

DAVID Y. IGE
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
HONOLULU, HAWAII 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON HOUSING

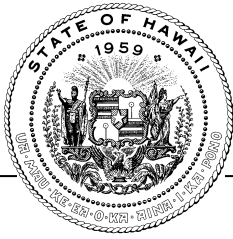
February 15, 2022 at 10:45 a.m.
State Capitol, Room 423

In consideration of
H.B. 1750
RELATING TO AFFORDABLE HOUSING.

HHFDC supports H.B. 1750, which makes the new construction of affordable housing eligible for exemption from Environmental Impact Statement (EIS) and Environmental Assessment (EA) requirements under certain conditions.

HHFDC generally supports efforts to streamline the process of development of affordable housing. Rigid EIS and EA requirements for such developments can cause up to one year of delay to each project's completion timeline, negatively impacting both the families in need of affordable housing and the deployment of public finance resources. We agree that the urgent need for affordable housing in the State calls for flexibility on the requirement to study environmental impacts of certain development projects.

Thank you for the opportunity to testify on this bill.



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR

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Statement of
MARY ALICE EVANS
Director, Office of Planning and Sustainable Development
before the
HOUSE COMMITTEE ON HOUSING
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Tuesday, February 15, 2022
10:45AM
State Capitol, Conference Room 423
in consideration of
HB 1750
RELATING TO AFFORDABLE HOUSING.

Chairs Representative Nakamura and Representative Lowen, Vice Chairs Representative Hashimoto and Representative Marten, and Members of the House Committee on Housing and Committee on Energy & Environmental Protection

The Office of Planning and Sustainable Development (OPSD) offers **comments with concerns**. HB 1750 proposes to further exempt the new construction of publicly-supported affordable housing from the existing exemption provisions already afforded by HRS Chapter 343 and the administrative rules.

The administrative rules for the environmental review process, at HAR Section 11-200.1-15(c)(10), currently contain a provision that enables agencies to exempt the new construction of publicly-supported affordable housing from the requirement of preparing an environmental assessment (EA), when four conditions are met. This bill makes adjustments to those conditions by maintaining two and merging the other two into a single condition. The two altered conditions are 1) the proposal conforms with the existing state urban land use classification and 2) the proposal is consistent with the existing county zoning classification that allows housing. The new merged condition requires that the proposed project is consistent with the existing county general plan or development plan classification that allows housing.

OPSD is concerned that this bill would allow affordable housing in the Agricultural and other non-Urban Land Use Districts without any environmental review. We believe the existing condition requiring exempted affordable housing projects to be in the Urban district should remain.

Another concern is that instead of maintaining the current standard practice of allowing agencies to exempt an eligible type of action from the requirement of preparing an EA, this bill exempts the new construction of affordable housing from all the requirements of HRS Chapter

343. These other requirements include 1) maintaining a record of that exemption in their files, 2) sharing that record upon request, and 3) including brief information about the exemption on a monthly listing of all exemptions that the agency submits to OPSD for publication in *The Environmental Notice*. These three requirements are minor administrative tasks that do not create a serious burden on the agency, yet add to transparency and consistency. OPSD **does not support** repealing these three requirements that provide public transparency.

Finally, given the fact that all the other general types of action that are eligible for exemption are detailed (along with the exemption process) in the administrative rules, for consistency, we believe, if it is the Legislature's intent to move the bill forward, that the bill should be amended to direct that the rules be changed accordingly rather than inserting this verbiage into HRS Chapter 343.

Thank you for the opportunity to testify on this measure.



**HOUSE COMMITTEES ON HOUSING AND ENERGY AND ENVIRONMENTAL PROTECTION
State Capitol, Via Videoconference
415 South Beretania Street
10:45 AM**

February 15, 2022

RE: HB 1750, RELATING TO AFFORDABLE HOUSING

Chairs Nakamura & Lowen, Vice Chairs Hashimoto & Marten, and members of the committees:

My name is Daryl Takamiya, 2022 President 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 is in support of HB 1750, Relating to Affordable Housing. This bill would make the construction of affordable housing eligible for exemption from environmental impact statement and environmental impact assessment if it meets certain criteria.

This bill could help expedite the construction of affordable housing by making certain construction projects eligible for exemption from the EIS process. The administrative delays associated with construction is often a large part of the expense increase. Expediting or exempting certain requirements could help bring the cost down.

The state of Hawaii is in a dire housing crisis which has been further exacerbated by the ongoing pandemic situation. As the Legislature is aware, the cost of housing in Hawaii is extremely high, with Oahu's median price of homes being currently over \$1 million. Approximately 153,967 U.S. households are priced out of buying a home for every \$1000 increase in price, according to the National Association of Home Builders (NAHB).

We appreciate the opportunity to express our support for HB 1750.

