

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

POST OFFICE BOX 621
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SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
JUDICIARY**

**Wednesday, February 13, 2019
2:01 PM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 213
RELATING TO PRIVATE PROPERTY**

House Bill 213 proposes to authorize a property owner or agent to enter adjacent property under certain conditions to control albizia trees. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comments.**

Due to their extreme height and brittle branches, *Albizia* trees pose a threat 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 recognizes that the ability of landowners to control *Albizia* on adjacent properties may decrease health and safety risks associated with this species.

The Department suggests that the term "eradicate" be replaced with the term "control," as "eradicate" denotes the complete and total removal of a species from a given geographical region, and is typically used in Hawai'i to refer to island-wide or statewide removal. The actions described in this measure are specific to property boundaries, and the term "control" is more appropriate.

The Department further suggests that health and safety concerns be addressed in the measure through the following amendment (in gray highlight) to proposed language for §708- (a)(1) found on page 2, line 14:

(1) [Reasonably believes] Has consulted with a tree

risk assessment qualification certified arborist

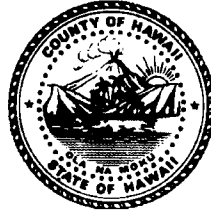
to confirm that the albizia trees on the adjacent property:

- (A) Create a condition that could become hazardous to the entering owner's property or persons thereupon if left untreated; and
- (B) May be felled and removed or otherwise treated according to current established methods that minimize risk to human health and safety, and without damaging any structure, utility pole, or utility line;
and

The Department notes that it may be beneficial to address in the measure issues of liability for any injuries or damages resulting from the removal of an albizia tree.

Thank you for the opportunity to comment on this measure.

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

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February 12, 2019

Representative Chris Lee, Chair
Committee on Judiciary

Dear Chair Lee and Committee Members:

RE: HB 213 Relating to Private Property

Albizia is an attractive but extremely dangerous invasive species. It is hazardous for residents, travelers, first responders, and anyone in the vicinity of its brittle limbs.

HB 213 is an attempt to allow landowners, adjacent to a property that has albizia, to take action to deal with the danger, but within clearly defined limits. The language can surely be further refined in this Committee and during the legislative process, but the concept is worthy of endorsement—laws should be passed that are good for the community and that are limited so as to assure minimal infringement of the rights of others.

I hope you will act favorably on HB 213.

Respectfully Submitted,

Harry Kim
MAYOR

TESTIMONY BEFORE HOUSE COMMITTEE ON JUDICIARY

H.B. 213

Relating to Private Property

Wednesday, February 13, 2019
1:30 p.m., Agenda Item #17
State Capitol, Conference Room 325

Sharon Suzuki
President, Maui County and Hawai'i Island Utilities
Hawaiian Electric Light Company, Inc. & Maui Electric Company, Limited

Aloha Chair Lee, Vice Chair San Buenaventura and Members of the Committee,

My name is Sharon Suzuki and I am testifying on behalf of Hawaiian Electric Company Inc. and its subsidiary utilities Maui Electric Company, Limited and Hawai'i Electric Light Company, Inc. ("the Hawaiian Electric Companies") in support of H.B. 213, Relating to the Private Property.

H.B. 213 provides that property owners should have the authority to enter adjacent properties to eradicate albizia trees to prevent or address hazardous conditions.

Hawaiian Electric Companies support the H.B. 213 for the following reasons:

- Albizia trees are an invasive species, and a hazard to public safety and critical infrastructure.
- Strands of brittle, invasive Albizia trees up to 250 feet tall grow on many public and private properties. Tropical Storm Iselle brought down many Albizia trees, blocked roadways, and caused millions of dollars in damage to homes and important electric utility lines. Broken tree trunks continue

to send out new growth creating even more unstable conditions, while seedlings are rapidly germinating in disturbed areas.

- There are many landowners that either refuse, or fail to respond to repeated notices to control or eradicate invasive species on their property.
- This bill allows for an owner of real property, or the owner's agent to enter vacant real property that is privately owned, and adjacent to the entering owner's property, after unsuccessful attempts to contact the owner of record to eradicate one or more albizia trees located on the property, if the entering owner reasonably believes that: (1) the alizia tree(s) create a condition that could become hazardous to the entering owner's property or persons if left untreated, (2) the albizia may be felled, removed and or treated without damaging any structure, utility pole, or utility line.

Accordingly, the Hawaiian Electric Companies support H.B. 213 which will help further efforts to control or eradicate albizia trees. Thank you for this opportunity to testify.

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Hilo, HI 96720
(808) 933-3340
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www.biisc.org



2/12/2019
Attn: House Committee on Judiciary
RE: HB213 Relating to Private Property

Aloha,

I am writing on behalf of the Big Island Invasive Species Committee to express the Committee's support for HB213 relating to albizia tree control.

Since 2013, BIISC has been working with communities that have been impacted by albizia trees. In 2014, Tropical Storm Iselle crushed homes, cars, and electric lines, leaving residents trapped in their homes for hours and without power for weeks, and costing millions in damages to the County, State, and utility companies.

In the months and years following the storm, we have worked with community members who stepped forward, determined to organize and work to create safer communities through albizia control. In some subdivisions, hundreds of lots have been cleared of albizia through the effort of volunteers working tirelessly to obtain permission and then enter these lots to treat trees.

Their work is constrained by the lack of response from distant property owners. Without permission from an absentee owner, neighbors must watch in growing concern as young albizia, which could have been treated for a few dollars, grow into hazards that can cost thousands for removal – or thousands in damages from dropping limbs. Many residents have expressed their willingness to pay to have a hazardous tree removed in order to save their own homes, but have no way to do so when the owner will not respond to notifications.

HB213 gives residents some recourse in attempting to address these frightening and dangerous situations. We fully support HB213 allowing access for this key aspect of public safety in Hawaii.

Mahalo for your consideration,

Franny Kinslow Brewer
Communications Director

LATE

HB-213

Submitted on: 2/12/2019 8:27:54 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

Springer Kaye
PO BOX 116
Honolulu, HI 96728

House Committee on the Judiciary

House Bill 213

Wednesday, February 13, 2019 2:01 PM Conference Room 325

Aloha,

I'd like to offer my strong support for HB213, which authorizes a property owner to enter adjacent vacant property, under certain conditions, to eradicate albizia trees before they become hazardous, and provides a defense to criminal prosecution. It is noteworthy that this hearing is taking place in the wake of a tremendous winter wind-storm, at a time when power has been out in several districts due to falling trees, blocking highways and closing several schools on the Big Island.

This bill recognizes the direct risk that albizia growing on unmanaged vacant land poses to our island's residents. Throughout East Hawaii and parts of Kauai in particular, but also in more developed, densely populated areas such as Manoa Valley, Pearl City, and Kaneohe, albizia growing on unmanaged land threatens the lives and properties of law abiding citizens.

An alert homeowner may notice the albizia while it is still small and manageable, and many residents have expressed willingness to enter vacant property to remove the plants before they become hazards. Organized and well trained volunteers do this routinely where they have permission on the Big Island. These volunteer efforts to completely remove albizia from entire subdivisions are primarily hampered by the lack of awareness and permission from absentee and irresponsible landowners.

The errant landowner typically lives out of state or out of country, or may be a large land-holding corporation within the state, or a private bank that owns foreclosed property. While these large companies clearly have the financial resources to manage the problem, they can stall and refuse to take action, sometimes for years, as the problem "grows." State hazard mitigation programs must then be asked to take on the high cost of removing a private liability. Allowing a private citizen the defense of having entered vacant land to remove albizia could improve the situation for all parties.

We thank you for your consideration and commend each of you for your attention to invasive species issues this legislative session—your efforts are truly appreciated.

Springer Kaye

LATE

HB-213

Submitted on: 2/13/2019 2:56:42 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Davis	Hoalike Farm	Support	No

Comments:

HB213 allows a property owner to enter a neighbor's property to take out Albizia trees, but this would need to be done by licensed professionals. This bill needs to include words to the affect that the owner of the trees would be responsible for the cost of removal.

I have a small fruit tree farm in Pupukea. My neighbor had his land cleared several years ago and allowed his giant Albizia tree to seed the cleared land. His many Albizia trees border my agricultural land and their branches cover nearly 30 feet of our land. We are in danger of sudden limb drop every time we work our land under these trees. Given the extreme height of the trees even small branches that drop can cause serious injury and even death. My neighbor has not done anything about the trees despite my repeated requests to his wife to take out the trees and a certified letter to the owner on the danger of these trees.

Mahalo,

Andrea Davis

Hoalike Farm

59-468 Hoalike Road

Haleiwa HI 96712

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