



# OFFICE OF ENVIRONMENTAL QUALITY CONTROL

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Testimony of  
**SCOTT GLENN, Director**

before the  
**SENATE COMMITTEE ON HOUSING AND COMMITTEE ON AGRICULTURE AND ENVIRONMENT**  
Friday, February 8, 2019  
1:15 PM  
State Capitol, Conference Room 224

in consideration of  
**SENATE BILL 350**  
**RELATING TO HOUSING**

Chair Chang, Vice Chair Kanuha, Members of the Senate Committee on Housing, and  
Chair Gabbard, Vice Chair Ruderman, and Members of the Senate Committee on Agriculture and  
Environment

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.

Senate Bill 350 proposes the Hawai'i Community Development Authority (HCDA) prepare a programmatic EIS for housing development projects on all lands within the Kakaako community development district. It directs HCDA to do rulemaking for purposes of this bill. It proposes to allow the programmatic environmental impact statement, once it is accepted by the OEQC, to satisfy the environmental assessment (EA) and EIS requirements for any housing development project within the Kakaako community development district.

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.

The Council has completed its update to the existing EIS administrative rules and will submit them to the Governor in February, with the anticipation that he will sign them into law sometime this spring. Background on the rulemaking effort can be found in the Council's 2018 Annual Report to the Legislature here: [http://oeqc2.doh.hawaii.gov/EC\\_Reports/EC-Annual-Report-2018.pdf#page=7](http://oeqc2.doh.hawaii.gov/EC_Reports/EC-Annual-Report-2018.pdf#page=7)

The new rules address many of the topics raised in SB350 for the process as a whole rather than aimed at one particular geographic area or agency. This includes:

- Programmatic EISs (already allowed under the existing statute but encouraged with more direction in the new rules);
- Exemptions for affordable housing in urban areas; and
- Improved mechanics of preparing EAs and EISs to make them more straightforward to prepare, lowering costs and time to go through the process, while enhancing more meaningful public engagement.

The existing process requires the Governor, or the Governor's designee, to be the accepting authority for state EISs, such as one prepared by HCDA, and forbids OEQC from being the accepting authority. This bill creates an alternative process that shifts oversight responsibility and legal liability from the political leader of the state to an advisory agency with only three (3) professional staff and limited budget. This bill is unclear how this alternative process would address changes over time, the project, or impacts once the programmatic EIS would be completed, such as with a supplemental EIS.

Setting up an alternative process in 206E, HRS, raises questions about authority for rulemaking and implementation. Under Chapter 343, HRS, the Council makes rules that are statewide and applicable to everyone consistently. This bill would create an alternative process specific to 206E, HRS, which presumably means that HCDA would have rulemaking authority over the EIS process and OEQC's role as accepting authority.

In summary, OEQC believes that this bill would create differing standards for environmental review, resulting in more confusion among developers, agencies, and the public, and delaying affordable housing while HCDA prepares rules for implementing this bill.

Thank you for the opportunity to testify on this measure.

**SB-350**

Submitted on: 1/31/2019 10:10:59 AM

Testimony for HOU on 2/8/2019 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Regina Gregory	Testifying for EcoTipping Points Project	Oppose	No

Comments:



*Hawaii's Thousand Friends*

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February 8, 2019

COMMITTEE ON HOUSING

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Chairs Chang and Gabbard, Vice Chairs, Kanuha and Ruderman and Committee Members

**SB 350  
RELATING TO HOUSING**

Hawaii's Thousand Friends opposes SB 350 that authorizes the Hawai'i Community Development Authority (HCDA) to prepare a programmatic environmental impact statement for housing development projects on all lands within the Kaka'ako Community Development District (KCDD).

SB 350 sets up an environmental review process that is parallel to the current HRS §343 Environmental Impact Statements process.

Creating a new environmental review process for Hawai'i Community Development Districts (HCDD) establishes a precedent that could be used by current Districts, Kalaeloa CDD where approximately 650 homes are proposed or Heeia CDD, and future Districts.

This parallel environmental review process separates HCDD districts from all other state and county jurisdictions fragmenting comprehensive land use, water, transportation, and historic preservation planning.

City and state agencies and the public will have to follow two environmental review processes to ensure that their environmental concerns are heard and addressed.

It seems that once a programmatic environmental impact statement (PEIS) is accepted by OEQC that the document has been approved and that there will be no opportunity for public, state and city agency input.

It appears that a HCDD generated PEIS will not be listed in the OEQC Environmental Notice so there will be no public notification that such a document exists.

Citing §206E-32 gives the impression that obtaining the *maximum allowable use of district land* is a requirement. This is a misleading. Section 206E-32 only describes the KCDD boundaries.

The bill is silent on the meaning of *maximum allowable use*. Does it mean some unknown maximum and increased density and height and who makes that determination?

The broad definition of "Housing development project" includes city and county streets, sidewalks, and utilities sets up a clash between the District and city and state agencies because once a PEIS is accepted by OEQC it appears that city and state agencies must comply with any proposed planned housing development demands without any recourse.

The bill is silent on the process once a PEIS has been accepted by OEQC. Will housing development projects be allowed to proceed before rule making is completed and accepted?

To avoid establishing an unnecessary and confusing environmental review process SB 350 must be held in committee.

**SB-350**

Submitted on: 2/7/2019 12:29:23 PM

Testimony for HOU on 2/8/2019 1:15:00 PM

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

Comments:



**LATE**

LAND USE RESEARCH  
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February 1, 2019

Senator Mike Gabbard, Chair  
Senator Russell e. Ruderman, Vice Chair  
Senate Committee on Agriculture and Environment

Senator Stanley Chang, Chair  
Senator Dru Mamo Kanuha, Vice Chair  
Senate Committee on Housing

**Comments in Support of SB 350 RELATING TO HOUSING (Authorizes the Hawaii Community Development Authority (HCDA) to prepare a programmatic environmental impact statement (PEIS) for housing development projects on all lands within the Kakaako Community Development District (Kakaako District); allows the PEIS, once it is accepted by the Office of Environmental Quality Control (OEQC), to satisfy the environmental assessment (EA) and EIS requirements for any housing development project within the Kakaako District.)**

**Friday, February 8, 2019, 1:15 p.m., in Conference Room 224**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, resort operators and major utility companies. 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 opportunity to express its **support of SB 350**, which authorizes HCDA to prepare a PEIS for housing projects on lands within the Kakaako District; and once accepted by OEQC, the PEIS would satisfy the EA and EIS requirements for any housing development project within the Kakaako District.

**LURF's Position.** LURF **supports SB 755**, and respectfully urges your favorable consideration of the bill, with the following amendments:

1. Broaden application to require all existing and future HCDA districts to prepare PEIS;
2. The definition of "housing development" should include mixed use projects.

Thank you for the opportunity to provide comments, suggested amendments and to express support for this measure.

**SB-350**

Submitted on: 2/5/2019 8:43:19 PM

Testimony for HOU on 2/8/2019 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Coon	Individual	Support	No

Comments:

Please ensure that you provide opportunity for farmers to provide housing for their farm employees and their immediate families, with appropriate controls so ensure that such housing is not occupied or rented by persons who are not bona fide farm employees.