HB-1750

Submitted on: 2/10/2022 12:46:32 PM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Kevin Carney | EAH Housing | Support | No |

Comments:

Aloha House Housing Committee and House Committee on Energy and the Environment, I am Kevin Carney, Vice President of EAH Housing, submitting testimony in strong support of HB 1750.

EAH is a 54-year-old nonprofit developer and manager of low-income rental housing operating in Hawaii for 25 years. We serve that sector of our population with the greatest need for housing at 60% and below of the area median income.

HB 1750 makes the new construction of affordable housing eligible for exemption from environmental impact statement and environmental assessment requirements if it meets certain requirements. We support this bill because it will help to reduce the cost of development and reduce the timing of the development process. Reducing the cost will reduce the demand for Rental Housing Revolving Funds our primary source of gap funding. Shortening the development process will bring much needed rental housing to the market faster and help in reducing homelessness.

We would also like to suggest that your committees consider expanding eligible projects to include the repurposing of existing buildings to provide more affordable housing. Thank you for this opportunity to testify.

Sincerely,

Kevin R. Carney (PB) NAHP-E

Vice President, Special Projects

EAH Housing

808-523-8826

www.eahhousing.org



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

February 14, 2022

Representative Nadine Nakamura, Chair
Representative Troy Hashimoto, Vice Chair
Committee on Housing

Representative Nicole Lowen, Chair
Representative Lisa Marten, Vice Chair
Committee on Energy & Environmental Protection

RE: **HB 1750 - Relating to Affordable Housing**
Hearing date: February 15, 2022 at 10:45AM

Aloha Chair Nakamura, Chair Lowen and members of the committees,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **SUPPORT** of HB 1750. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

HB 1750 would make the new construction of affordable housing eligible for exemption from environmental impact statement (EIS) and environmental assessment (EA) requirements if it meets certain requirements.

NAIOP fully supports the intent of this measure to encourage development of much needed affordable housing for our residents. Currently, affordable housing projects are difficult to pencil out without subsidy or reduction in governmental fees and regulatory process. Exempting new affordable housing construction from EIS and EA requirements will save a substantial amount of costs for developers and allow for more affordable housing projects to be built. Further, EIS and EAs take a significant amount of time to conduct, therefore, exempting affordable housing projects from these requirements will expedite construction of these projects to address our housing inventory shortage.

Mahalo for your consideration,

Jennifer Camp, President
NAIOP Hawaii



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON HOUSING

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 15, 2022 10:45 AM CCR423

In **OPPOSITION** to **HB1750**: Relating to Affordable Housing

Aloha Chairs Nakamura and Lowen, Vice Chairs Hashimoto and Marten, and Members of the House Committees on Housing and Energy & Environmental Protection,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **OPPOSES HB1750**, which could result in significant and unnecessary environmental, socioeconomic, and cultural impacts from the development of our public lands.

The exemption from our environmental review law proposed by this measure may impact a range of public interests in the use and development of our public lands. Our environmental review law has, for 40 years, played a critical role in ensuring that certain decisions potentially impacting our islands' environmental, cultural, and socioeconomic integrity are carefully and transparently assessed by government decisionmakers. The environmental review law also helps to ensure that decisionmakers explicitly consider ways to avoid such impacts, to the extent feasible. Notably, the environmental review process includes opportunities for decisionmakers and project planners to be informed by those with a wide range of expertise, insight, and experiences, who can identify and offer mitigation recommendations for the broad spectrum of specific impacts that may arise from particular projects. Exempting development projects from environmental review may therefore result in less-than-fully-informed project planning and decisionmaking, which could lead to significant, unanticipated, and potentially avoidable impacts to the public's interest.

The Sierra Club appreciates that certain privately-funded affordable housing projects on private lands may in some instances not be subject to the requirements of our environmental review law. However, the heightened public interest in the use of our limited public land base, and the fiduciary public trust obligations of government entities in the use and disposition of our public lands and resources,¹ strongly counsel retaining the careful analysis, transparency, and input opportunities that environmental review provides.

Our public lands are held in trust for the benefit of present and future generations, and potentially irrevocable environmental, cultural, and socioeconomic impacts should be carefully considered when making major decisions regarding their development.

¹ See HAW. CONST. ART. XI SEC. 1.

Accordingly, the Sierra Club respectfully urges the Committees to **HOLD** HB1750. Thank you very much for this opportunity to testify.



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS

John Bickel, President
Alan Burdick, Vice President
Dave Nagajji, Treasurer
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DIRECTORS

Jan Lubin
John Miller
Jenny Nomura
Stephen O'Harrow

Bill South
Zahava Zaidoff

MAILING ADDRESS

P.O. Box 23404
Honolulu
Hawaii 96823

February 12, 2022

TO: Chairs Nakamura & Lowen & Members of HSG/EEP Committees

RE: HB 1750 Relating to Affordable Housing

Opposition for hearing on February 15

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We oppose this bill as it would exempt public and "ceded" lands from environmental review for "affordable housing" projects. This would eliminate a critical mechanism to identify, through expert, practitioner, and public review and input, potentially irreparable environmental, cultural, and socioeconomic impacts from development on "ceded" lands, as well as ways to mitigate or avoid such impacts.

Thank you for your consideration.

Sincerely,

John Bickel, President



Environmental Caucus of The Democratic Party of Hawai'i

To: The Honorable Nadine K. Nakamura, Chair
The Honorable Troy N. Hashimoto, Vice Chair
House Committee on Housing

The Honorable Nicole E. Lowen, Chair
The Honorable Lisa Marten, Vice Chair
House Committee on Energy and Environmental Protection

Re: **HB 1750 - RELATING TO AFFORDABLE HOUSING**

Hearing: Tuesday, February 15, 2022, 10:45 a.m., Conference Room 423 and Via
Videoconference

Position: Opposition

Aloha, Chairs Nakamura and Lowen and Vice Chairs Hashimoto and Marten and Members of the
Committees on Housing and Energy and Environmental Protection:

The Environmental Caucus of the Democratic Party of Hawai'i opposes HB 1750 and
requests that this measure be DEFERRED by your Committees. This bill would make the
construction of affordable housing eligible for exemption from environmental impact statement
and environmental assessment requirements if it meets certain requirements.

Removing the requirement for an EIS or an EA for affordable housing projects located on
State or County lands or lands located in Waikiki would have an adverse effect because this
exemption would eliminate critical mechanisms that could identify adverse impacts, through
experts, Hawaiian Cultural practitioners, and allow the public to review and offer input. This
lack of EIS and EA review may cause potentially irreparable environmental, cultural, and
socioeconomic impacts from housing developments on ceded public lands. Absent an EIS or
EA, otherwise required considerations on ways to mitigate or avoid such adverse impacts would
be eliminated.

Mahalo nui loa for this opportunity to testify. Please defer this bill.

Respectfully submitted,

Melodie Aletija

Alan Burdick

Co-Chairs, Environmental Caucus of the Democratic Party of Hawai'i



Monday, February 14, 2022

Relating to Affordable Housing
Testifying in Opposition

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) **Oppose HB1750, Relating to Affordable Housing**. This measure would exempt new construction of affordable housing from environmental statements and environmental assessment requirements.

PHI encourages and supports the building of new affordable housing. Hawaii badly needs more to support its community. However, more affordable housing shouldn't come at the sacrifice of our environment. Environmental impact statements and assessments are reasonable and critical elements of the process that help ensure that projects bring minimal harm to the natural environment and that impacts are mitigated appropriately.

Cutting corners by weakening environmental protection is not the answer to building affordable housing. Provide additional subsidy if needed. Increase density if needed. Provide tax incentives or properly staff agency review processes if needed. But do not reduce environmental protections.

For these reasons, we urge the Committee to **defer HB1750 indefinitely**.

Mahalo for the opportunity to testify,

Gary Hooser
Executive Director
Pono Hawai'i Initiative

HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION

100 PAUHI STREET, SUITE 201 • HILO, HAWAII 96720

To: Representative Nadine K. Nakamura, Chair HSG
Representative Troy N. Hashimoto, Vice Chair HSG
Representative Nicole E. Lowen, Chair EEP
Representative Lisa Marten, Vice Chair EEP

From: Keith Kato 
Executive Director
Hawaii Island Community Development Corporation
Hilo, Hawaii 96720

Re: Hearing on HB 1750 RELATING TO AFFORDABLE HOUSING
February 15, 2022 Conference Room 423, State Capitol

The Hawaii Island Community Development Corporation (HICDC) SUPPORTS the passage of HB 1750 RELATING TO AFFORDABLE HOUSING.

Affordable housing in Hawaii is a major problem for our island community. Populating decline, loss of young people, skewing our demographics are among the problems arising from the high cost of housing not to mention the financial stress imposed on our community.

Use of state/county lands and funds are critical tools in addressing this problem and their use should be as efficient and effective as possible. This includes reducing unnecessary impediments to their use.

The former Environmental Council adopted a rule that provided a qualified exemption from the requirements of preparing an Environmental Assessment under Chapter 343 HRS for affordable housing projects within the State Land Use Urban District and appropriately Zoned by the respective counties.

This step was a significant improvement in streamlining regulations and has been useful for projects in urban redevelopment areas especially in Honolulu.

However, as this exemption does not apply to projects that require State Land Use Urban and County Zoning changes it does not assist many other affordable housing projects utilizing government land or funds.

Contemporary processing of State Land Use and County Zoning applications includes comprehensive review of the environmental effects of any rezoning for residential use. The application requirements and the distribution of the applications to numerous federal, state and county agencies provides the review that encompasses the range of environmental concerns. These agencies include the U.S. Fish and Wildlife Service, State Historic Preservation Division of DLNR, Forestry and Wildlife, DLNR Engineering, Ocean Recreation, Commission on Water Resource Management, Department of Agriculture, Office of State Planning, Department of Health, Department of Transportation, Department of Education, and numerous affected county agencies.

AN EQUAL HOUSING OPPORTUNITY
-EQUAL OPPORTUNITY EMPLOYER-

ADMINISTRATION: (808) 9
FAX (808) 9

The State Land Use Boundary Amendment and County Zoning review processes are also significant opportunities for public information, review and debate during informational meetings, public hearings and through the publicity that those events receive. Such disclosure and debate are typically where public discussion occurs if there are concerns to be raised by the community.

Under the current rule 11-200.1-15(c)(10) after the State Land Use Urban District and Zoning are approved the affordable housing project would be exempt from preparation of a Ch 343 environmental assessment.

HB 1750 proposes to expand but limit this exemption to affordable housing projects that are consistent with the County General Plan or Development Plan classifications that allow housing and which does not require variances for shoreline setbacks or siting in an environmentally sensitive area, including a flood plain, tsunami zone, sea level rise exposure area, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters. These provisions in HB 1750 focus the exemption on areas designated for residential use and screens out potential problems areas.

It should be noted that the comprehensive review of affordable housing projects through the SLU and Zoning process is significantly different than the review of other types of uses of government lands or funds such as roads, drainage projects, public buildings, and so. For those other activities the Ch 343 EA review may be the only comprehensive and public review process. That is not the case for affordable housing projects which go through the State Land Use Boundary Amendment and County Zoning processes.

For these reasons the Hawaii Island Community Development Corporation contents that the EA review requirements for affordable housing projects that require SLU Boundary Amendments and County Zone changes should be treated the same as the current rule provided that the project is located in a designated residential development area. The passage of HB 1750 will enhance the efficient use of State and County lands and funds for the creation of affordable housing.

The Hawaii Island Community Development Corporation is a 501(c)(3) non-profit organization and has been developing affordable housing projects exclusively for low income households on the island of Hawaii. To date HICDC has worked with more than 360 self help housing builders to complete their homes. These families are all at 80% AMI and below. HICDC has also developed 391 low income rental units for seniors on the Big Island as well as the Harry and Jeanette Weinberg Adult Day Center in Hilo.



MAUNA KEA MOKU NUI `AELIKE/CONSENSUS BUILDING `OHANA

We file the following collective testimony IN OPPOSITION to the following Bills:

1. HB2024 RELATING TO MAUNA KEA: Mauna Kea Stewardship Authority; Established; Appropriation (\$)
2. SB2502 RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY: Public Auction, Increases terms for public auction, sales, or leases from sixty-five years to ninety-nine years.
3. HB1750/SB3384 RELATING TO AFFORDABLE HOUSING: Makes the new construction of affordable housing eligible for exemption from environmental impact statement and environmental assessment requirements.
4. HB2165 RELATING TO DISPOSITION OF PUBLIC LANDS BY NEGOTIATION: Includes leases for commercial, industrial, and hotel or resort purposes eligible for disposition by negotiation pursuant to section 171-59(b), Hawaii Revised Statutes.

We file our opposition to the above-mentioned bills collectively because they are related, fail to protect and/or seek to alienate our lands out of the body corpus of the Public Lands Trust (Crown and Government lands) provided under the Admissions Act, for which Kanaka Maoli (Native Hawaiians) are the right holders and beneficiaries. (See [Http://www.capitol.hawaii.gov/hrscurrent/vol01_ch0001-0042f/04-adm/adm-.htm](http://www.capitol.hawaii.gov/hrscurrent/vol01_ch0001-0042f/04-adm/adm-.htm))

These bills are grossly defective thus constituting a liability upon all agents of the State for a Breach of Trust. Lawmakers/Legislators are Agents of the so-called "State of Hawai'i" and as such are also Trustees of the Public Trust. All Lawmakers/Legislators are required to exercise their Fiduciary Duties and Responsibilities in order to administer and manage the Constitutional Trust for the benefit of its Beneficiaries who are Native Hawaiians and the General Public. The Hawai'i Supreme Court opines that the Public Trust is like regular trusts - the Trustee must protect the resources of the Trust for the benefit and betterment of its Beneficiaries (See *Ching v. Case* - <https://law.justia.com/cases/hawaii/supreme-court/2019/scap-18-0000432.html>). Affirming that the lands must be managed for the betterment of the Beneficiaries and the Beneficiaries must receive benefits.

