



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
JUDICIARY

Wednesday, February 13, 2019
3:00 p.m.
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 549, HOUSE DRAFT 1
RELATING TO THE ENVIRONMENT

House Bill 549, House Draft 1 proposes to amend the Hawaii Coastal Zone Management Act, Chapter 205A, Hawaii Revised Statutes (HRS), to reduce residential exposure to coastal hazards with sea level rise, strengthen protections for state beaches, and update language for consistency with other HRS. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comment.**

The Department has been working with the Office of Planning Coastal Zone Management Office on language that we mutually agree will improve beach preservation and recognize sea level rise as coastal hazard. Proposed amendments are provided below.

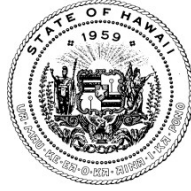
1. To ensure clarity and consistency throughout the Chapter relating to coastal hazards, adding the definition of "Coastal hazards" to HRS §205A-1 Definitions as follows:
"Coastal hazards" includes tsunamis, hurricanes, wind, waves, storm surges, high tide, flood, erosion, sea level rise, subsidence, and point and nonpoint source pollution.
2. Page 7, lines 1-4, we recommend amending HRS § 205A-2(b)(6) Coastal hazards as follows:
 - (6) Coastal hazards;
 - (A) Reduce hazard to life and property from [~~tsunami, storm waves, stream flooding, erosion, subsidence, and pollution~~] coastal hazards.

3. Page 7, lines 12-15, we recommend amending HRS § 205A-2(b)(9) Beach protection by replacing the term “ecosystem services” with “benefits of coastal ecosystems”, with the language for the beach protection objective, as follows:
 - (9) Beach protection;
 - (A) Protect beaches and coastal dunes for:
 - (i) public use and recreation;
 - (ii) benefits of coastal ecosystems;
 - (iii) natural barriers to coastal hazards; and
 - (B) Coordinate and fund beach management and protection.
4. Page 8, lines 9-19, we recommend amending HRS § 205A-2(c)(1)(B)(ii) by replacing the term “replacement” with “restoration” as follows:
 - (ii) Requiring ~~[replacement]~~ restoration of coastal resources ~~[having]~~ that have significant recreational and ecosystem value including, but not limited to coral reefs, surfing sites, fishponds, ~~[and]~~ sand beaches, and coastal dunes, when ~~[such]~~ these resources will be unavoidably damaged by development; or requiring ~~[reasonable]~~ monetary compensation to the State for recreation when ~~[replacement]~~ restoration is not feasible or desirable;
5. For consistency with the proposed amendment to add the definition of coastal hazards; on Page 12, lines 13-21, and page 13, lines 1-2, we recommend amending HRS § 205A-2(c)(5)(B) as follows:
 - (B) Ensure ~~[that coastal dependent development such as]~~ residential and commercial development, transportation infrastructure, [harbors and ports], and coastal related development such as visitor industry facilities and energy generating facilities, are located, designed and constructed to minimize exposure to coastal hazards, and minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
6. For consistency with the proposed amendment to add the definition of coastal hazards; Page 13, lines 12-14, we recommend amending HRS § 205A-2(c)(5)(C)(ii) as follows:
 - (ii) Adverse environmental effects and risks from coastal hazards are minimized; and
7. Page 13, lines 17-20, and page 14, lines 1-17, with the definition of “Coastal hazards” added to HRS § 205A-2, we recommend amending HRS § 205A-2(c)(6) Coastal hazards as follows:
 - (6) Coastal hazards;
 - (A) Develop and communicate adequate information about ~~[storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards]~~ risks of coastal hazards;
 - (B) Control development, including planning and zoning control, in areas subject to ~~[storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards]~~ coastal hazards;
 - (C) Ensure that development comply with requirements of the ~~[Federal]~~ National Flood Insurance Program; and

