



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

CHUNG I. CHANG
DEPUTY DIRECTOR

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Statement of
MIKE MCCARTNEY
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Wednesday, February 16, 2022
2:00 PM
State Capitol, Conference Room 329 & Videoconference

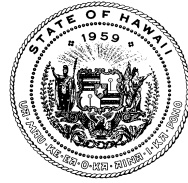
In consideration of
HB2088, HD1
RELATING TO FINANCING.

Chair Johanson, Vice Chair Kitagawa, and members of the Committee.

The Department of Business, Economic Development, and Tourism **supports** House Bill 2088, HD1, an Administration Bill, that proposes to create the Environmental and Economic Development Revolving Loan Fund under the administration of the Hawaii Green Infrastructure Authority and allow property owners to finance qualifying improvements through a voluntary non-ad valorem special tax assessment.

Collaborating with Hawaii's four Counties and members of the Hawaii Bankers Association, this bill will unlock a new market for commercial banks and other private capital providers to help the State address a number of critical initiatives, including aging cesspools, energy efficiency upgrades, and transitioning to clean energy.

Thank you for this opportunity to testify in support of HB2088, HD1.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of HB2088 HD1
RELATING TO FINANCE**

REPRESENTATIVE AARON LING JOHANSON, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: 2/16/2022

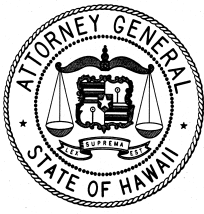
Room Number: 329

1 **Fiscal Implications:** The measure involves a \$25,000,000 appropriation for the Hawaii Green
2 Infrastructure Authority for the creation of an environmental and economic revolving loan fund.

3 **Department Testimony:** The Department of Health (Department) supports this measure as long
4 as it does not impact the priorities requested in the Executive Budget. Cesspools are a major
5 source of pollution to Hawaii's waters. There are approximately 88,000 cesspools in the State,
6 discharging millions of gallons of untreated sewage into the groundwater every day. The sewage
7 polluted groundwater flows into drinking water sources, streams and the ocean, harming public
8 health and the environment, including beaches and coral reefs. Ninety-five percent of all
9 drinking water in Hawaii comes from groundwater sources. Cesspools should be phased out to
10 eliminate threats to drinking water and recreational waters. The Department supports this
11 measure as it would help to facilitate the phasing out of cesspools by providing another
12 mechanism of financing that would be for upgrades and conversions to a director-approved
13 wastewater system or connection to a sewage system.

14 There are other wastewater systems besides septic systems and aerobic treatment units
15 that are available to replace cesspools. The Department is proposing an amendment to the
16 measure to include all wastewater systems that are approved by the director of health.

- 1 **Offered Amendments:** Recommend revising proposed language under Section 196-A(b),
- 2 “cesspools to be upgraded or converted to septic systems or aerobic treatment unit systems” to
- 3 “cesspools to be upgraded or converted to director of health-approved wastewater systems”.
- 4 Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 2088, H.D. 1, RELATING TO FINANCING.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Wednesday, February 16, 2022 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General,
Gregg J. Kinkley, Deputy Attorney General, or
Bryan C. Yee, Deputy Attorney General

Chair Johanson and Members of the Committee:

The Department of the Attorney General has concerns regarding this bill and offers the following comments.

The bill establishes an at or below-market interest loan program to offer financial assistance for eligible property owners, including lessees on Hawaiian Home Lands, with cesspools to be upgraded or converted, and allows those property owners to finance the improvements through a non-ad valorem property assessment to be added to the owner's property tax bill.

This type of "property assessed financing" (PAF) of improvements on a homeowner's land is similar in structure to the Property Assessed Clean Energy (PACE) financing approaches that have been the subject of some continuing legal controversy since their introduction in the last decade, both on the mainland and here in Hawaii.

Article I, Section 10, of the U.S. Constitution states in pertinent part that "[n]o State shall . . . pass any . . . Law impairing the Obligation of Contracts[.]" This provision of the federal constitution is often referred to as the "Contracts Clause." In this bill, at page 12, lines 11 to 20, there is a provision that "the property assessed financing assessment to be levied on the property shall be . . . a lien against the property on a parity with the lien of general real property taxes and the lien of any other assessments levied under section 46-80, from the date of recordation entered into pursuant to this section" Even though establishing the PAF lien by law as a lien on a parity with the

lien of county taxes and assessments may not raise constitutional concerns, there are further provisions allowing for the subordination of some existing (senior) private mortgages on the property to the PAF lien as well, which might raise Contracts Clause issues (see page 13, lines 1-12, under "For residential properties").

While the simple existence of a provision in state law impairing pre-existing contractual rights and obligations does not necessarily raise a constitutional issue (see *Energy Reserves Group, Inc. v. Kansas Power & Light Co.*, 459 U.S. 400, 412 (1983), the legal analysis validating it is more nuanced and must take into consideration the nature of the impairment, both quantitatively and qualitatively.

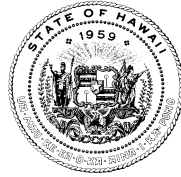
There are provisions in this bill, not found in former, more troublesome PACE legislative attempts, that are clearly calculated to make the parity lien conditions more reasonable, and thus not run afoul of the Contracts Clause: the PAF lender's obligation to determine that the property owner can pay the assessment; the limitation on the PAF assessment to no more than 20 percent of the market value of the property; the notice of lien provision; and the capability of the holder or loan servicer to increase the required monthly escrow all make the PAF assessment scheme more "reasonable." Importantly, this current House Draft 1 also inserts provisions requiring that the property owner provide the written consent of each senior lienholder of commercial property before entering into the PAF contract.

In conclusion, we believe that, while the matter is not free from doubt, the bill's inclusion of the constraints placed on the PAF assessment listed above would help prevail against an attack on its unconstitutionality as violating the Contracts Clause.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
HEARING ON FEBRUARY 16, 2022 AT 2:00PM VIA VIDEOCONFERENCE

HB 2088, HD1, RELATING TO FINANCING

February 16, 2022

Aloha Chair Johanson, Vice Chair Kitagawa, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) supports this bill creating the environmental and economic development revolving loan fund under the administration of the Hawaii Green Infrastructure Authority and allowing property owners to finance qualifying improvements through a non-ad valorem property assessment.

DHHL is especially supportive of the inclusion of lessees on Hawaiian Home Lands to at or below-market interest loans to offer financial assistance with cesspools to be upgraded or converted to septic systems or aerobic treatment unit systems, or connected to sewer systems. Lessees are experiencing increased costs because of septic system requirements and given limited financing options on Hawaiian Home Lands, this measure provides a much needed resource. The Hawaiian Homes Commission approved a similar measure the past two years, but DHHL hasn't been able to design the appropriate mechanism to accomplish the result.

Thank you for your consideration of our testimony.



DAVID Y. IGE
GOVERNOR

GWEN S. YAMAMOTO LAU
EXECUTIVE DIRECTOR

HAWAII GREEN INFRASTRUCTURE AUTHORITY

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Testimony of
Gwen Yamamoto Lau
Executive Director
before the
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Wednesday, February 16, 2022
Time: 2:00 P.M.
State Capitol, Conference Room No. 329 & Videoconference

In consideration of
HOUSE BILL NO. 2088, HD1
RELATING TO FINANCING

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee on Consumer Protection & Commerce:

Thank you for the opportunity to testify and provide comments on House Bill 2088, HD1, relating to financing. This bill proposes to allow property owners to finance qualifying improvements through a non-ad valorem property assessment. The Hawaii Green Infrastructure Authority ("HGIA") **supports** this bill.

Working together with the Counties to leverage a non-traditional financing mechanism capable of attracting private capital, Hawaii has an opportunity to unleash millions of much needed capital to finance energy efficiency upgrades, disaster resiliency improvements, water conservation measures and renewable energy installations for residential and commercial property owners.

HGIA respectfully requests the following amendments:

1. On page 8, beginning on line 17, as well as on page 20, beginning at the end of line 13, make the following revisions to eliminate any perception that the Authority will be issuing revenue bonds:

- (1) A property assessed financing lender may enter into a property assessed financing assessment contract to finance or refinance a qualifying improvement only with the record owner of the affected property and the authority. Each property assessed financing assessment contract shall be executed by the authority

as administrator of the property assessed financing program. A property assessed financing assessment contract shall require the authority to assign, pledge and transfer revenues to be derived from property assessed financing assessments to one or more property assessed financing lenders as security for their direct financing of qualifying improvements. The obligation of the authority to transfer such revenues to one or more property assessed financing lenders shall be evidenced by ~~[a revenue bond issued on behalf of the State by the authority in a form prescribed by the authority, which may be]~~ the property assessed financing assessment contract as an instrument of indebtedness in such form as may be prescribed by the authority~~[-or other instrument]~~, and no other bonds are required to be issued by the State, the authority, any county or city, or any other public entity in order to cause qualifying improvements to be funded through a property assessed financing assessment contract;

The authority, on behalf of the State, ~~[may issue revenue bonds to finance or refinance such improvements, and the form of any such revenue bond may be a]~~ shall authorize property assessed financing assessment contracts as instruments of indebtedness in such form as may be ~~[or other instrument]~~ prescribed by the authority. ~~[Bonds]~~ Property assessed financing assessment contracts authorized ~~[issued]~~ to finance qualifying improvements, when the only security is the special tax assessment levied against benefitted or improved property, shall be excluded from any determination of the power of the State to issue general obligation bonds or funded debt for purposes of section 13 of article VII of the State Constitution.

2. On page 18, beginning on line 10, make the following revision so that delinquent liens do not trigger the acceleration of the Property Assessed Financing Assessment Contract:

For property assessed financing assessments levied but not paid when due pursuant to a property assessed financing assessment contract, the foreclosure of the lien of the property assessed financing assessment, or the lien of general real property taxes or any other assessments levied under section 46-80, or any other lien foreclosed, shall

not accelerate or extinguish the remaining term of the property assessed financing assessment as approved in the property assessed financing assessment contract.”

3. On page 25, line 14, in order to clarify that the on-bill repayment mechanism can only be used as approved by the Hawaii Public Utilities Commission under the Green Energy Money Saver On-Bill Program, revise the sentence as follows:

- (3) Utilize all repayment mechanisms, including the on-bill repayment mechanism, as authorized by the green energy money saver on-bill program, property assessed financing assessment program, financing tools, servicing and other arrangements, and sources of capital available to the authority;

Thank you for this opportunity to provide comments and testify in support of HB 2088, HD1.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
ON
HOUSE BILL NO. 2088, H.D. 1

February 16, 2022
2:00 p.m.
Room 329 and Videoconference

RELATING TO FINANCING

The Department of Budget and Finance (B&F) offers comments on this Administration bill.

House Bill No. 2088, H.D. 1, establishes the Environmental and Economic Development Revolving Loan Fund (EEDRLF) within the Hawai'i Green Infrastructure Authority's (HGIA) Special Fund, similar to a revolving line of credit and to be administered by HGIA; allows property owners to finance qualified improvements through a non-ad valorem property assessment; appropriates \$25,000,000 in general funds for FY 23 to be deposited into the EEDRLF; and appropriates \$25,000,000 out of the EEDRLF for FY 23 for loans, other financial assistance, and other allowable expenses (including implementation costs). Examples of qualified improvements include, but are not limited to: upgrading or converting cesspools to septic systems or aerobic treatment unit systems; home improvements for wind and/or flooding resiliency; installation of clean energy technologies; and other related improvements.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that

states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

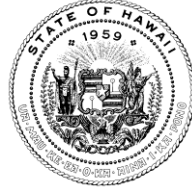
- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Wednesday, February 16, 2022
2:00 PM
Via Videoconference**

**On the following measure:
H.B. 2088, HD1, RELATING TO FINANCING**

Chair Johanson and Members of the Committee:

My name is Dean Nishina, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Division of Consumer Advocacy. The Department offers comments on this bill.

The purpose of this bill is to create the environmental and economic development revolving loan fund under the administration of the Hawaii Green Infrastructure Authority (HGIA), to allow property owners to finance qualifying improvements through a non-ad valorem property assessment, and to appropriate funds.

The Department supports the bill's intent to seek and establish other forms of financing for HGIA to supplement and/or complement ratepayer-funded programs that finance clean energy technology and infrastructure. Since the measure proposes to expand the areas and purposes to which HGIA may provide funding, it is important to safeguard against the possibility that electric customers may be burdened with the costs and/or risks associated with investments that do not relate to electric services.

To that point, consistent with the stated intent of this measure, the Department appreciates how the bill's proposed HRS section 196-A(a)(3) excludes funds collected as payment of loans and interest payments from funds advanced from proceeds of green energy market securitization bonds, and proposed HRS section 196-A(a)(5) keeps moneys collected related to green energy market securitization bonds separate. However, to more closely match the measure's stated intent to use public funds, the Department believes that additional modifications may be necessary to ensure that ratepayer funds are not used to fund or otherwise guarantee the environmental and economic development loan program or environmental and economic revolving loan fund. Along those lines, the Department respectfully suggests the following amendments to the proposed HRS section 196-A(a)(5) to read as follows:

(4) Any fees collected by the authority pursuant to this section; provided that moneys collected as a result of the funds advanced from proceeds of the green energy market securitization bonds shall be kept separate from fees collected as a result of funds advanced from proceeds of this fund so that no such separate moneys shall be used to fund or guarantee any environmental and economic development revolving loan purposes.

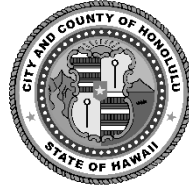
In addition, proposed HRS section 196-64(c)(3), which would allow the Authority to “[u]tilize all repayment mechanisms, including the green energy money saver on-bill program, property assessed financing assessment program, financing tools, servicing and other arrangements, and sources of capital available to the authority []” could lead to electric ratepayer funds being used for unintended purposes. Therefore, the Department recommends specifying that the repayments from the green energy money saver on-bill program are an allowable use only for the existing clean energy and energy efficiency revolving loan fund and not for the new environmental and economic development revolving loan fund purposes. Since the bill proposes to not require (or allow) Public Utilities Commission (PUC) oversight of how the funds used for the environmental and economic development revolving fund would be used (see the

proposed HRS section 196-A, where it reads that the “[f]unds deposited into the environmental and economic development revolving loan fund shall not be under the jurisdiction of nor be subject to public utilities commission approval”), the inclusion of the proposed language creates a dilemma. The Department acknowledges that the PUC should not need to oversee how the environmental and economic development funds are used, but the proposed language that allows funds collected from electric utility customers to be used for non-electric service purposes is not in the interest of those customers.

Thank you for the opportunity to testify on this bill.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • INTERNET: www.honolulu.gov

RICK BLANGIARDI
MAYOR



ANDREW T. KAWANO
DIRECTOR

CARRIE CASTLE
DEPUTY DIRECTOR

February 15, 2022

The Honorable Aaron L. Johanson
And Members of the Committee on
Consumer Protection & Commerce
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Johanson and Committee Members:

Re: Testimony on House Bill 2088 H.D.1
Hearing: February 16, 2022, 2:00 p.m., via videoconference

The City and County of Honolulu ("City") appreciates the opportunity to testify and provide comments on House Bill 2088 H.D.1 ("HB2088"), relating to the Clean Energy/Environmental Improvements, Bonds and County-Implemented Property Assessed Financing Program (C-PACE).

HB2088 targets upgrading or converting the State's cesspools to sewage systems by January 1, 2050; however the estimated costs is \$1.3 billion statewide. Out of the 88,000 known cesspools statewide, Oahu currently has 11,000 cesspools.

The City supports preserving Oahu's natural resources for the health and safety of all Oahu residences and businesses. We acknowledge C-PACE as a response to preserving our natural resources and providing a cesspool replacement financing option and provide the following comments on HB2088 for your consideration.

As currently drafted, HB2088 would allow residential property owners to apply to a financial institution for funding to finance a qualified improvement. The financing agreement would be annually assessed over a fixed term and would appear annually on the owner's real property tax bill as a non-ad valorem special tax assessment. The City anticipates that annual assessment and billing cycles could coincide with the real property tax program.

The City's focus is providing its core services to our residents and visitors with safe, accessible, well-maintained public facilities, exceptional customer service, fiscal stewardship of tax dollars, and quality and comprehensive programs for all. Real property tax is the largest and primary source of revenue for the City.

The Honorable Chair, Aaron L. Johanson

February 15, 2022

Page 2

Staffing resources and expertise in the City's Real Property Assessment and Treasury Divisions are currently stretched and may have to be supplemented in order to service the proposed HB2088. The current existing staff are focused on supporting the real property tax program and the volume and complexity of the ever-changing real property tax initiatives.

The City's real property tax system was designed, purchased and implemented to support the collection of real property taxes. The required system and programming modifications and operational changes necessary to implement collection of the non-ad valorem special assessment will need to be funded by HB 2088, because no City funding is available. We would request that Sections 6 and 7 be made specific that funds appropriated could be spent for implementation, "*at the state and county level,*" and flexibility be provided beyond fiscal years 22-23, wherever possible, for the expenditure of those funds to match the timing of counties opting in to the program.

Without adequate resources to implement, we may be less likely to opt-in to the program as would not want to constrain limited county capacity further and adversely affect the City's favorable general obligation bond ratings.

According to HB2088, there are 11,000 cesspools on Oahu that all must be upgraded by 2050 and there is a need for financing options. HB2088 is one financing option that could be attractive for some Honolulu City taxpayers.

Sincerely,

Andrew T. Kawano
Director
Department of Budget and Fiscal Services



Hawaii Solar Energy Association
Serving Hawaii Since 1977

**Testimony of The Hawaii Solar Energy Association Regarding HB 2088 HD1, Relating to
Financing, Before the House Committee on Consumer Protection and Commerce**

Wednesday, February 16, 2022

Chair Johanson, Vice-Chair Kitagawa, and members of the Committee my name is Rocky Mould and I am the Executive Director of the Hawaii Solar Energy Association (HSEA). We **support HB 2088 HD1** which establishes a revolving loan fund and property assessment mechanism to provide ‘at or below market’ financing or other authorized financial assistance to eligible public, private, or nonprofit borrowers.

HSEA members include the majority of locally owned and operated renewable energy companies in the State of Hawaii, employing thousands of local individuals in a diverse set of well-paying jobs including, but not limited to, contractors, designers, electricians, engineers, financiers, installers, salespeople, and service technicians.

HSEA advocates for policies that provide cost-effective, equitable, and impactful solutions to achieve Hawaii’s climate and resilience goals by enabling residents and businesses to invest in and benefit from the transition to clean energy. Distributed energy resources (DERs) are the leading contributor to Hawaii’s clean energy transition with 45.7% of Hawaii’s renewable energy coming from customer-sited, grid-connected solar PV.¹ And now, Hawaii leads the nation, by far, in pairing solar PV with energy storage at 79% of all residential and 38% of all small-scale commercial installations.² These investments in resilient power systems not only save energy costs for residents and businesses, but also provide energy security and reliability for the entire electricity system as we retire fossil fuel power plants such the AES coal plant.

Structured properly and with transparent governance structures in place, a revolving loan fund that has the authority to tap a variety of funding sources, deploy ‘at or below market rate’ loans, and use other funding mechanisms such as grant funding or direct investments can be a powerful tool to invest in resilience, environmental, renewable energy and energy efficiency

¹ See Hawaiian Electric’s “Key Performance Metrics, Renewable Portfolio Standard compliance” available at <https://www.hawaiianelectric.com/about-us/key-performance-metrics/renewable-energy>.

² See Lawrence Berkeley National Laboratory, *Tracking the Sun, Pricing and Design Trends for Distributed Photovoltaic Systems in the United States* (2021 Edition) at Slide 14 (finding that “Hawaii has, by far, the highest storage attachment rates of any state”).



Hawaii Solar Energy Association
Serving Hawaii Since 1977

measures for underserved markets and communities. HSEA looks forward to working with stakeholders to establish a program that contributes to Hawaii's public policy priorities and improves the livelihoods and well-being of all its residents and communities.

HSEA **supports HB 2088 HD1** and respectfully asks the committee to advance this measure.

Thank you for the opportunity to testify.



Juan Martinez
Managing Director, Residential PACE
juan@pacenation.org

Testimony in consideration of Senate Bill No. HB 2088 (Saiki), relating to financing

Senate Committee on Energy & Environmental Protection and Senate Committee on Agriculture & Environment.

Wednesday, Feb 16, 2022 at 2:00 PM

Location: State Capitol, Conference Room No. 329 & Videoconference

Greetings Chair Johnson, Vice Chair Kitagawa, and members of the Committee on Consumer Protection & Commerce

Thank you for considering our testimony as you evaluate this important legislation. PACENation is the nation's leading advocate for residential and commercial PACE programs and **we strongly support this legislation.**

PACE programs provide a low-cost financing option for home and business owners who seek to make energy efficiency, clean energy, and resilience improvements to their homes and commercial buildings. To date, over 300,000 building owners have used PACE to invest more than \$9 billion in necessary improvements to their properties.

These investments also have significant community benefits. PACENation recently issued a report¹ which projects the program's benefits to Hawaii if only 15% of building owners use PACE over the next two generations. These new benefits include:

- Over 38,000 years of full-time work for carpenters, plumbers, electricians, administrative staff and other workers.
- Over 5.3 billion gallons of water saved through water conservation projects, which reduces the impact of droughts.
- Over 5 million fewer tons of carbon emitted into the air, the equivalent of operating nearly 70 new wind turbines.

¹ See, PACENation. *A PACE Enabled World*. Retrieved from <https://paceenabledworld.pacenation.org>. The projected impacts are derived by scaling recent research by the University of Southern California's Schwarzenegger Institute for State and Global Policy, titled "Impacts of the Property Assessed Clean Energy (PACE) Program on the Economies of California and Florida."

Importantly, SB 3302 would allow home and business owners the opportunity to use PACE financing to convert their cesspools to a septic system, aerobic treatment unit system or connect to the local sewer system. The Cesspool Conversion Working Group has identified cesspool conversion programs in Massachusetts and Delaware which utilized PACE-like approaches as a potential option to help homeowners meet the State's 2050 mandate.²

Because PACE programs offer home and building owners very favorable financing terms, including low interest rates, fixed interest rates, and a long repayment period, regardless of the property owners' credit score or equity, PACE is well-suited to help property owners afford the tens of thousands a cesspool conversion may cost.

We look forward to serving as a resource for the Legislature as you evaluate this bill and are eager to see its' enactment.

² See Cesspool Conversion Working Group. *Financing Cesspool Conversion in Hawaii*. Retrieved from <https://health.hawaii.gov/wastewater/files/2019/10/FinancingConversions.pdf>

HB-2088-HD-1

Submitted on: 2/14/2022 3:50:30 PM

Testimony for CPC on 2/16/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mark Wolfendale	Rotary Club Hanelie Bay	Support	No

Comments:

The risks to public health from cesspools is well understood by all parties. The primary objection to conversion is cost. This bill will address this issue using a successful financial model currently in use by other states. There is no downside to passing this bill.



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300 West 6th St. Suite 1540, Austin, Texas 78701
www.petros-pace.com

February 15, 2022

The Hon. Aaron Ling Johnson, Chair
Committee on Consumer Protection & Commerce
State Capitol
415 South Beretania Street
Honolulu, HI 96813

VIA EMAIL

RE: HB2088

Dear Chair Johnson:

I am writing on behalf of Petros PACE Finance, one of the nation's largest commercial PACE capital providers in the country, and a leader in developing and innovating commercial PACE policy and programs. We are writing in support of the principles underlying HB2088 and the amendments approved by the previous committee that aligns the legislation with best practices nationally.

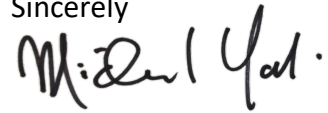
Commercial PACE has seen tremendous growth across the country in the past few years. Just in the past few years alone states such as Washington, Nevada, Alaska, Tennessee, and Oklahoma have passed legislation and launched programs. All these statutes have built upon the legal and capital market foundations that have made commercial PACE a successful and sought-after form of financing that accomplishes the public policy goals of their enacting jurisdictions.

We support the bifurcation of commercial from residential programs. Unlike residential, Hawaii can expect to see, initially, just a handful of commercial projects moving forward, as have all new states that have adopted CPACE programs. The requirements of project finance, construction entitlements, and lender consent all are natural governors of how fast CPACE can grow. But it will grow in the islands, and we appreciate your support.

Most importantly, we know that there are projects now on Oahu, on Maui, on Kauai that would like to receive the benefits of CPACE financing. Because the scale of commercial is so much lower than residential, and because most commercial financing for construction means that the property owner does not see their first property bill for at least a year to two years, we urge that the implementation date for Commercial PACE be effective now. We understand that there may be some time required to integrate billing into the county systems, but that time works well within the timelines of how Commercial PACE works in practice.

HB2088 is an important step towards establishing a successful commercial PACE program for businesses and property owners in Hawaii. We urge your support for advancing HB2088 through the legislative process as we continue working with the bill authors.

Sincerely

A handwritten signature in black ink that reads "Michael Yaki". The signature is written in a cursive, slightly stylized font.

MICHAEL YAKI

Senior Vice President & Sr. Counsel
Policy and Programs
Petros PACE Finance, LLC

nuveen

GREEN CAPITAL

February 15, 2022

The Hon. Chair Johanson,
Consumer Protection & Commerce Committee
State Capitol, 415 South Beretania Street
Honolulu, HI 96813

RE: HB 2088
CC: Hon. Speaker Saiki

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee on Consumer Protection & Commerce:

We are writing on behalf of Nuveen Green Capital in support of the objective of HB2088 to enable a statewide Commercial PACE (C-PACE) Program in Hawaii. As a leading provider of C-PACE financing, we have seen firsthand the value that C-PACE programs bring to communities. With C-PACE, businesses save on their monthly utility bills and maintenance costs. C-PACE removes the traditional barriers building owners face to invest in building performance and renewable energy. C-PACE projects create jobs, foster business expansion and retention, upgrade building stock, and encourage resource conservation. C-PACE policy is one of those rare instances where everyone is a winner. **We strongly support this legislation.**

C-PACE funding does not rely on any taxpayer or public dollars. Instead, private financing is facilitated through a voluntary contractual property assessment secured by a senior, nonextinguishable lien on the property. This structure allows our company, Nuveen Green Capital, to offer 100% upfront capital at competitive market rates with attractive terms to a range of businesses that need financing to overcome the steep upfront costs of sustainable capital improvements. This structure has enabled over \$2B in sustainable investment in 30 states.

As currently written, HB2088 requires a few minor adjustments to conform to this structure. We have been working alongside industry partners and the bill authors on proposed amendments that will ensure Hawaii has a bankable program that will attract low-cost private capital, achieve sustainability outcomes, and protect property owners and counties from financial risk. While those detailed edits are proposed by the bill authors, in summary, the bill must:

- More clearly denote the form of financial instrument entered into by the Hawaii Green Infrastructure Authority (HGIA) and capital providers.
- Clarify that other forms of delinquent liens do not trigger the acceleration of the Property Assessed Financing Assessment Contract.

Finally, we encourage the effective date of HB 2088 to be immediate to allow HGIA to promptly move forward on design and launch of the program. Nuveen Green Capital and other capital providers stand ready and available to you and other members of the Legislature to help you achieve your goals. We urge your support for advancing HB2088 through the legislative process.

Sincerely,



Genevieve Sherman
Head of C-PACE Programs & Policy
Nuveen Green Capital
genevieve.sherman@nuveen.com



Feb. 15, 2022

In Support of **HB2088** Relating to Financing
House Committee on Consumer Protection and Commerce (CPC)
Hearing on Feb. 16, 2:00pm

Aloha, Chair Johanson, Vice-Chair Kitagawa and Members of the Committee:

On behalf of the non-profit WAI: Wastewater Alternatives & Innovations, I am writing in **strong support of HB2088**. This bill would help homeowners with the costs of replacing their cesspools and other essential upgrades by creating a revolving loan fund under the administration of the Hawaii Green Infrastructure Authority that will spur environmental and economic development projects. This kind of property-assessed financing can unlock new markets and inject needed capital into upgrading cesspools and installing and installing energy upgrades.

Hawaii has more than 88,000 cesspools across the state, discharging 53 million gallons of raw sewage each day into Hawaii's waters. That's similar to a massive sewage spill every day! The people of Hawaii need this law to make sure their wastewater systems aren't polluting the groundwater or nearby surface waters. As a member of the State's Cesspool Conversion Working Group, I believe this bill provides an important economic tool for the state to fulfill its mandate under Act 125 to convert all cesspools by 2050.

WAI is dedicated to protecting our drinking water, groundwater and near-shore ecosystems by reducing sewage pollution from cesspools and failing septic systems. Our goal is to help find more innovative, affordable, and eco-friendly solutions to wastewater management. Better sanitation systems reduce sewage pollution and make properties more valuable, while also protecting our groundwater, streams and the health of our coral reefs and coastal areas.

Hawaii is struggling with serious sewage pollution problems, and the state has a mandate to make sure all cesspools are converted in the next three decades. Most homeowners don't have enough money to convert their individual cesspools, but this law will help homeowners by creating property-assessed financing that will encourage banks and mortgage companies to lend them the needed funds. Thirty-seven other states have similar Property-Assessed Clean Energy (PACE) legislation. This bill will also provide funds to upgrade each county's billing systems to accommodate these special tax assessments.

Based on successful legislation and models in other states, this bill creates a practical and expedient way to convert cesspools with property-assessed financing through the Green Infrastructure Authority. It will also help homeowners, the counties and the state meet the mandate to convert all cesspools by 2050. Mahalo for your leadership on this issue and support of this bill.

Aloha,

Stuart Coleman

Stuart H. Coleman, Executive Director

WAI: Wastewater Alternatives & Innovations * 2927 Hibiscus Pl. * Honolulu, HI 96815
808-381-6220 * info@waicleanwater.org * www.WaiCleanWater.org

HB-2088-HD-1

Submitted on: 2/15/2022 12:47:09 PM

Testimony for CPC on 2/16/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ted Bohlen	Hawai'i Reef and Ocean Coalition (HIROC)	Support	No

Comments:

To: The Honorable Aaron Ling Johanson, Chair, the Honorable Lisa Kitagawa, Vice Chair, and members of the House Consumer Protection and Commerce Committee

From: Hawai'i Reef and Ocean Coalition (HIROC) (by Ted Bohlen)

Re: Hearing HB2088 HD1 RELATING TO FINANCING.

Wednesday February 16, 2022, 2:00 p.m., by videoconference

Aloha Chair Johanson, Vice Chair Kitagawa, and members of the House Consumer Protection and Commerce Committee:

Position: **Hawai'i Reef and Ocean Coalition (HIROC) STRONGLY SUPPORTS HB2088 HD1!**

Hawai'i Reef and Ocean Coalition (HIROC) strongly supports this bill, which creates an environmental and economic development revolving loan fund to be administered by the Hawai'i Green Infrastructure Authority. The bill will enable property-assessed financing, which will help homeowners and others access capital through the loan fund to finance upgrades of cesspools. **This revolving loan fund model, which has worked in many other states, can unlock new markets and inject needed capital to help resolve the serious statewide water pollution problem caused by cesspools.**

Hawai'i needs to upgrade cesspools now in order to protect its drinking water and surface waters! This bill will help homeowners finance those upgrades.

Please pass this bill!

Mahalo!

Hawai'i Reef and Ocean Coalition (HIROC) (by Ted Bohlen)

Presentation to The
Committee on Consumer Protection & Commerce
Wednesday, February 16, 2022, 2:00 p.m.
State Capitol Via Videoconference

Testimony on HB 2088 In Opposition

TO: The Honorable Aaron Ling Johanson, Chair
The Honorable Lisa Kitagawa, Vice Chair
Members of the Committee

My name is Neal K. Okabayashi, Executive Director of the Hawaii Bankers Association (HBA). HBA represents seven Hawai'i banks and three banks from the continent with branches in Hawai'i.

HBA opposes this bill as it seeks to remedy a cesspool problem and other environmental issues, including hurricane remedial measures, by requiring the banks to bear the risk and cost of a failure of a borrower to repay the loan that comes from federal funds.

There is no doubt that there is a cesspool problem but the solution should not create another problem.

The bill would create a super lien so that the loan to remedy the cesspool problem and other issues would be senior to the lien of mortgages previously recorded or registered. Lenders would be blindsided by such a loan because there is no way to predict when a loan will be made that is senior to the lender's loan. In essence, the lenders are unable to protect itself from harm.

Lenders are able to predict the amount of the real property tax just by reviewing the title report but the title report will not reflect the possibility of a loan for cesspools or the need for environmental or hurricane remedies.

This bill mirrors the lien priority language in the PACE bill introduced under Governor Lingle. That bill did not pass because, in part, the super lien of the PACE loan would have caused havoc on the mortgage market.

This bill would do the same so it is like a pace loan. It is possible that lenders will shy away from making a mortgage loan on property, residential or commercial, which has a cesspool on the property. Potential borrowers will have to assuage the lender that the property has no cesspool. But despite the due diligence that the lender may perform (required by regulators), if the property has a cesspool on it, the lender must assume that there will be a super lien in the future leaving the lender with essentially a second mortgage or an unsecured loan.

Besides the cesspool issue, many properties may be in need for environmental issue fixes or hurricane remedies so it is even more impossible for lenders to protect themselves because the borrower cannot assure the lender that the lender's lien will not be subject to a super lien in the future. A cesspool

may exist on the property at the time of loan but an environmental or hurricane issue may not then be on the property. How can the lender protect itself?

Federal law requires banks to conduct a review of the borrower's ability to repay but analyzing the ability to repay does not tell the banks about a future loan of an unknown size that will be a lien superior to the bank. Every bank is required to conduct its business in a safe and sound manner and avoid risks that cannot be avoided. This pace loan is such a risk.

When lenders make a loan they do a loan-to-value (LTV) analysis which is basically the ratio of the loan to the value of the property. For example, if the property is valued at \$300,000 and the loan is \$240,000, the LTV is 80% which is standard. If the LTV is greater than 80%, then the lender will require the borrower to obtain private mortgage insurance (PMI). The LTV is greater than 80% when the borrower's down payment is less than the usual 20% down payment but, in this case, it will exceed 80% because of a future loan that will be senior to the lien of the lender. The requirement of receiving the lender's consent for a loan in excess of 20% of the property value is meaningless because what it means that the pace loan can be \$60,000 and thus, the LTV will be 100% thus making a mortgage loan an unsecured loan and be treated as such.

We also note the constitutional concern expressed by the Attorney General, and their thought that the requirement of analyzing the ability to repay the pace loan, limiting the loan amount, and an escrow account, makes the bill more "reasonable" but it does not make the bill more "reasonable" because if the borrow cannot pay, then in a foreclosure, the only remedy for the lender is that the proceeds of sale will make the lender whole. When the pace loan cuts in front of the loan the lender made in good faith, the State gets its loan proceeds before the lender, which means there is less monies for the lender to recover and the lender will not receive the benefits it bargained for in the mortgage contract.

To ameliorate this situation, HBA asks that the provision for the super lien be deleted from the bill so the priority of the pace like loan will be junior to all previously recorded or registered liens, just the same as any other lien.

Starting on page 12 of HD 1, subsection (c)(5), the present language should be deleted, and the following amendment should be substituted thereof:

(5) The property assessed financing assessment contract, or summary memorandum of such contract, shall be recorded by the property assessed financing lender in the public records of the State or of the county within which the property is located within five days after execution by the parties to the contract. The recorded contract shall provide constructive notice of the levy of, and obligation of the property owner to pay, the property assessed financing assessment. The property assessed financing assessment to be levied on the property shall be a non-ad valorem special tax assessment and a lien against the property subordinate to all liens recorded in the bureau of conveyances or registered in the land court prior to recordation or registration of the property assessed financing assessment contract [on a parity with the lien of general real property taxes and the lien of any other assessments levied under section 46-80, from the date of recordation entered into pursuant to this section] until paid or satisfied in accordance with the property assessed financing assessment contract;

Also, starting on page 16, line 9, in subsection (c)(9), the currents (c)(9) should be deleted and the following amendment should be substituted thereof:

(9) Prior to the execution by the authority of the first property assessed financing assessment contract in a county, the authority shall enter into a contract with the county director of finance or county director of budget and fiscal services to cause such director to

levy and collect any property assessed financing assessment approved and certified by the authority to the director for collection. The director shall levy and collect any property assessed financing assessment approved by the authority. Each property assessed financing assessment so approved for collection shall be a non-ad valorem special tax assessment and shall be collected in the same manner as general real property taxes are collected and be subject to the same penalties and same procedure, sale, [and] except for lien priority which lien priority shall be in the order of recordation or registration except for general real property taxes, subject to this section, in case of delinquency as is provided by general law for default of the payment of real property taxes, unless another procedure is agreed upon by the authority and the director. The director may add to any property assessed financing assessment such reasonable administrative costs as are agreed upon by the authority and the director. The director shall remit any property assessed financing assessments collected, less any reasonable administrative costs added by the director, to or on the direction of the authority, for further application by the authority to pay each property assessed financing lender and to pay the reasonable administrative costs of the authority in accordance with each property assessed financing assessment contract. The director shall covenant in a contract or instrument, for the benefit of any property assessed financing lender or bondholder, to commence and diligently pursue to completion the foreclosure of delinquent property assessed financing assessments and any penalty, interest, and costs by advertisement and sale and with the same effect as provided by general law for sales of real property pursuant to default in payment of property taxes. The covenant shall specify a deadline for commencement of the foreclosure sale and any other terms and conditions the director of finance or director of budget and fiscal services determines reasonable regarding the foreclosure sale. For property assessed financing assessments levied but not paid when due pursuant to a property assessed financing assessment contract, the foreclosure of the lien of the property assessed financing assessment shall not accelerate or extinguish the remaining term of the property assessed financing assessment as approved in the property assessed financing assessment contract.

HBA also notes that today's agenda includes two other proposed bills on remedying cesspools and without including a provision for a senior lien. Those bills are HB 1805, HD 1, which preceded this bill, and HB 2195, HD 1, which follows this bill.

Thank you for the opportunity to submit this testimony in opposition to HB 2088. Please let us know if we can provide further information.

Neal K. Okabayashi
(808) 524-5161

HB-2088-HD-1

Submitted on: 2/14/2022 7:13:32 PM

Testimony for CPC on 2/16/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jonathan McRoberts	Individual	Support	No

Comments:

I strongly support the passage of HB2088. Protecting our environment is key to our future as an attractive tourist destination, and more importantly, anything that contributes to the general health of our citizens should be supported.

Jonathan McRoberts

808-652-6863

Princeville, HI

HB-2088-HD-1

Submitted on: 2/14/2022 4:05:07 PM

Testimony for CPC on 2/16/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
David Dinner	Individual	Support	No

Comments:

The number of polluted beaches and the number of days that they are polluted is unacceptable. Our sewage infrastructure is far outdated and we must take action or suffer grave consequences as rainfall amounts increase and floods worsen. Please assist those who cannot afford to make the changeover to septic tanks.

HB-2088-HD-1

Submitted on: 2/14/2022 11:00:21 PM

Testimony for CPC on 2/16/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Andrea Nandoskar	Individual	Support	No

Comments:

Support!

HB-2088-HD-1

Submitted on: 2/15/2022 1:27:35 PM

Testimony for CPC on 2/16/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Christina Comfort	Individual	Support	No

Comments:

Cesspools cause immense amounts of pollution every day across Hawaii. Over 88,000 cesspools discharge 53 million gallons per day of untreated wastewater into the ground, groundwater, and coastal ocean, where it causes harm to human and ecological health. All cesspools must be converted by 2050, which is a critical goal to help reduce land based pollution to our coastal oceans and coral reefs. However, a huge barrier to implementation of this mandate is cost and appropriate financing tools.

Most homeowners don't have enough money to convert their individual cesspools, but this law will help homeowners by creating property-assessed financing that will encourage banks and mortgage companies to lend them the needed funds. Thirty-seven other states have similar Property-Assessed Clean Energy (PACE) legislation. This bill will provide funds to upgrade each county's billing systems to accommodate these special tax assessments.

Based on successful bills in other states, this bill creates a practical and expedient way to convert cesspools with property-assessed financing through the Green Infrastructure Authority. It will also help homeowners, the counties and the state meet the mandate to convert all cesspools by 2050.

Mahalo for your leadership on this issue and support of this bill.

Christina Comfort

Oceanographer, UH Manoa

Resident, Pupukeya, Oahu



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

LATE

Testimony Presented Before the
House Committee on Consumer Protection & Commerce
Wednesday, February 16, 2022 at 2:00 p.m.

By

Darren T. Lerner, PhD
Director, Sea Grant College Program,
School of Ocean and Earth Science and Technology

And

Michael Bruno, PhD
Provost
University of Hawai'i at Mānoa

HB 2088 HD1 – RELATING TO FINANCING

Chair Johanson, Vice Chair Kitagawa, and members of the committee:

The University of Hawai'i Sea Grant College Program (Hawai'i Sea Grant) supports HB 2088 HD1. This legislation would help to enhance our community's ability to convert cesspools to more advanced forms of wastewater treatment by creating a revolving loan fund under the administration of the Hawaii Green Infrastructure Authority. The proposed legislation would create new options for cesspool owners to finance qualifying improvements, including cesspool upgrades. This bill would enhance and expand the benefits and impacts of the Green Infrastructure Authority's work and would enhance the state's capacity to fulfill its mandate under Act 125, which requires the conversion of all cesspools by 2050.

Cesspools are significant contributors to nonpoint source pollution. The unabated flow of untreated waste has detrimental effects on human and environmental health. Cesspool pollution particularly impacts the wellbeing of coastal ecosystems facing numerous stressors, from shoreline development to global climate change. One of the primary impediments to cesspool conversion is the cost to individual families. Many of the owners of the state's 88,000 cesspool owners are likely benefit from the availability of a new financing option to cover the cost of mandated conversion.

Hawai'i Sea Grant supports HB 2088 HD1, which will help homeowners with the costs of replacing their cesspools and other essential upgrades.

Thank you for the opportunity to testify on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

LATE

SUBJECT: REAL PROPERTY, Property Assessed Financing

BILL NUMBER: HB 2088 HD 1

INTRODUCED BY: House Committee on Energy & Environmental Protection

EXECUTIVE SUMMARY: Creates the environmental and economic development revolving loan fund under the administration of the Hawaii Green Infrastructure Authority. Allows property owners to finance qualified improvements through a non-ad valorem property assessment. This is a variant of a residential property assessed clean energy, or PACE, program that has been recognized and described by the U.S. Department of Energy. There are significant advantages and detriments to this program.

SYNOPSIS: Adds new sections to chapter 196, HRS, one of which allows a residential property owner to apply to the county in which the property is located for funding to finance a qualifying improvement. The financing agreement is to include an annual assessment over a fixed term that will appear annually on the owner's property tax bill, where such assessment is to constitute a lien of equal dignity to county taxes and assessments from and after the date of recordation of the financing agreement.

Defines a qualifying improvement as septic systems or aerobic treatment unit systems or connections to sewer systems, clean energy technologies, efficiency technologies, resiliency measures, and other improvements approved by the authority.

Provides that at least thirty days before entering into a financing agreement, the property owner shall provide to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the property a notice of the owner's intent to enter into a financing agreement together with the maximum principal amount to be financed and the maximum annual assessment necessary to repay that amount. Provides that the senior lienors may not accelerate their debt solely as a result of the homeowner entering into the financing agreement, but may increase the required monthly escrow by an amount necessary to annually pay the improvement assessment. Makes additional technical and conforming amendments.

EFFECTIVE DATE: July 1, 2100

STAFF COMMENTS: This bill is an Administration bill sponsored by DBEDT and designated BED-13 (22).

The proposed program is a variant of a program known nationally as a PACE (property assessed clean energy) program.

This bill essentially turns the counties into lenders that are supposed to finance qualified improvements. However, county governments typically don't lend money as a core government function and aren't expected to know the first thing about lending money. Sure, they can partner

with the Hawaii Green Infrastructure Authority, which is a money lending agency of sorts. Without some assurance that the proper competencies will be exercised by county and state governments in responsible fashion, it may be a steep uphill struggle, to say the least, to get revenue bond underwriters on board.

PACE programs are in other areas around the country and can work with proper preparation and coordination of government resources. The U.S. Department of Energy summarized the advantages and disadvantages of PACE programs thus:

Advantages

- Allows for secure financing of comprehensive projects over a longer term, making more projects cash flow positive.
- Spreads repayment over many years, seldom requires an upfront payment, and removes the requirement that the debt be paid at sale or refinance.
- Can lead to low interest rates because of the high security of loan repayments attached to the property tax bill.
- Helps some property owners deduct payments from their income tax liability.
- Allows municipalities to encourage energy efficiency and renewable energy without putting general funds at risk.
- Taps into large sources of private capital.

Disadvantages

- Available only to property owners.
- Cannot finance portable items (screw-in light bulbs, standard refrigerators, etc.).
- Can require dedicated local government staff time.
- May require high legal and administrative setup obligations.
- Not appropriate for investments below \$2,500.
- Potential resistance by lenders/mortgage-holders whose claims to the property may be subordinated to the unpaid assessment amount should the property go into foreclosure.

As of 2019, over 200,000 homeowners have made \$5 billion in energy efficiency and other improvements to their homes through PACE financing. Typical home improvement projects include replacement of broken or failing heating and cooling systems and hot water heaters; air sealing and insulation; ENERGY STAR doors, windows, roofing; ENERGY STAR appliances; solar photovoltaic systems; and water conservation and resiliency measures (e.g., seismic retrofits and wind hazard protection). Residential PACE financing programs are currently available in the following states:

- California (10 active programs)

Re: HB 2088 HD1

Page 3

- Florida (4 active programs)
- Missouri (3 active programs).

U.S. Department of Energy, Property Assessed Clean Energy Programs,
at <https://www.energy.gov/eere/slsc/property-assessed-clean-energy-programs>.

Digested: 2/15/2022



Testimony to the House Committee on Consumer Protection & Commerce
February 16, 2022
2:00 PM
Via Videoconference

LATE

In Opposition to HB 2088 HD1, Relating to Financing

To: The Honorable Aaron Johanson, Chair
The Honorable Lisa Kitagawa, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 48 Hawaii credit unions, representing over 867,000 credit union members across the state.

We are in opposition to HB 2088 HD1, Relating to Financing. This bill would create the environmental and economic development revolving loan fund under the administration of the Hawaii Green Infrastructure Authority.

While we understand that the intent of this measure is to provide a method of financing for cesspool conversion and other “clean energy improvements”, this bill would create the unintended consequence of creating a “super-lien”. Because the structure would make the mortgage lien second to this environmental lien, lenders would have to take the risk into account when making the loan. With the home tied to the environmental loan, there is also a higher risk to the borrower.

Further, a loan program such as this is unnecessary in a time when many financial institutions, including credit unions, already offer specialized, low-cost loans for green energy home improvements.

Thank you for the opportunity to provide comments on this issue.



LATE

February 15, 2022

TESTIMONY in SUPPORT OF HB 2088

Dear Committee on Consumer Protection and Commerce,

I am writing on behalf of my organization, the Coral Reef Alliance, in support of HB 2088. There are approximately eighty-eight thousand cesspools in the State, which collectively release more than fifty-three million gallons of untreated sewage into the ground each day and enters our fragile ecosystem. Hawaii relies on groundwater for ninety per cent of its drinking water and our nearshore waters that receive this pollution provide vast economic benefits to Hawaii's residents and visitors alike through ecosystem services.

The financing of home improvements such as converting cesspool systems is a huge hurdle and finding a creative solution will benefit both our environment and public health. Innovative bills like HB 2088 provides a creative financing solution via local governance assistance. Now, more than ever, we need to restore public trust by taking care of both our waters and people's health and well-being. Thank you for your bold and innovative leadership in supporting HB 2088.

Sincerely,

A handwritten signature in black ink that reads "Manuel Mejia".

Manuel Mejia

Regional Program Director, Hawaii Islands Program (CORAL)

mmejia@coral.org

LATE

HB-2088-HD-1

Submitted on: 2/15/2022 2:25:06 PM

Testimony for CPC on 2/16/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cara Oba	Individual	Support	No

Comments:

I support this bill! We should do what we can to eliminate cesspools.