Furthermore, in addition to the protections provided for the Native Hawaiian beneficiaries under relevant state and federal laws, as Lawmakers/Legislators you are also bound by international law relating to the protections of Indigenous Peoples (such as Native Hawaiians) and their traditional lands and territories. The United Nations Declaration on Rights of Indigenous Peoples (UNDRIP) Article 26, specifically provides protection for the traditional lands of all Indigenous Peoples. Therefore, we as Kanaka Maoli (Native Hawaiians) and as right holders and beneficiaries do not give our consent for the alienation and or misuse of our lands. (See https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)



MAUNA KEA MOKU NUI `AELIKE/CONSENSUS BUILDING `OHANA

We publicly object to and are opposed to the above listed bills. We have provided you with the legal reasons and relevant laws to inform your decision and call upon this Legislature to hold these bills and not to pursue them further into the future. Because to do otherwise is to act in excess of your authority and ignores the laws put in place to protect the People of Hawai'i and their Trust assets.

On Behalf of the Mauna Kea Moku Nui `Aelike/Consensus Building `Ohana
/s/ Clarence Kauakahi Ching
Speaker
kahiwal@cs.com



Native Hawaiian LEGAL CORPORATION

1164 Bishop Street, Suite 1205 • Honolulu, Hawai'i 96813
Phone (808) 521-2302 • www.nativehawaiianlegalcorp.org



HB 1750

Relating to Affordable Housing

HOUSE COMMITTEES ON HOUSING and
ENERGY & ENVIRONMENTAL PROTECTION

February 15, 2022

10:45 a.m.

Conference Room 423

Aloha e Chairs Nakamura and Lowen, Vice Chairs Hashimoto and Marten, and Members of the Committees,

The Native Hawaiian Legal Corporation **strongly OPPOSES HB1750**, which would circumvent environmental regulations critical to protecting natural and cultural resources located on state public trust and “ceded” lands.

While actual affordable housing that prioritizes the needs of our communities is an important goal, this bill does nothing to ensure that those needs are met. Shockingly, HB1750 provides a **blanket exemption** from Hawai'i's environmental protection laws for “affordable housing” projects but **does not define affordable housing**. This overbroad exemption is open and vulnerable to abuse by commercial interests and does nothing to ensure that projects built on our state trust lands will be truly affordable. At the same time, it will fast-track the commercial development of public trust lands and avoid critical protections for our State's natural and cultural resources.

HB1750 suggests that state and county lands are unfairly subject to stricter land use regulations than privately owned properties. However, these regulations make sense in light of the State's constitutional mandate to closely monitor and protect the integrity of trust lands. The State holds title to its lands “as a public trust for native Hawaiians and the general public.” Haw. Const. Art. XII § 4. As a trustee, the State has a duty to “protect and maintain the trust property and regulate its use” and must “use reasonable care and skill to preserve the trust property.” *Ching v. Case*, 145 Hawai'i 148, 152, 449 P.3d 1146, 1150 (2019); *see also* Haw. Const. Art. XI § 1 (“For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people.”). The State is also required to “take an active roll” and “ensure [trust property] is not harmed[.]” *Id.*

Hawai'i Revised Statutes ("HRS") chapter 343, as it applies to state lands, is intended to assist the State in meeting its constitutional duties to preserve and protect state trust property. The Hawai'i Environmental Policy Act was enacted in 1974 "to establish a system of environmental review which [would] ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations." HRS § 343-1. In fact, the legislature already found that Chapter 343 is vital to protecting our natural resources:

[t]he legislature finds that the quality of humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions.

HRS § 343-1.

Given chapter 343's importance to protecting our State's natural and cultural resources, this bill would eliminate a critical mechanism to identify, through expert, practitioner, and public review and input, potentially irreparable environmental, cultural, and socioeconomic impacts from development on public and "ceded" lands, as well as mitigation measures intended to avoid such impacts.

As this measure seeks to streamline and encourage the development of State ceded lands, it must be considered in context:

The [n]ative Hawaiian [p]eople continue to be a unique and distinct people with their own language, social system, ancestral and national lands, customs, practices and institutions. "The health and well-being of the [n]ative [H]awaiian people is intrinsically tied to their deep feelings and attachment to the land." Aina, or land, is of crucial importance to the [n]ative Hawaiian [p]eople -- to their culture, their religion, their economic self-sufficiency and their sense of personal and community wellbeing. **Aina is a living and vital part of the [n]ative Hawaiian cosmology and is irreplaceable.** The natural elements -- land, air, water, ocean -- are interconnected and interdependent. **To [n]ative Hawaiians, land is not a commodity; it is the foundation of their cultural and spiritual identity as Hawaiians.** The aina is part of their ohana, and they care for it as they do for other members of their families. For them, the land and the natural environment is alive, respected, treasured, praised, and even worshiped.

Office of Hawaiian Affairs v. Hous. & Cmty. Dev. Corp., 117 Hawai'i 174, 214, 177 P.3d 884, 924 (2008).

For the above stated reasons, the Native Hawaiian Legal Corporation **OPPOSES HB1750**. Mahalo for the opportunity to testify.

A handwritten signature in black ink, appearing to be 'DK' followed by a long horizontal flourish.

David Kauila Kopper
Ashley Kaiāo Obrey
For the Native Hawaiian Legal Corporation



House Committee on Housing / Energy & Environmental Protection

Hawai'i Alliance for Progressive Action (HAPA) Opposes: HB1750

Tuesday, February 15th, 2022 10:45 a.m. Conference Room 423

Aloha Chair Nakamura/Lowen, Vice Chair Hashimoto/Marten and Members of the Committee,

HAPA opposes HB1750, which makes new construction of affordable housing eligible for exemption from environmental impact statements and environmental assessment requirements if it meets certain requirements.

An exemption from our environmental review law for housing projects on public lands would take away an important mechanism for public transparency and input in the development of these lands. This in turn could lead to significant, irreparable, and avoidable impacts to the public's environmental, socioeconomic, and cultural interests in our limited public land base.

We, and the residents of Hawai'i, have a wide range of interests in the protection and future of public lands, which are meant to be held in trust for present and future generations. Hawaiians particularly also have a huge interest in many of these locations, as they are often important crown lands.

This measure would eliminate a critical mechanism to identify, through expert, practitioner, and public review and input, potentially irreparable environmental, cultural, and socioeconomic impacts from development on public lands. It also eliminates important mechanisms to mitigate or avoid such impacts.

Our environmental review law accordingly ensures that government decision makers carefully consider the environmental, socioeconomic, and cultural impacts of proposed uses of public lands, and provides opportunities for other agencies, experts, cultural practitioners, and members of the public to also review and provide input on such uses.

This bill's proposed exemption from the environmental review law for "affordable housing" projects on public lands may result in decisions that don't fully consider the potential impacts from such projects, and lead to significant, irreparable, and unnecessary harms that could have otherwise been avoided through more informed decision making.

HB1750 would exempt public lands from environmental review for what is often masqueraded as "affordable housing" but in actuality is designed for the developers max profit and not the goal of creating true affordable housing for our people.

Please defer HB1750.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Anne Frederick", with a long horizontal flourish extending to the right.

Anne Frederick
Executive Director



LATE

**HB1750
RELATING TO AFFORDABLE HOUSING**

House Committee on Housing
House Committee on Energy & Environmental Protection

February 15, 2022

10:45 AM

Videoconference

The Council for Native Hawaiian Advancement (CNHA), a member-based 501(c)(3) non-profit organization with a mission to enhance the cultural, economic, political, and community development of Native Hawaiians, **STRONGLY OPPOSES** HB1750, which would exempt certain affordable housing projects from Chapter 343 environmental review.

CNHA deeply understands the need for affordable housing in the State of Hawai'i, where the Native Hawaiian population are among the most vulnerable to financial insecurity and homelessness/houselessness. Accordingly, CNHA has dedicated itself to advocating for truly affordable housing as it should amicably comport with our unique way of life in these islands.

The conservation of Hawai'i's one-of-a-kind natural environment and its finite natural resources are enshrined within the Hawai'i State Constitution "for the benefit of present and future generations." In fulfilling this obligation to the people of Hawai'i, Hawai'i's environment was held in trust by the State, which was required to utilize "these resources in a manner consistent with their conservation and in furtherance of self-sufficiency."¹ The Constitution also set aside a provision for environmental rights, asserting that "each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources."² Consequently, the Chapter 343 environmental review process was established by the Hawai'i State Legislature with the following findings and purpose:

"The legislature finds that the quality of humanity's environment is critical to humanity's well-being, that humanity's activities have broad and profound effects upon the

¹ Hawai'i State Constitution, Article XI, Section 1.

² Hawai'i State Constitution, Article XI, Section 9.



interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions. The legislature further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.”³ (emphasis added)

Embedded within Hawai‘i’s environmental review process is the Legislature’s ongoing recognition for the importance of Native Hawaiian cultural resources, which are taken into account through a required cultural impact assessment (CIA). CNHA wishes to emphasize that real estate development, urbanization, and housing – no matter their cost – should not be adverse nor should they undermine the value of environmental and cultural resources that are held in trust for present and future generations. Exempting affordable housing development from the checks and balances established by the Hawai‘i State Legislature to ensure the perpetual protection of our natural and cultural resources suggests that these protections are of less importance. This should not be the case, as both should co-exist for the greater benefit of the public interest.

For these reasons, CNHA respectfully requests that this measure be held.

Mahalo nui loa for this opportunity to provide testimony on this measure.

Respectfully,

J. Kūhiō Lewis
President & CEO
Council for Native Hawaiian Advancement

³ HRS §343-1.

HB-1750

Submitted on: 2/9/2022 1:45:23 PM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Samuel Mitchell | Individual | Oppose | No |

Comments:

I think affordable housing is important and we need to do something about it. But this idea is wrong in its approach. We should not be cutting back on environmental or land use reviews to cut back on the costs.

Makiki Neighborhood and other boards have been having construction review problems. It use to be a requirement that all large building permits must go before the Board. But because the City Council passes a law to stop reviews of low-rent housing projects, we now have major problems. One example is a New Low Rent Apartments being built on Pensacola St. It doesn't have any parking for its construction workers so they end up parking their truck in the bike lane.

Without review, we are going to see a lot more of these types of problems.

Samuel Mitchell (Member Makiki NB-10)

HB-1750

Submitted on: 2/12/2022 3:35:29 PM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Bridgit Bales | Individual | Oppose | No |

Comments:

Strongly oppose!!!

HB-1750

Submitted on: 2/12/2022 3:55:52 PM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Nako'o Warrington | Individual | Oppose | No |

Comments:

OPPOSE!

HB-1750

Submitted on: 2/13/2022 4:05:09 PM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Diane Ware | Individual | Oppose | No |

Comments:

Dear Committee Chair and Members,

I strongly oppose this bill, HB1750, because it would exempt public and "ceded" lands from environmental review for "affordable housing" projects. This would eliminate a critical mechanism to identify, through expert, practitioner, and public review and input, potentially irreparable environmental, cultural, and socioeconomic impacts from development on "ceded" lands, as well as ways to mitigate or avoid such impacts.

I urge you to reconsider the impacts of this bill and not pass it in Committee.

Thank you for this opportunity to comment,

Diane Ware, 99-7815 Kapoha Pl, Volcano Hi 96785

HB-1750

Submitted on: 2/13/2022 7:10:18 PM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Mialisa Otis | Individual | Oppose | Yes |

Comments:

I oppose HB1750, along with companion bill SB3384. I would like to give oral testimony.

Puananionaona Patria Thoene

onaona.thoene@gmail.com

Tuesday, February 15, 2022

10:45 am

via videoconference

Testimony of Puananionaona P. Thoene before the
SENATE COMMITTEE ON HOUSING and the
**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL
PROTECTION**

providing **COMMENTS** on
HOUSE BILL (HB) 1750
RELATING TO ENVIRONMENTAL IMPACT STATEMENT;
ENVIRONMENTAL ASSESSMENT; AFFORDABLE HOUSING;
EXEMPTION

February 13, 2022

Aloha e Chair Chang, Vice Chair Kanuha, and Members of the Senate Committee on Housing, and Chair Lowen, Vice Chair Marten, and Members of the House Committee on Energy & Environmental Protection,

I am the current Chair of the Environmental Advisory Council (EAC), however, I submit **comments** on HB 1750 in my individual capacity.

In 2019, the EAC promulgated amendments to Hawai'i Administrative Rules (HAR) Title 11, Chapter 200.1, known as the Environmental Impact Statement (EIS) Rules, which effectuate Hawai'i Revised Statutes (HRS) Chapter 343. HAR § 11-200.1-15(c)(10) sets forth the current exemption for affordable housing projects from HRS Chapter 343, requiring such projects to satisfy four criteria. HB 1750 sets forth three criteria for affordable housing projects to qualify for the exemption and would in essence codify the exemption in HAR § 11-200.1-15(c)(10), with two of the criteria proposed by HB 1750 being the same as what is in the HAR and two differences.

Subsection (a)(2) of the exemption proposed by HB 1750 provides "As proposed, it is consistent with the existing county general plan or development plan classification that allows housing[.]"

The current exemption in HAR § 11-200.1-15(c)(10)(B) limits the exemption to projects that "(B) [a]s proposed conforms with the existing state urban land use classification; and (C) [a]s proposed is consistent with the existing county zoning classification that allows housing[.]". Thus, under the current exemption, affordable housing projects would qualify for the exemption only if they are taking place on land that is already designated in the State Land Use (SLU) Urban District (i.e., no district boundary amendment will be required) and the existing zoning of the land allows for housing (i.e., no rezoning is required).

HB 1750, if passed, could be interpreted to expand the current exemption for affordable housing projects, allowing for an exemption from HRS Chapter 343 where the land classification or zoning may need to be changed, so long as housing is consistent with the county general plan or development plan. Furthermore, if HB 1750 is enacted as written, it will directly conflict with the HAR § 11-200.1-15(c)(10), requiring amendments to HAR Title 11, Chapter 200.1.

HAR § 11-200.1-15(c)(10) was drafted as it is to address concerns that were raised during the rulemaking process regarding the potential for lands not already classified in the SLU

Urban District to be reclassified, and lands not already zoned for housing to be rezoned, with an HRS Chapter 343 exemption. This provision of the EIS Rules was vetted through multiple drafts available to and with input from the public, state and county agencies, community organizations, and industry members. To date, there have been no legal challenges to the revised EIS rules.

I support the State's goals for affordable housing and offer the comments above to provide the context of how the exemption in the EIS Rules came to be. I ask that the Committees consider amending HB 1750 to align the proposed exemption with the exemption set forth in HAR § 11-200.1-15(c)(10).

Mahalo for the opportunity to testify on this measure and for your consideration.

HB-1750

Submitted on: 2/14/2022 2:55:53 AM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|-------------------------|------------------------------|---------------------------|-----------------------------------|
| Kanela Kamahalohanuilai | State of Hawaii constituents | Oppose | Yes |

Comments:

We stand to oppose HB1750. We as a constituent of Hawaii, a blood born kanaka, mother, sister, student, friend, neighbor and hard worker. We Stand to oppose this bill because of this statement: HB1750 will allow the new construction of affordable housing eligible for exemption from environmental impact statement and environmental assessment requirements if it meets certain requirements. When dealing with the environment everyone should be held accountable to its fullest extent. Why? Do you officials keep killing our environment? resources? history? Identity? Our environment and what is here or what is left on our land is the only history we have left. You all want to kill our environmental history for what? Developers to have a loop hole to build wherever they want to, while families are in unstable housing. While I see many native hawaiian families struggling on social media, down the road, next door, in our backyard to get by with little food, unstable financial stability, and housing resources. Developer and government officials are abusing thier power by making bills that would hurt our environment, families, land stability and land history. We as a native hawaiian stand here government to government advocating for the kupuna, children, and those who can not navigate this world of nonsense to say stop. Stop making bills that exempts developer from following the FULL requirements and cost to obtain correct environmental clearance. Giving developer building discounts, allowing them to build skyscrapers, condos, townhouses, for what? to only rent out 10% as low income and the rest full price for those who can afford it. This bill is not to help sustain Hawaii and her land but for government individuals own personal gain and desires in the real estate business. Please look on Zillow, and explain to me how 9acres of Waimānalo land under the mountain side be up for sell when that portion of the land should be meant for environmental sanctuary for our native birds, trees, and native resources and allow native Hawaiians to perpetuate the land using a cultural base foundation. Instead of allowing developers to get environmental exemptions to bring In thier machine and rip our land apart. Thank you again for time but I stand here to Oppose HB 1750 and any other bill that is trying to hurt our land.

HB-1750

Submitted on: 2/14/2022 6:27:51 AM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Namaka | Individual | Oppose | No |

Comments:

Aloha Chair, Rep. Nadine Nakamura, Vice Chair Rep. Troy Hashimoto; Chair Rep. Nicole Lowen, Vice Chair Rep. Lisa Marten and members of the Committees on Housing and Energy & Environmental Protection,

I oppose HB1750. I urge you not to pass this bill.

I also urge you to propose a uniform definition of "affordable housing" for ALL agencies and not leave it to be defined by the "controlling law applicable fo the proposing agency or approving agency".

Mahalo

HB-1750

Submitted on: 2/14/2022 8:05:18 AM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Nana-Honua Manuela | Individual | Oppose | No |

Comments:

Affordable housing development is very much needed now in Hawaii however exempting EIS, EA and put affordable housing development ahead of environmental protection and is a dangerous course. the State cannot override federal environmental requirements and if any federal monies are involved, these would be required. As Trustees of the Public Trust, you have a fiduciary responsibility to preserve the trust lands for future generations.

HB-1750

Submitted on: 2/14/2022 10:10:45 AM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|-----------------------|---------------------|---------------------------|-----------------------------------|
| Jennifer Noelani Ahia | Individual | Oppose | No |

Comments:

I strongly oppose this bill.

LATE

HB-1750

Submitted on: 2/14/2022 11:03:54 AM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Sharde Freitas | Individual | Oppose | No |

Comments:

Oppose

LATE

HB-1750

Submitted on: 2/14/2022 7:37:13 PM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Laura Ramirez | Individual | Oppose | No |

Comments:

Aloha,

I am opposed to HB1750. Environmental impact reviews ad assessments are necessary before any building projects on public lands and no exemptions should be made even for affordable housing.

Please vote against this bill that removes this important protection for the 'aina.

Mahalo,

Laura Ramirez and the Bettencourt family

Kapa'a, Kaua'i

LATE

HB-1750

Submitted on: 2/14/2022 8:46:43 PM

Testimony for HSG on 2/15/2022 10:45:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Sherry Pollack | Individual | Oppose | No |

Comments:

*I am testifying in **OPPOSITION** to HB1750, which may lead to significant and avoidable impacts to the public interest from the development of our public land base.*