- (D) Prevent coastal flooding from inland projects;
8. Page 16, lines 9-20, and page 17, lines 1-8, we recommend amending HRS § 205A-2(c)(9) Beach protection as follows:
- (9) Beach protection
- (A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline process, and minimize loss of improvements due to erosion;
- (B) Prohibit construction of private [~~erosion protection~~] shoreline hardening structures [~~seaward of the shoreline~~], such as seawalls and revetments, except [~~when they result in improved aesthetic and engineering solutions to erosion~~] at the sites and where the structures [~~do~~] will not interfere with beach processes and existing recreational and waterline activities;
- (C) Minimize the construction of public [~~erosion protection structure~~] shoreline hardening structures [~~seaward of the shoreline~~], such as seawalls and revetments;
- (D) Avoid grading of and damage to coastal dunes;
- ~~(D)~~(E) Prohibit private property owners from creating a public nuisance by inducing or cultivating the private property owner's vegetation in a beach transit corridor; and
- ~~(E)~~(F) Prohibit private property owners from creating a public nuisance by allowing the private property owner's unmaintained vegetation to interfere or encroach upon a beach transit corridor.
9. Page 23, lines 10-11, we request that HRS § 205A-29(c) in which it is stated that special management area use permits shall not apply to uses in the state land use conservation district be removed.
10. Page 23, line 15, we support the amendments to HRS § 205A-43(a) to require setbacks along shorelines are established of not less than forty feet inland from the shoreline.
11. Page 24, lines 11- 17, we recommend amending HRS §205A-43.5(a)(2) as follows:
- (2) Protection of a legal structure [costing more than \$20,000;] or a public facility, which does not fix the shoreline, under an emergency authorization issued by the authority; provided that the structure or public facility is at risk of immediate damage from shoreline erosion;
12. Page 25, lines 1-4, we recommend that this section not be deleted. It does not seem reasonable to expect that people who have visited a beach will have no sand on their body.
13. Page 26, lines 5-21, and page 27, lines 1-3, the purpose of shoreline setbacks and prohibition of structures within the shoreline area is to provide a buffer zone to protect beach processes, shoreline open space, public access to and along the shoreline, and minimize the risk of coastal hazards to life and property. We recommend amending HRS §§ 205A-46(a)(8) and (9) as follows:

- (8) Private facilities or improvements ~~[which]~~ that will neither adversely affect beach processes, or result in flanking shoreline erosion nor artificially fix the shoreline; provided that the authority ~~[also finds that]~~ may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area;
- (9) Private facilities or improvements that may artificially fix the shoreline except for areas with sand beaches; provided that the ~~[authority also finds that shoreline is likely to cause]~~ action will not interfere with existing recreational and water line activities; provided further that the authority may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area~~], and the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interests];~~ or

Thank you for the opportunity to testify on this measure.



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097



February 13, 2019
3:00 P.M.
State Capitol, Conference Room 325

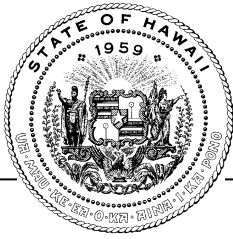
H.B. 549, H.D. 1
RELATING TO THE ENVIRONMENT

House Committee on Judiciary

The Department of Transportation (DOT) **supports the intent** of this bill which proposes various amendments to HRS Chapter 205A, including amendments on the Coastal Zone Management (CZM) Program objectives and policies, special management area guidelines, and shoreline setbacks due to sea level rise and other natural and human impacts.

DOT respectfully offers the following comment on related to the proposed amendment on page 24, lines 1- 7. Limiting the waiver for a public hearing prior to actions on variance applications to only “temporary protections” and for emergency authorizations that do not exceed three (3) years is a concern for DOT. The definition for what constitutes a “temporary protection” is a concern as emergency actions may require robust response. Further, emergency authorizations that extend beyond three years are typically those requiring immediate and extensive responses. As such, requiring a public hearing prior to the granting of a variance application may result in delays to critical and necessary emergency responses.

Thank you for the opportunity to provide testimony.



OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

DIRECTOR
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Statement of
LEO R. ASUNCION
Planning Program Administrator, Office of Planning
before the
HOUSE COMMITTEE ON JUDICIARY

Wednesday, February 13, 2019
3:00 PM
State Capitol, Conference Room 325

in consideration of
HB 549 HD1
RELATING TO THE ENVIRONMENT.

