological or historic resources, or wetland processes, are identified and appropriately addressed before significant investments are made.

For the reasons stated above, we ask that House Bill No. 1403, HD 1, be held in Committee. Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathy Sokugawa', written in a cursive style.

Kathy K. Sokugawa
Acting Director



**TESTIMONY TO THE HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL
PROTECTION
State Capitol, Conference Room 325
415 South Beretania Street
8:30 AM**

February 12, 2019

RE: HOUSE BILLS NO. 1403 HD 1, RELATING TO HOUSING

Chair Lowen, Vice Chair Wildberger, and members of the committee:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii is in **strong support** of H.B. 1403 HD 1, which proposes to require county approval of a permit application submitted by a housing development project that uses moneys from the rental housing revolving fund if a county does not issue a decision on the application within thirty days. The bill will also exempt the foregoing projects from environmental impact statement requirements.

The proposed bill addresses two of the major problems faced by developers of rental housing projects in Hawaii: Permitting delays and compliance with Chapter 343 HRS.

We would suggest the following amendments to the bill on Page 1, line 12: “. . . within thirty days of ~~submission of a completed~~ *filing a building permit* application and full payment of any application fee.” We find that some agencies use the “completed application” criteria to not accept an application for minor errors or mistakes. The proposed amendment would start the thirty day time period upon filing of the application and require the agency to make a decision on the application within thirty days of being filed.

At the building permit stage, projects would usually be in compliance with existing zoning and county plans which would justify the exemption from Chapter 343 HRS. Creating this type of “certainty” would incentivize developers to pursue more rental housing projects in Hawaii, and result in increasing the supply of rental housing units.

We are in strong support of H.B. 1403, HD 1, and appreciate the opportunity provide comments.



**Testimony to the House Committee on Energy & Environmental Protection
Tuesday, February 12, 2019 at 8:30 A.M.
Conference Room 325, State Capitol**

RE: HB 1403 HD1, RELATING TO HOUSING

Chair Lowen, Vice Chair Wildberger, and Members of the Committee:

The Chamber is in support of HB 1403 HD 1, proposes to require county approval of a permit application submitted by a housing development project that uses moneys from the rental housing revolving fund if a county does not issue a decision on the application within thirty days. The bill will also exempt the foregoing projects from environmental impact statement requirements.

In recognizing how critical the U.S. military presence is to Hawaii's economy, the Chamber underscores that these facilities, which includes the Red Hill Bulk Fuel Storage Facility, are vital to military readiness as it supports all Hawaii-based military actions and a significant share of many more in the Indo-Asia-Pacific region. Additionally, the military's ability to remain "ready to respond" is essential for preserving the military's presence in the State and protecting our second largest industry.

The proposed bill addresses two of the major problems faced by developers of rental housing projects in Hawaii: Permitting delays and compliance with Chapter 343 HRS. We would suggest the following amendments to the bill on Page 1, line 12: ". . . within thirty days of ~~submission of a completed~~ filing a building permit application and full payment of any application fee." We find that some agencies use the "completed application" criteria to not accept an application for minor errors or mistakes. The proposed amendment would start the thirty day time period upon filing of the application and require the agency to make a decision on the application within thirty days of being filed.

At the building permit stage, projects would usually be in compliance with existing zoning and county plans which would justify the exemption from Chapter 343 HRS. Creating this type of "certainty" would incentivize developers to pursue more rental housing projects in Hawaii and result in increasing the supply of rental housing units.

Thank you for the opportunity to testify.

HB-1403-HD-1

Submitted on: 2/8/2019 3:36:54 PM

Testimony for EEP on 2/12/2019 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ellen Godbey Carson	Individual	Support	No

Comments:

We have a housing crisis in Hawaii that requires rethinking why and how our efforts toward affordable housing become delayed and marginalized. Our current affordable housing efforts provide so little housing that it fails to keep up with demand.

This bill should help expedite affordable housing development, as well as reduce costs, delays and uncertainty associated with the permitting process. I am in support of this bill so long as we make clear that the housing developments eligible for the expedited processing are within urban districts, not on shorelines, and not in environmentally sensitive areas. I think this would allay environmental concerns associated with foregoing a formal EIS process.

**Testimony Before the House Committee on Energy &
Environmental Protection Supporting Amended HB1403,
Accelerating Permits or Reducing Barriers to,
Rental Housing Revolving Fund Projects**

Galen Fox, February 12, 2019

Chair Lowen, Committee Members:

The State Special Action Team last July identified the 2025 statewide housing demand as 65,000 units, with 44,000 of those units needed by households making 80% or less of area median income (AMI).

