

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 House Committee on
WATER & LAND**

Thursday, March 18, 2021

8:30 AM

State Capitol, Via Videoconference and Room 430

**In support of
SENATE BILL 474, SENATE DRAFT 1
RELATING TO REAL PROPERTY TRANSACTIONS**

Senate Bill 474, Senate Draft 1 proposes to require that mandatory seller disclosures in real estate transactions include identification of residential real properties lying within the sea level rise exposure area, effective 1/1/2022. **On behalf of the Hawaii Climate Change Mitigation and Adaptation Commission (Commission) I support this measure, and offer the following comments.**

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.

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.** This measure acts on this priority recommendation, and is a crucial component of Hawaii’s adaptation to sea level rise impacts on coastal property.

In December 2017, the Commission accepted the *Hawaii Sea Level Rise Report* and accompanying *Hawaii Sea Level Rise Viewer*. Along with the Report, a newly issued guidance (*Guidance for*

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, DHHH
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

Using the Sea Level Rise Exposure Area in Local Planning and Permitting Decisions, Oct 2020) and updated Viewer provide maps of a Sea Level Rise Exposure Area (SLR-XA) incorporating 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. The Viewer also includes a property address and property tax map (TMK map) search tool.

Recent science summarized in the Report, Guidance 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, and this measure captures that such disclosure is essential.

State and county Commission member agencies are experiencing intense pressure from beachfront landowners facing imminent erosion threats. It is critical that buyers understand the risks they are assuming in purchasing oceanfront property. This measure will help to ensure transparency and shared understanding of these risks among buyers, sellers, and government permitting and regulatory agencies.

Finally, I suggest the following language to reflect more accurately the statute referred to in Section 2, Page 4, lines 5-7. See below for suggestion to replace stricken text with underlined text:

- (1) Within the boundaries of a special flood hazard area as officially designated on ~~[Flood Insurance Administration maps promulgated by the United States Department of Housing and Urban Development]~~ flood maps promulgated by the National Flood Insurance Program of the Federal Emergency Management Agency for the purposes of determining eligibility for emergency flood insurance programs;

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

DAVID Y. IGE
GOVERNOR OF
HAWAII



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
DEPARTMENT OF LAND AND NATURAL RESOURCES**

OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
WATER & LAND**

**Thursday, March 18, 2021
8:30 AM**

State Capitol, Via Videoconference, Conference 430

**In consideration of
SENATE BILL 474, SENATE DRAFT 1
RELATING TO REAL PROPERTY TRANSACTIONS**

Senate Bill 474, Senate Draft 1 proposes to require that mandatory seller disclosures in real property transactions include indication that a residential real property lies within the sea level rise exposure area. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comments.**

Senate Bill 474, Senate Draft 1 proposes to amend Chapter 508D, Hawaii Revised Statutes, to add a new provision that requires a seller of residential real property to disclose whether a residential property is located within a sea level rise vulnerability area as officially designated by the Hawaii Climate Change Mitigation and Adaptation Commission (Commission) or its successor.

As you know, 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.

Coastal properties are vulnerable to erosion (i.e., shoreline recession and land loss) and flooding from high waves, storms and tsunamis. 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.

In December 2017, the Commission accepted the Hawaii Sea Level Rise Report and accompanying Hawaii Sea Level Rise Viewer. Along with the Report, a newly issued guidance (Guidance for Using the Sea Level Rise Exposure Area in Local Planning and Permitting Decisions, Oct 2020) and updated Viewer provide maps of a Sea Level Rise Exposure Area (SLR-XA) incorporating 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. The Viewer also includes a property address and property tax map (TMK map) search tool.

Finally, I suggest the following language to reflect more accurately the statute referred to in SECTION 2, page 4, lines 5-7. See below for suggestion to replace stricken text with underlined text:

- (1) Within the boundaries of a special flood hazard area as officially designated on [~~Flood Insurance Administration maps promulgated by the United States Department of Housing and Urban Development~~] flood maps promulgated by the National Flood Insurance Program of the Federal Emergency Management Agency for the purposes of determining eligibility for emergency flood insurance programs;

Thank you for the opportunity to comment on this measure.

OFFICE OF CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCY
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR

M ATTHEW GONSER, AICP, CFM
EXECUTIVE DIRECTOR &
CHIEF RESILIENCE OFFICER

THURSDAY, MARCH 18, 2021, 8:30 A.M.

STATE OF HAWAII
HOUSE COMMITTEE ON WATER AND LAND

**TESTIMONY ON SENATE BILL 474, SD1
RELATING TO REAL PROPERTY TRANSACTIONS**

BY,

MATTHEW GONSER
EXECUTIVE DIRECTOR AND CHIEF RESILIENCE OFFICER
OFFICE OF CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCY

Dear Chair Tarnas, Vice Chair Branco, and Members of the Committee:

The City and County of Honolulu Office of Climate Change, Sustainability and Resiliency (CCSR) **supports** Senate Bill 474, 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 (SLR-XA) as designated by the Hawai'i Climate Change Mitigation and Adaptation Commission or its successor.

CCSR does request, however, that the effective date be amended to upon approval, as the issue remains critically important today and vulnerable coastal property transactions are ongoing. The information has been available since late 2017 and is now even more readily accessible as described below.

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 state-wide SLR-XA and was made publicly available on-line at www.hawaiisealevelreviewer.org.

This work additionally provides evidence that O'ahu faces the greatest potential economic losses due to sea level rise and now additionally includes tax map key information and property search functions. Through Act 16 (2020) these data are now explicitly defined in and part of guidelines of the State Coastal Zone Management Act, Hawai'i Revised Statutes Chapter 205A. CCSR supports the continued use and extension

Chair Tarnas and Vice Chair Branco
SB474, SD1
March 18, 2021
Page 2

of this critical information.

Thank you for the opportunity to testify in support of SB474, SD1.



HOUSE COMMITTEE ON WATER AND LAND

Hearing Thursday, March 18, 2021 8:30 AM Conference Room 430

IN SUPPORT SB 474 SD1 Relating to Real Property Transactions

Chair Tarnas, Vice Chair Branco, and Committee Members:

The HAWAI'I REEF AND OCEAN COALITION –HIROC– was formed in 2017 by coral reef scientists, educators, local Hawai'i environmental organizations, elected officials, and others to address a crisis facing Hawaii's coral reefs and ocean. We are currently asking the Legislature to pass a handful of very important bills to save our coral reefs – they are bills relating to sunscreens, cesspools, plastic marine debris, climate and sea level rise

We support passage of SB 474 SD1 Relating to Real Property Transactions.

This bill requires that sellers of properties within the Sea Level Rise Exposure Area (SLR-XA) complete and file a Sellers Disclosure Statement to notify potential purchasers of the risks facing such properties. We find this requirement to be prudent, given the inevitability of sea level rise and the associated impacts.

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

Dave Raney

On behalf of the Hawai'i Reef Ocean Coalition



Testimony Presented Before the
HOUSE COMMITTEE ON
WATER & LAND
Thursday, March 18, 2021
8:30 AM
State Capitol, Conference Room 430 (via videoconference)

By Andrew Wycklendt, President
Hawaii Shore and Beach Preservation Association

In consideration of
SENATE BILL 474 SD1 RELATING TO REAL PROPERTY TRANSACTIONS

Senate Bill 474 SD1 proposes to amend Chapter 508D, Hawai'i Revised Statutes to require mandatory seller disclosures in real estate transactions to include identification of residential real properties lying within the sea level rise exposure area.

The Hawai'i Shore and Beach Preservation Association (HSBPA)* supports Senate Bill 474 SD1. Seventy percent of beaches in Hawai'i are undergoing chronic erosion. As beaches erode, shorelines move landward threatening coastal properties. Shorefront properties are also exposed to coastal flooding from high waves and storms. These hazards will continue to increase with increasing sea level rise as described in the 2017 Hawai'i Sea Level Rise Vulnerability and Adaptation Report and depicted in Sea Level Rise Exposure Area (SLR-XA) map layers in the Hawai'i Sea Level Rise Viewer.

It is critical that sellers disclose and buyers understand the hazards and risks they are assuming in purchasing oceanfront property to support informed decision making and transparency. A historical lack of understanding and disregard of these risks has resulted in a legacy of encroaching development built without sufficient setbacks on eroding shorelines. For example, permitted and unpermitted construction of sea walls and other shoreline hardening structures has resulted in beach narrowing and loss and reduced shoreline access.


State and county agencies, including the Department of Land and Natural Resources, are facing intense pressure from landowners whose shorefront homes are facing imminent threats from land loss due to coastal erosion. It is critical that buyers understand that coastal properties are at risk of land loss when the shoreline retreats inland due to erosion and increasing wave run-up. Moreover, buyers must also understand that construction of shoreline hardening structures, such as seawalls and rock revetments, is generally prohibited for private properties fronting beaches pursuant to Chapter 205A, Hawai'i Revised Statutes.

*The Hawai'i Shore and Beach Preservation Association (HSBPA, <https://asbpa.org/hawaii/>), formed in 2014 is an organization of private sector, academic, and government professionals, students and local community members dedicated to the preservation and restoration of Hawai'i's beaches and coastal environments. The HSBPA aims to bring together various members of the coastal community to foster

dialogue and cooperation on beach and coastal resource conservation, management, and regulation; supporting professional development of chapter members; and providing education to students and community members on Hawaii's beaches and coastal environments.

Thank you for considering our testimony on the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Wycklendt". The signature is written in a cursive style with a prominent flourish at the end.

Andrew Wycklendt

President, Hawai'i Shore and Beach Preservation Association



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON WATER AND LAND

March 18, 2021 8:30 AM

In **SUPPORT** of **SB474 SD1**: Relating to Real Property Transactions

Aloha Chair Tarnas, Vice Chair Branco, and committee members,

On behalf of our 27,000 members and supporters, the Sierra Club of Hawai'i **supports SB474 SD1**. This bill requires that sellers of properties within the Sea Level Rise Exposure Area (SLR-XA), as determined by the state Climate Adaptation and Mitigation Commission, include this information in their seller disclosure document.

Existing law (Chapter 508-D), requires disclosure of material facts that are expected to measurably affect the value of the property being sold. Inclusion within the Sea Level Rise Exposure Area qualifies as such a material fact, as this would mean a parcel is subject to possible risks of sea level rise, storm surge, and king tide flooding.

SB 474 provides a single, government-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. Sellers or realtors would search the Sea Level Rise Viewer (HawaiiSeaLevelRiseViewer.org) by Tax Map Key to determine whether a parcel is within the SLR-XA, providing a convenient and accessible data source for seller disclosure.

Over 20,000 Hawai'i residents will be displaced and in need of new homes due to the loss of homes and apartment buildings vulnerable to sea level rise. The value of projected flooded structures, combined with the land value of the 25,800 acres projected to be flooded, amounts to over \$19 billion across the State.¹ Mandatory sea level rise disclosure is a common sense solution and low hanging fruit to begin to address these impacts.

Thank you very much for this opportunity to provide testimony in **support of SB474**.

¹ Hawai'i Climate Change Mitigation and Adaptation Commission. 2017. [Hawai'i Sea Level Rise Vulnerability and Adaptation Report](#). Prepared by Tetra Tech, Inc. and the State of Hawai'i Department of Land and Natural Resources, Office of Conservation and Coastal Lands, under the State of Hawai'i Department of Land and Natural Resources Contract No: 64064.



SB 474, SD 1, RELATING TO REAL PROPERTY TRANSACTIONS

MARCH 18, 2021 · HOUSE WATER AND LAND
COMMITTEE · CHAIR REP. DAVID A. TARNAS

POSITION: Support.

RATIONALE: Imua Alliance supports SB 474, SD 1, 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.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org

March 18, 2021

The Honorable David A. Tarnas, Chair
House Committee on Water and Land
Via Videoconference

Aloha Chair Tarnas, Vice Chair Branco, and Members of the Committee,

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 **supports** Senate Bill 474, 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.

As an industry, we have been proactive on the issue of climate change. To that end, HAR has worked with stakeholders in the interim, including reviewing the Hawai'i sea level rise viewer with new TMK and property address overlay features and how this would be implemented within the real estate transaction and pertinent contracts.

Mahalo for the opportunity to testify.



March 17, 2021
HOUSE WATER AND LAND COMMITTEE
In SUPPORT of SB474: Relating to Real Property Transactions

Aloha Chair Tarnas, and Committee Members,

The Surfrider Foundation would like to offer this testimony in **support of SB474**.

The Surfrider Foundation is a national nonprofit organization dedicated to the protection and enjoyment of our ocean, waves, and beaches. Surfrider maintains a network of over 150 chapters and academic clubs nationwide, including 4 chapters across the Hawaiian Islands, which represent thousands of members and volunteers.

Our Beaches Need Protection

Coastlines and sandy beaches across Hawai'i face imminent and increasing threat from coastal hazards such as climate change, rising sea levels and coastal erosion. These coastal hazards threaten the public trust beach areas and billions of dollars of public and private property. In 2017, the [Hawai'i Sea Level Rise Vulnerability and Adaptation Report](#) (SLR report) estimated that 6,500 structures will be chronically flooded, 28 miles of coastline will become impassible, and 20,000 residents will be displaced with a 3.2 meter rise in sea level.

Additionally, according to a recent [study](#), we are at imminent risk of losing 40% of Hawai'i's sandy beaches and proactive management is necessary to preserve and protect these public trust lands. These sobering statistics, along with increased shoreline hardening structures and resultant beach loss, illustrate the need to take action. Mandating sea level rise disclosure statements at the point of sale for real estate transactions is both an important and pragmatic action to take.

This bill should be passed because:

- Disclosure is already required in flood and tsunami zones and the real estate industry is equipped to adopt an additional disclosure statement into their transactional paperwork.
- The [Sea Level Rise Exposure Area Map \(SLR-XA\)](#) is publicly available online.
 - Recent updates in the last year now make it possible to identify properties in the Sea Level Rise Exposure Area down to a specific TMK.
 - Using SLR-XA is more comprehensive than "beachfront" as it takes into account the combined impacts of SLR (e.g. flooding and coastal erosion).
- It won't cost the State any money. The economic impacts of inaction are in the millions to billions of dollars which will be a severe blow to the State over time. Taking action now saves the State money.
- Previous iterations of this bill had a wide consensus of support.
- It is a low hanging fruit to take a small but important step forward to protect our coastlines.
- It will allow residential property buyers in Hawaii to make informed decisions about the risks of purchasing coastal properties and potentially relieve the State of future liability for those decisions.
- It offers a science-based solution to the problem of sea level rise and coastal erosion.
- The State of Hawai'i is required by law to protect public trust lands, which include beaches and coastlines.

Thank you for your consideration of our testimony **in support of SB474**.

Mahalo,
Kaitlyn Jacobs
Policy Coordinator, O'ahu Chapter
Surfrider Foundation

SB-474-SD-1

Submitted on: 3/16/2021 11:38:25 AM

Testimony for WAL on 3/18/2021 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ruta Jordans	Individual	Support	No

Comments:

Important, so that they can't say they were not told. Please support.