Chair Lee, Vice Chair San Buenaventura, and Members of the House Committee on Judiciary.

The Office of Planning (OP) respectfully offers comments on HB 549 HD1, which proposes various amendments to Hawaii Revised Statutes (HRS) Chapter 205A, including amendments on the Coastal Zone Management (CZM) objectives and policies, special management area guidelines, and shoreline setbacks, in response to the inadequacies of the current CZM policies and regulations with respect to beach protection, beach access, and beach ecosystems, due to sea level rise and other natural and human impacts.

OP proposes the following technical, nonsubstantive amendments (comments 1-8) for clarity, consistency, and style.

1. To ensure clarity and consistency throughout the Chapter relating to coastal hazards, adding the definition of "Coastal hazards" to HRS § 205A-1
Definitions as follows:
"Coastal hazards" includes tsunami, hurricanes, wind, waves, storm surges, high tide, flood, erosion, sea level rise, subsidence, and point and nonpoint source pollution.
2. **Page 7, line 7-10**, the OP recommends amending HRS § 205A-2(b)(6) Coastal hazards as follows:
 - (6) Coastal hazards;
 - (A) Reduce hazard to life and property from [~~tsunami, storm waves, stream flooding, erosion, subsidence, and pollution~~] coastal hazards.

3. **Page 7, lines 19-21**, the OP recommends amending HRS § 205A-2(b)(9) Beach protection by replacing the term “ecosystem services” with “benefits of coastal ecosystems”, with the language for the beach protection objective, as follows:
 - (9) Beach protection;
 - (A) Protect beaches and coastal dunes for:
 - (i) public use and recreation;
 - (ii) benefits of coastal ecosystems; and
 - (iii) natural barriers to coastal hazards; and
 - (B) Coordinate and fund beach management and protection.

4. **Page 8, lines 17-21**, and **page 9, lines 1-5**, the OP recommends amending HRS § 205A-2(c)(1)(B)(ii) by replacing the term “replacement” with “restoration” as follows:
 - (ii) Requiring [~~replacement~~] restoration of coastal resources [~~having~~] that have significant recreational and ecosystem value including, but not limited to coral reefs, surfing sites, fishponds, [~~and~~] sand beaches, and coastal dunes, when [~~such~~] these resources will be unavoidably damaged by development; or requiring [~~reasonable~~] monetary compensation to the State for recreation when [~~replacement~~] restoration is not feasible or desirable;

5. For consistency with OP’s proposed amendment to add the definition of coastal hazards, on **Page 12, lines 20-21**, and **page 13, lines 1-10**, the OP recommends amending HRS § 205A-2(c)(5)(B) as follows:
 - (B) Ensure [~~that coastal dependent development such as~~] residential and commercial development, transportation infrastructure, [harbors and ports], and coastal related development [such as] , including but not limited to visitor industry facilities and energy generating facilities, are located, designed and constructed to minimize exposure to coastal hazards, and minimize adverse social, visual, and environmental impacts in the coastal zone management area; and

6. For consistency with OP’s proposed amendment to add the definition of coastal hazards, on **Page 14, lines 1-2**, the OP recommends amending HRS § 205A-2(c)(5)(C)(ii) as follows:
 - (ii) Adverse environmental effects and risks from coastal hazards are minimized; and

7. **Page 14, lines 6-20**, and **page 15, lines 1-8**, with the definition of “Coastal hazards” added to HRS § 205A-2, the OP recommends amending HRS § 205A-2(c)(6) Coastal hazards as follows:
 - (6) Coastal hazards;
 - (A) Develop and communicate adequate information about [~~storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and~~

~~point and nonpoint source pollution hazards~~] risks of coastal hazards;

- (B) Control development, including planning and zoning control, in areas subject to ~~[storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards]~~ coastal hazards;
- (C) Ensure that development comply with requirements of the ~~[Federal]~~ National Flood Insurance Program; and
- (D) Prevent coastal flooding from inland projects;

8. **Page 16, lines 15-21, and page 17, lines 1-18**, the OP recommends amending HRS § 205A-2(c)(9) Beach protection as follows:

- (9) Beach protection
 - (A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline process, and minimize loss of improvements due to erosion;
 - (B) Prohibit construction of private ~~[erosion protection]~~ shoreline hardening structures [seaward of the shoreline], such as seawalls and revetments, except ~~[when they result in improved aesthetic and engineering solutions to erosion]~~ at the sites and where the structures do not interfere with beach processes and existing recreational and waterline activities;
 - (C) Minimize the construction of public ~~[erosion protection]~~ shoreline hardening structures [seaward of the shoreline], such as seawalls and revetments;
 - (D) Avoid grading of and damage to coastal dunes;
 - ~~(D)~~(E) Prohibit private property owners from creating a public nuisance by inducing or cultivating the private property owner's vegetation in a beach transit corridor; and
 - ~~(E)~~(F) Prohibit private property owners from creating a public nuisance by allowing the private property owner's unmaintained vegetation to interfere or encroach upon a beach transit corridor.

As the lead agency for HRS Chapter 205A, OP proposes the following amendments (comments 9-12) to address the purpose of this measure to strengthen coastal policies to reduce residential exposure to coastal hazards, while allowing continuity of services for public structures and facilities.

9. **Page 23, lines 1-2**, the OP does not see the reasons why HRS § 205A-29 shall not apply to permits for uses within the state land use conservation district as proposed by HB 549 HD1. The special management area permit requirements apply to the state conservation districts if they are located within the county designated special management areas. Pursuant to HRS § 205A-5, all state and

county agencies shall ensure that their rules comply with the objectives and policies of Chapter 205A, and any guidelines enacted by the legislature.

10. **Page 23, lines 5-9**, the OP supports the amendments to HRS § 205A-43(a) to require setbacks along shorelines are established of not less than forty feet inland from the shoreline.
11. **Page 24, lines 1- 7**, the OP recommends amending HRS § 205A-43.5(a)(2) as follows:
 - (2) Protection of a legal structure [~~costing more than \$20,000;~~] or a public facility, which does not fix the shoreline, under an emergency authorization issued by the authority; provided that the structure or public facility is at risk of immediate damage from shoreline erosion;
12. **Page 27, lines 3-21**, and **page 28, lines 1-5**, the purpose of shoreline setbacks and prohibition of structures within the shoreline area is to provide a buffer zone to protect beach processes, shoreline open space, public access to and along the shoreline, and minimize the risk of coastal hazards to life and property. The OP recommends amending HRS §§ 205A-46(a)(8) and (9) as follows:
 - (8) Private facilities or improvements [which] that will neither adversely affect beach processes, or result in flanking shoreline erosion nor artificially fix the shoreline; provided that the authority [also finds that] may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area;
 - (9) Private facilities or improvements that may artificially fix the shoreline except for areas with sand beaches; provided that the [authority also finds that shoreline is likely to cause] action will not interfere with existing recreational and water line activities; provided further that the authority may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area[, and the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interests]; or

Thank you for the opportunity to testify on this measure.

Council Chair
Kelly T. King

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Alice L. Lee
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Maria E. Zielinski

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 12, 2019

TO: The Honorable Chris Lee, Chair
House Committee on Judiciary

FROM: Kelly T. King
Council Chair

Handwritten signature of Kelly King in cursive script.

SUBJECT: **HEARING OF FEBRUARY 13, 2019; TESTIMONY IN SUPPORT OF
HB 549, HD 1, RELATING TO THE ENVIRONMENT**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this bill is to require new developments to plan for the impacts of projected sea level rise and prohibits development in areas significantly affected by projected sea level rise.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. Act 188 of the Session Laws of Hawai'i 1977 declared that it is State policy to protect, preserve, and restore or improve the quality of coastal ecosystems and reduce hazards to life and property from tsunami, storm waves, stream flooding, erosion, and subsidence.
2. A 2012 study by the U.S. Geological Survey and University of Hawai'i researchers indicates that 70 percent of beaches in Hawai'i are undergoing a trend of chronic sand loss and shoreline retreat and more than 13 miles of beach have been completely lost to erosion fronting armoring, such as seawalls and revetments, installed during development.
3. The Hawai'i Sea Level Rise Vulnerability and Adaptation Report finds that, with just 1.1 feet of sea level rise, many more miles of beach could be lost to erosion if widespread armoring is allowed.

For the foregoing reasons, I **support** this measure.

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SIERRA CLUB OF HAWAI'I

MĀLAMA I KA HONUA. *Cherish the Earth.*

HOUSE COMMITTEE ON JUDICIARY

February 13, 2019 3:00 PM Room 325

In **SUPPORT of HB 549 HD 1: Relating to the Environment**

Aloha Chair Lee, Vice Chair San Buenaventura, and committee members,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **supports passage of HB 549 HD 1, Relating to the Environment.**

HB 549 updates Chapter 205A-the Hawaii Coastal Zone Management Act (HCZMA), to incorporate sea level rise within its objectives, policies, and permitting processes related to Special Management Areas and Shoreline Setbacks. This is necessary and timely, as sea level rise is here and will continue, at increasing rates, in future years. Its impacts are already being felt, especially in the form of narrowing or loss of beaches--a public trust resource which should be afforded the highest levels of protection.

As mentioned in Section 1 of the bill, a study by UH researchers documents that over the time period covered by the study (1925-2015) more than thirteen miles of beach statewide have been completely lost to erosion fronting seawalls and revetments, due in part to a history of county agencies ("authorities" under Chapter 205A) frequently granting shoreline setback variances where the authorities have made a finding that denial of such variances would present a hardship to the private property applicants.

We strongly support the intent of this bill to halt, and reverse, the narrowing and loss of beaches and public access caused in large part by granting of shoreline setback variances, especially as we enter a new era of sea level rise. As the sea level rises we can expect a dramatic increase in the number of variances sought to armor coastal properties. It is appropriate to take measures now to guard against further coastal armoring and promote managed retreat alternatives where feasible.

We encourage the Committee to take a look at the hardship provision in HRS 205A-46, Section 8, part 8 & 9 of the bill (pages 27-28). The HD 1 proposes to address shoreline setback variance issues by requiring that the proposed action for which a variance is sought will neither adversely affect beach processes, result in flanking of adjacent properties, nor curtail public access unless it is clearly in the public interest. The HD 1 also makes the hardship provision optional, stating "the authority may consider hardship that will result to the applicant if the facilities of improvements are not allowed within the shoreline area." We assert that the hardship provision is currently a mandatory requirement for a shoreline setback variance (if hardship cannot be

proved, no variance can be granted) and that making it an optional consideration weakens the current law and could potentially lead to challenges based upon constitutional requirements for due process. In the previous committee, we recommended that the hardship test be retained as a necessary condition in addition to, and not overruling, other requirements including those suggested in HB 549 HD 1, i.e. neither adversely affect beach processes, result in flanking of adjacent properties, nor curtail public access.

We therefore offer the following suggested language in SECTION 8, page 27-28 of the bill:

“(8) Private facilities or improvements that will neither adversely affect beach processes, result in flanking of adjacent properties, or curtail public access, provided that the authority also finds that hardship will result to the applicant if the facilities or improvements are not allowed within the shoreline area;

(9) Private facilities or improvements that may artificially fix the shoreline; provided that the authority also finds (a) that hardship will result to the applicant if the facilities or improvements are not allowed within the shoreline area; and (b) the action will neither adversely affect beach processes, result in flanking of adjacent properties, nor curtail public access unless it is clearly in the public interest, for example, in the case of imminent threat of a road or highway failure, or to other critical public infrastructure.”

We recognize that the hardship provision is often used by homeowners to obtain a variance and build a seawall, but believe that including both requirements as mandatory provisions is better than the language currently proposed in the HD 1. We welcome the Judiciary Committee to help resolve this issue, as several bills regarding the Coastal Zone Management Act propose to eliminate the hardship provision.

Mahalo for this opportunity to provide testimony in **support of HB 549 HD 1**.

Mahalo,



Jodi Malinoski, Policy Advocate



**TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY
State Capitol, Conference Room 325
415 South Beretania Street
3:00 PM**

February 13, 2019

RE: HOUSE BILL NO. 549 HD 1, RELATED TO THE ENVIRONMENT

Chair Lee, Vice Chair San Buenaventura, 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 has the following **comments** on H.B. 549 HD 1, which proposes to amend policies and objectives related to coastal zone management to reduce residential exposure to coastal hazards and protect state beaches and public shoreline access.

We understand that the proposed bill is in response to findings from a University of Hawaii Coastal Geology Study found that the current polices, objectives and practices allow for:

- (1) The hardening of shorelines through a hardship variance that is granted based upon emonstrated hardship brought on by coastal erosion. When granted, these hardship variances set into motion a cycle of shoreline armoring that causes "flanking", or amplified erosion, on properties adjacent to armored shorelines. This continuous cycle of hardening and flanking can extend along an entire beach and, in a section of northeast Oahu, approximately forty-five per cent of observed shoreline hardening was implemented in response to adjacent hardening. This cycle, caused by a combination of beach erosion and coastal policy, has resulted in the narrowing and even elimination of beaches to the extent that they can no longer be used for public recreation or cultural practice; and,
- (2) Renovation and expansion of single-family homes in erosion and flood-prone coastal areas, thereby extending building lifetimes indefinitely and allowing for virtually complete coverage of coastal parcels by these structures. The average building surface area increased by twenty per cent following the establishment of the State's coastal zone management program and, combined with sea level rise, this development increases the likelihood of mass structural failure and deposit of debris on public beaches.



The bill proposes to strengthen the policies, objectives and practices in the coastal zone management statutes by establishing stringent criteria for the granting of shoreline hardening variances, and lowering the threshold for requiring Special Management Area (SMA) Permits for any alteration of an existing structure in the SMA from \$500,000.00 to \$125,000.00.

As an island state, we all should be concerned about how climate change and sea level rise are impacting our coastal areas. The proposed amendments to the Coastal Zone Management statutes make it more difficult for private property owners to protect or improve their properties along the coast. If government prevents a property owner from protecting their property because of the impact it would generate on the adjacent public lands, who should compensate the land owner for their loss?

Rather than create a system that gradually infringes upon private property rights over time, we would suggest a more comprehensive approach to addressing the problem today by doing the following:

1. Formally adopt the maps created by the Hawai'i Climate Change Mitigation & Adaptation Commission that identifies areas, now and in the future, that will be impacted by sea level rise. This would allow affected landowners to be informed of the possible designation and raise any concerns they may have through the Administrative Rule making process used to adopt the maps.
2. Identify those areas around the state that will be subject to high rates of coastal erosion due to sea level rise. Provide funding for condemnation of the private properties impacted and relocation of public infrastructure.

We appreciate the opportunity provide comments on H.B. 549 HD 1.

HB-549-HD-1

Submitted on: 2/12/2019 5:10:57 AM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Aloha,

Please support HB549 HD1. We need to prepare for sea level rise as a result of climate change.

Mahalo,

Caroline Kunitake



HB 549, HD 1, RELATING TO THE ENVIRONMENT

FEBRUARY 13, 2019 · HOUSE JUDICIARY
COMMITTEE · CHAIR REP. CHRIS LEE

POSITION: Support.

RATIONALE: IMUAlliance supports HB 549, HD 1, relating to the environment, which requires new developments to plan for the impacts of projected sea level rise and prohibits development in areas significantly affected by projected sea level rise.

According to a report produced by the Hawai'i Climate Change Mitigation and Adaptation Commission, global sea levels could rise more than three feet by 2100, with more recent projections showing this occurring as early as 2060. In turn, over the next 30 to 70 years, approximately 6,500 structures and 19,800 people statewide will be exposed to chronic flooding. Additionally, an estimated \$19 billion in economic loss would result from chronic flooding of land and structures located in exposure areas. Finally, approximately 38 miles of coastal roads and 550 cultural sites would be chronically flooded, on top of the 13 miles of beaches that have already been lost on Kaua'i, O'ahu, and Maui to erosion fronting shoreline armoring, like seawalls.

As we work to reduce carbon emissions and stave off the worst consequences of climate change, we must begin preparing for the adverse impact of sea level rise on our shores. We are now quantifying the speed at which we must act. We cannot continue to develop the 25,800-acre statewide sea level rise exposure area—one-third of which is designated for urban use—without risking massive structural damage and, potentially, great loss of life.



**Testimony to the House Committee on Consumer Judiciary
Wednesday, February 13, 2019 at 3:00 P.M.
Conference Room 325, State Capitol**

RE: HB 549 HD 1 RELATING TO THE ENVIRONMENT

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

The Chamber of Commerce Hawaii ("The Chamber") would like to provide comments on HB 549 HD1, which proposes to amend policies and objectives related to coastal zone management to reduce residential exposure to coastal hazards and protect state beaches and public shoreline access.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We understand that the proposed bill is in response to findings from a University of Hawaii Coastal Geology Study found that the current polices, objectives and practices allow for:

- 1) The hardening of shorelines through a hardship variance that is granted based upon demonstrating hardship brought on by coastal erosion. When granted, these hardship variances set into motion a cycle of shoreline armoring that causes "flanking", or amplified erosion, on properties adjacent to armored shorelines. This continuous cycle of hardening and flanking can extend along an entire beach and, in a section of northeast Oahu, approximately forty-five per cent of observed shoreline hardening was implemented in response to adjacent hardening. This cycle, caused by a combination of beach erosion and coastal policy, has resulted in the narrowing and even elimination of beaches to the extent that they can no longer be used for public recreation or cultural practice; and,
- 2) Renovation and expansion of single-family homes in erosion and flood-prone coastal areas, thereby extending building lifetimes indefinitely and allowing for virtually complete coverage of coastal parcels by these structures. The average building surface area increased by twenty per cent following the establishment of the State's coastal zone management program and, combined with sea level rise, this development increases the likelihood of mass structural failure and deposit of debris on public beaches.

As an Island State, we all should be concerned about how climate change and sea level rise are impacting our coastal areas. The proposed amendments to the Coastal Zone Management statutes makes it more difficult for private property owners to protect or improve their properties along the coast. If government prevents a property owner from protecting their property because of the impact it would generate on the adjacent public lands, who should compensate the land owner for their loss?



Rather than create a system that gradually infringes upon private property rights over time, we would suggest a more comprehensive approach to addressing the problem today by doing the following:

1. Formally adopt the maps created by the Hawai'i Climate Change Mitigation & Adaptation Commission that identifies areas, now and in the future, that will be impacted by sea level rise. This would allow affected landowners to be informed of the possible designation and raise any concerns they may have through the Administrative Rule making process used to adopt the maps.

2. Identify those areas around the state that will be subject to high rates of coastal erosion due to sea level rise. Provide funding for condemnation of the private properties impacted and relocation of public infrastructure.

Thank you for the opportunity to testify.

HB-549-HD-1

Submitted on: 2/12/2019 10:35:47 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

LATE

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:

Douglas Meller
2615 Aaliamanu Place
Honolulu, Hawaii 96813
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Testimony on HB 549 HD 1, Relating to the Environment

Submitted to
House Committee on Judiciary
3 pm, February 13, 2019 Hearing in Conference Room 325

About 4 decades ago I served on a state CZM advisory committee which reached consensus on the original wording of the objectives, policies, and definitions of Part I and Part II of Chapter 205A, Hawaii Revised Statutes. About 3 decades ago I drafted and convinced the Legislature to enact most of the current wording of Part III of Chapter 205A, Hawaii Revised Statutes. I now believe Parts I, II, III of Chapter 205A should be updated to address beach retreat and rising sea levels. And provided that you incorporate the amendments recommended in this Testimony, I believe that HB 549 HD 2 will result in better choices about future shoreline structures.

Sooner or later, for most of Hawaii's developed low-lying shorelines, we will have to choose between:



SHORELINE REVETMENT PREVENTS SAFE PUBLIC LATERAL AND OCEAN ACCESS



SHORELINE REVETMENT ALLOWS SAFE PUBLIC LATERAL ACCESS



SHORELINE REVETMENT ALLOWS SAFE PUBLIC OCEAN ACCESS

The remainder of this Testimony proposes amendments to HB 549 HD 1 so that we don't always end up with shoreline structures which prevent safe public lateral and ocean access.

In SECTION 2 of HB 549 HD 1, Sec. 205A-2(c)(1)(B) should be amended to explicitly require:

Requiring the provision of safe public pedestrian lateral access along the shoreline and appropriately located safe public pedestrian access to the ocean as mandatory

conditions for approval of public and private development which may harden or fix the shoreline within the foreseeable future.

SECTION 4 of HB 549 HD 1 should be deleted. Sec. 205A-29(b), Hawaii Revised Statutes, currently requires a SMA permit before state agencies authorize or undertake coastal development mauka of the shoreline. Exempting all development within the Conservation District from SMA permit requirements might allow the State DOT to circumvent a preliminary injunction in Civil No. 14-1-005-1 (GWBC) which required a county SMA permit prior to DOT placement of jersey barriers to block public parking on City park property mauka of Laniakea Beach. I recall that when the DLNR learned that DOT jersey barriers, placed without any permits in December 2013, obstructed the inland wash of the waves at Laniakea Beach, the DLNR did not require the DOT to apply for a Conservation District Use Approval (CDUA). I also recall that a few years later, at several locations in rural Maui which the Land Use Commission classified within the Conservation District, the DLNR again took no action when the DOT placed jersey barriers to block public parking makai of state highways.

A new appropriately numbered SECTION should be added to HB 549 HD 1 to amend the definition of “development” in Sec. 205A-22, Hawaii Revised Statutes. The proviso at the end of the definition of “development” should be amended to read:

... provided that whenever the authority finds that any excluded use, activity or operation may harden or fix the shoreline or may have a cumulative impact, or a significant environmental or ecological effect on a special management area, that use, activity, or operation shall be defined as “development” for the purpose of this part.

This amendment is necessary so that a special management area use (SMA) permit is required for new seawalls and revetments within the highway right-of-way (ROW). Under existing law, “maintenance” within the highway ROW does not require a SMA permit. This amendment also is necessary so that a SMA permit is required for large revetments which fix the shoreline for multiple single-family residences. The City and County of Honolulu Department of Planning and Permitting recently determined that existing law does not require a SMA permit for a proposed 643-foot-long, 11,000-square foot, \$850,000 shoreline revetment to protect 6 existing single family residences in Punaluu, Oahu.

Thank you for the opportunity to present my concerns.

HB-549-HD-1

Submitted on: 2/12/2019 7:01:57 AM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mio Chee	Individual	Support	No

Comments:

HB-549-HD-1

Submitted on: 2/12/2019 4:16:10 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support HB549.

Hawaii's valuable coastlines are eroding due to rising sea levels which, at 3mm/year, is unprecedented in the geologic record.

Thank you for the opportunity to present my testimony.

Sincerely,

Andrea Quinn

Kihei

LATE

HB-549-HD-1

Submitted on: 2/13/2019 12:38:17 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Phaethon Keeney	Individual	Support	No

Comments:

Hawaii will be impacted by Climate Change harder than any other state, let's prepare, plan and move forward wisely.

LATE

HB-549-HD-1

Submitted on: 2/13/2019 2:08:52 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
ChristopherMcCullough	Individual	Support	No

Comments:

LATE

HB-549-HD-1

Submitted on: 2/13/2019 2:39:58 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Hershey	Individual	Support	No

Comments:

LATE

HB-549-HD-1

Submitted on: 2/13/2019 3:42:19 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Koohan Paik	Individual	Support	No

Comments:

LATE

HB-549-HD-1

Submitted on: 2/13/2019 4:22:24 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Hunt	Individual	Support	No

Comments: