

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 Senate Committees on
JUDICIARY
and
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**Friday, February 21, 2020
10:30am
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 2671, SENATE DRAFT 1
RELATING TO REAL PROPERTY TRANSACTIONS**

Senate Bill 2671, Senate Draft 1 proposes to require a property purchase statement to be executed by the purchaser or transferee to include identification of vulnerable coastal property lying within a sea level rise exposure area designated by the Hawaii Climate Change Mitigation and Adaptation Commission. **The Department of Land and Natural Resources (Department) support this measure.**

It is the mission of the Department to manage public lands and ocean resources, including beaches throughout the State. The Department is very much at the forefront of addressing impacts related to coastal erosion and beach loss in Hawaii. Beaches are central to our culture and economy, yet our beaches are being lost at alarming rates due natural processes and human impacts, threatening alongshore public access and upland development. The Department feels strongly that some of these issues can be managed more effectively if property transactions require mandatory disclosure of coastal hazards within areas susceptible to coastal hazards.

In addition, many properties not directly located on the coastline are as vulnerable to sea level rise impacts as their coastal shorefront neighbors because of passive flooding, king tides, or wave inundation. Mandatory real estate disclosure would at least inform and educate prospective buyers of risk.

The Department believes that it is critical that buyers understand the hazards and risks they are assuming in purchasing oceanfront property, in the spirit of transparency and disclosure and to support informed decision making by buyers and government agencies.

Thank you for the opportunity to comment on this measure.

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



STATE OF HAWAII
HAWAII CLIMATE CHANGE MITIGATION & ADAPTATION
COMMISSION
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
Anukriti Hittle
Coordinator, Hawaii Climate Change Mitigation and Adaptation Commission

Before the Senate Committees on
COMMERCE, CONSUMER PROTECTION & HEALTH
and
JUDICIARY

Friday, February 21, 2020
10:30AM
State Capitol, Conference Room 229

In support of
SENATE BILL 2671, SENATE DRAFT 1
RELATING TO REAL PROPERTY TRANSACTIONS

Senate Bill 2671, Senate Draft 1 proposes to require that a seller of property to disclose and identify residential real property lying within a sea level rise exposure area officially designated by the Hawaii Climate Change Mitigation and Adaptation Commission. **On behalf of the Hawaii Climate Change Mitigation and Adaptation Commission (Commission) I support this measure.**

The Hawaii Climate Change Mitigation and Adaptation Commission “recognizes the urgency of climate threats and the need to act quickly. It promotes ambitious, climate-neutral, culturally responsible strategies for climate change adaptation and mitigation in a manner that is clean, equitable and resilient.” The Commission, established by Act 32 SLH 2017 to uphold the United States’ pledges under the Paris Agreement, is the coordinating body for policies on climate change mitigation and adaptation for the state. It is a high-level multi-jurisdictional body that guides the priorities of the state’s climate response. Co-chaired by DLNR and Office of Planning, it consists of 20 members—chairs of four legislative committees, and executive department heads at the county and state levels.

In December 2017, the Commission accepted the *Hawaii Sea Level Rise Report* and accompanying *Hawaii Sea Level Rise Viewer*. The Report and Viewer provide maps of a Sea Level Rise Exposure Area which incorporate models of passive flooding, shoreline erosion, and annual high wave run-up with 3.2 feet of sea level rise. These map layers are available for download in a variety of formats from the Viewer as well as the Hawaii Statewide GIS Program website.

Co-Chairs:
Chair, DLNR
Director, Office of Planning

Commissioners:
Chair, Senate AEN
Chair, Senate WTL
Chair, House EEP
Chair, House WTH
Chairperson, HTA
Chairperson, DOA
CEO, OHA
Chairperson, DHHL
Director, DBEDT
Director, DOT
Director, DOH
Chairperson, DOE
Director, C+C DPP
Director, Maui DP
Director, Hawai'i DP
Director, Kaua'i DP
The Adjutant General
Manager, CZM

Recent science summarized in the Report and Viewer points to a likelihood of three feet or more of sea level rise in the second half of this century - within the expected lifespan of most existing and new development. It is critical that sea level rise vulnerabilities are disclosed with the sale of a vulnerable coastal property to support informed decision making by buyers and government agencies.