The Rental Housing Revolving Fund is the place to oversee construction of low-cost housing; its funds build rentals for households making 80% or less AMI.

Developers interested in meeting this low-cost housing demand are frustrated, however, by permit process delays at the county level, and by the delays they believe the Environmental Impact Statement (EIS) process imposes.

HB1403 HD1 would streamline the county permit process by instituting automatic approval if a project remains unapproved after a fixed time period. The process laid out in HB1403 provides for a necessary back-and-forth between developer and the approving agency, and offers other reasonable assurances.

Regarding the EIS, the State's Environmental Council is showing its responsiveness to the housing crisis by proposing new rules to exempt Rental Housing Revolving Fund projects from EIS requirements, provided the projects are 1) located in the State urban district; 2) are consistent with existing county zoning, and 3) do not require variances for shoreline setbacks or siting in an environmentally sensitive area.

I recommend strengthening the rules by using HB1403 to put the rules into law, and by adding "culturally sensitive" to the environmentally sensitive areas protection (see attached proposed amendment).

Proposed amendment to HB 1403, HD1 (new language underscored):

SECTION 2. Chapter 343, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§343- Exception for certain housing projects. Notwithstanding any law to the contrary, any development, pre-development, construction, or substantial rehabilitation that:

(1) Commences on a housing development project after July 1, 2019, and before July 1, 2026; and

(2) Uses moneys from the rental housing revolving fund established under section 201H-202,

shall be exempt from the requirements of this chapter, provided that said project is located in the State urban district; is consistent with the existing county zoning; and does not require variances for shoreline setbacks or siting in an environmentally or culturally sensitive area."



SIERRA CLUB OF HAWAI'I

MĀLAMA I KA HONUA. *Cherish the Earth.*

HOUSE COMMITTEE ON HOUSING

February 12, 2019 8:30 AM Room 325

In **OPPOSITION** to **HB1403**: Relating to Housing

LATE

Aloha Chair Lown, Vice Chair Wildberger, and members of the Housing Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **opposes HB1403** because it would authorize a wholesale exemption from the statute requiring environmental impact statements and imposes an unreasonable automatic approval trigger on county decisionmakers.

This bill would:

- 1) Exempt all projects using funds from the Rental Housing Revolving Fund HRS §201H-22 from all requirements of Hawai'i's Environmental Policy Act HRS §343.
- 2) Impose a 30-day automatic approval for any project using funds from the Rental Housing Revolving Fund

We recognize that Hawai'i is suffering a housing crisis. More affordable housing must be built to ensure that everyone in Hawai'i has a decent place to live. This self-made crisis, however, does not justify total circumvention of Hawai'i's primary disclosure law. We note that none of the supporting testimony identifies the long list of affordable housing projects that are ready to be built but for the EIS.

Environmental impact statements support quality development projects

Compliance with Chapter 343 is as much about protecting natural and cultural resources as it is about ensuring livable communities, good urban design, satisfaction of minimum infrastructure needs, and thoughtful traffic management. Affordable housing projects have the potential to significantly affect the quality of life for residents of the proposed project, as well as the surrounding community. Complying with Chapter 343 helps to ensure a high-quality of living for all of Hawai'i's people -- not just the wealthy, but all of us.

Automatic approvals are bad public policy

It is in everyone's interest to ensure that major construction projects are well-developed.

Counties should take a reasonable amount of time to verify that a project meets all the requirements necessary to build quality housing. 30 days is not reasonable.

The bill recognizes the importance of ensuring compliance with some minimum requirements. Section d of the bill states:

“(d) An applicant shall comply with all applicable safety and engineering requirements relating to the development, pre-development, construction, or substantial rehabilitation of a housing development project.”

It is unclear how under the terms of this bill a county could in 30 days both verify all “safety and engineering requirements” and ensure compliance with the myriad building code, traffic, and water infrastructure requirements residents expect in modern building projects.

Circumventing the laws that protect our environment, support informed decision-making, and uphold our quality of life will not ensure desperately needed affordable housing is built quickly. Developing projects in compliance with state and county laws does. For these reasons, we strongly urge your committee to defer HB1403. Thank you very much for this opportunity to provide testimony on this matter.

Sufficient Loopholes Exist

Lastly, despite our objections during the rulemaking process, the regulations currently being adopted by the Office of Environmental Quality and Control to govern the implementation of Chapter 343 provide an exception for affordable housing projects in HAR 11-200.1-15(c)(11).

Given the existing exemptions in the administrative rules, the lack of justification for expediting decision-making, and the increased risks to the public and the housing residents of unforeseen consequences not otherwise analyzed, we urge this Committee to hold HB1403.

Thank you for the opportunity to testify on this important measure.