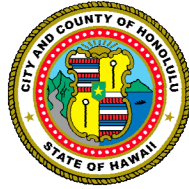
As noted in the measure, at its September 2018 meeting, the Climate Commission agreed to five priority recommendations for countering impacts of sea level rise, **including supporting legislation for disclosure for private property and public offerings in areas with potential exposure to sea level rise.** SB2671 SD1 acts on this priority recommendation, and is a crucial component of Hawaii's adaptation response to sea level rise impacts.

Thank you for the opportunity to testify on this measure.

OFFICE OF CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCY

CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 9TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-2277 • EMAIL: resilientoahu@honolulu.gov • INTERNET: www.resilientoahu.org



KIRK CALDWELL
MAYOR

JOSHUA W. STANBRO
EXECUTIVE DIRECTOR &
CHIEF RESILIENCE OFFICER

FRIDAY, FEBRUARY 21, 2020 10:30 AM

STATE OF HAWAII
SENATE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

**TESTIMONY ON SENATE BILL 2671 SD1
RELATING TO REAL PROPERTY TRANSACTIONS**

BY,

JOSHUA STANBRO
EXECUTIVE DIRECTOR AND CHIEF RESILIENCE OFFICER
OFFICE OF CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCY

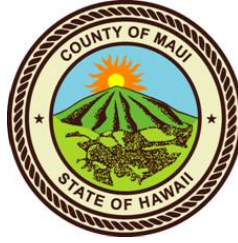
Dear Chair Rhoads, Chair Baker, and Members of the Committees:

The City and County of Honolulu Office of Climate Change, Sustainability and Resiliency (Resilience Office) **supports** SB2671 SD1, which requires that mandatory seller disclosures in real estate transactions include identification of residential real properties lying within the sea level rise exposure area.

In December 2017, per Act 83 Session Laws of Hawaii'i (SLH) 2014 and Act 32 SLH 2017, the Hawaii'i Climate Change Mitigation and Adaptation Commission adopted the *Hawaii'i Sea Level Rise Vulnerability and Adaptation Report*. This work produced the statewide sea level rise exposure area (SLR-XA) and was made publicly available on-line at www.hawaiisealevelriseviewer.org. The Resilience Office supports the education and extension of this critical information.

Thank you for the opportunity to testify in support of this measure.

MICHAEL P. VICTORINO
Mayor



KAY FUKUMOTO
Economic Development Director

LATE

COUNTY OF MAUI
OFFICE OF ECONOMIC DEVELOPMENT
2200 Main Street, Suite 305
WAILUKU, MAUI, HAWAII 96793

FRIDAY, FEBRUARY 2, 2020 10:30 AM

STATE OF HAWAI'I
SENATE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
and SENATE COMMITTEE ON JUDICIARY

**TESTIMONY ON SENATE BILL 2671 SD1
RELATING TO REAL PROPERTY TRANSACTIONS**

BY: CHANA MAKALE'A DUDOIT ANE
ENVIRONMENTAL COODINATOR, OFFICE OF ECONOMIC DEVELOPMENT

Dear Chair Rhoads, Chair Baker, and Members of the Committees:

The County of Maui Office of Economic Development **supports** SB2671 SD1, which requires a vulnerable coastal property purchaser statement to be executed by the purchaser or transferee with the sale or transfer of vulnerable coastal real estate.

In December 2017, per Act 83 Session Laws of Hawai'i (SLH) 2014 and Act 32 SLH 2017, the Hawai'i Climate Change Mitigation and Adaptation Commission adopted the Hawai'i Sea Level Rise Vulnerability and Adaptation Report. This work produced the statewide sea level rise exposure area (SLR-XA) and was made publicly available on-line at www.hawaiisealevelriseviewer.org. The proposed bill defines "vulnerable coastal property" as "real property within a sea level rise exposure area as officially designated by the Hawaii climate change mitigation and adaptation commission."

The County of Maui supports the education and extension of this critical information, and the items additionally proposed in the bill.

Mahalo for the opportunity to testify in support of this measure.



SIERRA CLUB OF HAWAI'I

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

SENATE COMMITTEE ON JUDICIARY

February 21, 2020 10:30 AM Room 229

In SUPPORT of SB2671 SD1: Relating to Real Property Transactions

Aloha Chairs Baker and Rhoads, Vice Chairs Chang and Keohokalole, and members of the committees,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **strongly supports SB2671 SD1** Relating to Real Property Transactions.

The State of Hawaii's Climate Mitigation and Adaptation Commission has identified support for legislation requiring disclosure for private property and public offerings located in areas with potential exposure to sea level rise as a high priority for the 2020 legislative session. Senate Bills SB2670 and SB2671 require such disclosures.

Chapter 508D currently requires a written disclosure statement provided by the seller, or at the seller's direction, that purports to fully and accurately disclose all material facts relating to residential real property being offered for sale. This clearly must include disclosure of properties exposed to sea level rise and related threats. The burden of determining whether a given coastal property, especially parcels that are inland from the coast but still vulnerable to sea level exposure in the future, however, is currently left to the seller and the seller's real estate agent, with no clear standard to follow.

SB2671 provides a single, governmentally certified, source for determining whether or not a parcel is deemed to be vulnerable to the risks of sea level rise exposure, similar to the manner in which the statute specifies use of the federal flood insurance maps as the standard for disclosure of flood risks.

The bill requires each county to provide sea level rise exposure maps at the tax map key (zone, section, parcel) level of detail, making it possible to determine whether or not any given parcel requires a seller's disclosure statement, and relieving property owners and realtors of the

burden of trying to make such determinations from a variety of possible sources of sea level rise projections.

In conclusion, we strongly support passage of SB2671 and urge its passage.

Thank you very much for this opportunity to provide testimony in **support of SB2671 SD1**.

Mahalo,

A handwritten signature in black ink that reads "Dave Raney". The signature is written in a cursive, flowing style.

Dave Raney
Co-Chair
Sierra Club Climate Adaptation and Restoration Team



Pono Hawai'i Initiative

Josh Frost - President • Patrick Shea - Treasurer • Kristin Hamada
Nelson Ho • Summer Starr

Thursday, February 20, 2020

Relating to Real Property Transactions
Testifying in Support with amendment

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) **supports with amendments SB2671, SD1 Relating to Real Property Transactions**, which requires mandatory seller disclosure in all real estate transactions to include identification of residential real properties lying within the sea level rise exposure zone.

Climate change and sea level rise are affecting Hawaii's coastlines more and more with each passing year, creating new hazards for more properties than ever before. Even though a property isn't currently in a vulnerable location, disclosure that the property is in the exposure zone and has the potential to become vulnerable is necessary. Transparency is necessary so that buyers are aware of the risks and hazards they could be forced to deal with.

For all these reasons, we urge you to vote in favor of this measure and pass it out of Committee with a clean effective date.

Mahalo for the opportunity,
Gary Hooser
Executive Director
Pono Hawai'i Initiative



SB 2671, SD1, RELATING TO REAL PROPERTY TRANSACTIONS

FEBRUARY 21, 2020 · SENATE JUDICIARY
COMMITTEE AND SENATE COMMERCE, CONSUMER
PROTECTION, AND HEALTH COMMITTEE · CHAIRS
SEN. KARL RHOADS AND SEN. ROSALYN H. BAKER

POSITION: Support.

RATIONALE: IMUAlliance supports SB 2671, SD1, relating to real property transactions, which requires that mandatory seller disclosures in real estate transactions include identification of residential real properties lying within the sea level rise exposure area.

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.

Furthermore, according to research conducted by Michael B. Gerrard from Columbia Law School, modern-day slavery tends to increase after natural disasters or conflicts where large numbers of people are displaced from their homes. In the decades to come, says Gerrard, **climate change will very likely lead to a significant increase in the number of people who are displaced**

and, thus vulnerable, to human trafficking. While the Paris Climate Agreement of 2015 established objectives to limit global temperature increases and several international agreements are aimed at combating modern-day slavery, it is highly uncertain whether they will be adequate to cope with the scale of the problem that is likely to occur as a result of climate change.

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.

Therefore, our state should take steps to protect Hawai'i's coastal areas, including by requiring sellers of residential properties lying within sea level rise exposure areas to disclose to buyers that such properties may be at risk of damage or destruction from climate change. **Doing so may make it easier for our state to implement additional policies that are necessary to deal with the impending climate crisis, like shoreline retreat.** For the sake of our keiki, we cannot afford to wait to solidify strategies to preserve our island home for generations to come.

February 21, 2020

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce, Consumer Protection & Health

The Honorable Karl Rhoads, Chair

Senate Committee on Judiciary

State Capitol, Room 229

Honolulu, HI 96813

RE: S.B. 2670, SD1, Relating to Real Property Transactions

HEARING: Friday, February 21, 2020, at 10:30 a.m.

Aloha Chair Baker, Chair Rhoads and Members of the Joint Committees,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 10,000 members. HAR **provides comments** on S.B. 2671, SD1 which requires that mandatory seller disclosures in real estate transactions include identification of residential real properties lying within the sea level rise exposure area.

Under Hawai'i Revised Statutes §508-D, the law imposes a broad obligation upon sellers of residential property to disclose all material facts that are within the knowledge or control of the seller.

HAR would note that the county maps, including identifying the properties by tax map key, should be created first prior to changing the disclosure law. Without maps issued by a government entity, it would place an unreasonable burden upon sellers because the typical seller would not have the capacity or ability to know whether their property is within a “sea level rise exposure area.”

Additionally, the Hawaii Climate Change Mitigation and Adaptation Commission is not a government entity. Once the maps are created, the disclosure should be to the maps as provided by said government entity.

If the Committee is inclined to pass the measure, HAR respectfully requests an effective date of November 1st. This will allow our Standard Forms Committee to make changes to the Seller's Real Property Disclosure Statement and educate our members on the changes.

Mahalo for the opportunity to testify.



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**COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH
COMMITTEE ON JUDICIARY**

Friday, February 21, 2020, 10:30 a.m., Conference Rooms 228 and 229

SB2670 SD1 -- Relating to Real Property Transactions

SB2671 SD1 – Relating to Real Property Transactions

TESTIMONY

Nancy Davlantes, Legislative Committee, League of Women Voters of Hawaii

Chairs Baker and Rhoads, Vice-Chairs Chang and Keohokalole, and Committee Members:

The League of Women Voters of Hawaii supports both HB2670 SD1, that requires a vulnerable coastal *property purchaser* statement to be executed by the purchaser or transferee with the sale or transfer of vulnerable coastal real estate, and HB2671 SD1, that requires that *mandatory seller disclosures* in real estate transactions include identification of residential real properties lying within the sea level rise exposure area.

Disclosure for private property and public offerings in areas with potential exposure to sea level rise must be on both sides of a transaction; both are crucial components of Hawaii's adaptation response to the effects of sea level rise and are two sides of the same coin.

What isn't known at this time, but will assuredly need to be addressed in the future, is what to do if and when such properties can no longer even be considered for transfer.

Thank you for the opportunity to submit testimony on both these bills.

SB-2671-SD-1

Submitted on: 2/18/2020 7:24:21 AM

Testimony for JDC on 2/21/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John Gelert	Individual	Support	No

Comments:

SB-2671-SD-1

Submitted on: 2/18/2020 9:52:53 AM

Testimony for JDC on 2/21/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Denise Boisvert	Individual	Support	No

Comments:

I fully support SB2671 regarding full disclosure about sea level rise for sellers.

SB-2671-SD-1

Submitted on: 2/18/2020 10:23:51 AM

Testimony for JDC on 2/21/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Jorgensen	Individual	Support	No

Comments:

I support SB2671; full disclosure = honesty.

SB-2671-SD-1

Submitted on: 2/19/2020 11:55:30 AM

Testimony for JDC on 2/21/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
jennifer valentine	Individual	Support	No

Comments:

I support SB2671. Seller disclosure is already required for homes in flooding and tsunami zones and ensures that sellers disclose the risks of purchasing a home in areas vulnerable to sea level rise. Disclosure is a common sense solution to help address the \$19 billion that Hawai'i faces in estimated private property loss from sea level rise and the 6,500 structures such as hotels, malls, and businesses that will be impacted. This bill is also an important first step towards managed retreat, which is a long-term solution to strategically move away from the coastline to adapt to sea level rise and other coastal impacts. Please support SB2670 and SB2671.

SB-2671-SD-1

Submitted on: 2/19/2020 1:29:36 PM

Testimony for JDC on 2/21/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica dos Santos	Individual	Support	No

Comments: