

JOSH GREEN, M.D.
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

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

SENATE COMMITTEE ON HOUSING
February 14, 2023 at 1:01 p.m.
State Capitol, Room 225

In consideration of
S.B. 551 SD1
RELATING TO HOUSING.

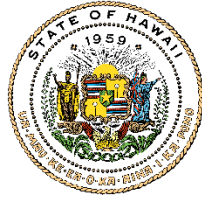
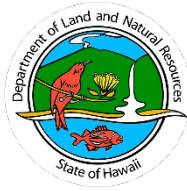
HHFDC supports S.B. 551 SD1, which seeks to make it clear that certain housing projects shall be exempt from all statutes, ordinances, charter provisions, and rules relating to planning, zoning, and other certain standards, as outlined in section 201H-38 of the Hawaii Revised Statutes.

The lack of affordable housing continues to be one of the biggest issues facing the state. Measures like this help to streamline the delivery of housing.

Thank you for the opportunity to provide testimony.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

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LAND
STATE PARKS

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the Senate Committee on
HOUSING**

**Tuesday, February 14, 2023
1:01 PM
State Capitol, Conference Room 225**

**In consideration of
SENATE BILL 551 SENATE DRAFT 1
RELATING TO HOUSING**

Senate Bill 551, Senate Draft 1 proposes to amend Hawaii Revised Statute (HRS) §201H-38(a) by adding a leading statement, “Notwithstanding any law to the contrary”. **The Department of Land and Natural Resources (Department) respectfully offers the following comments, and suggested amendments.**

While the Department recognizes existing language in HRS §201H-38(a) already allows housing projects exemptions “from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, constructions standards for subdivision, development and improvement of land, and the construction of dwelling units...”, the Department, in its capacity as the State Coordinating Agency for the National Flood Insurance Program (NFIP), must inform the committee that the State and four counties participate in the NFIP and are subject to federal regulations in accordance with the National Flood Insurance Act of 1968 (42 U.S.C. §§4001).

Pursuant to 44 CFR§59.24, the Federal Emergency Management Agency (FEMA) could suspend a participating community from the NFIP for failing to adequately administer and enforce floodplain development regulations, which require permits for all work within Special Flood Hazard Areas (A or V zones) identified FEMA’s Flood Insurance Rate Maps (FIRMS). Any state or county law that is not consistent with the NFIP jeopardizes continued eligibility and participation. The unintended consequences of program suspension, include but are not limited to:

- No federal flood insurance can be sold or renewed in non-participating communities.
- Certain forms of Federal Disaster Assistance (including mitigation grants) will not be available in the event of a Presidential Disaster Declaration.

Senate Bill 551 Senate Draft 1 proposal to include a broad statement “Notwithstanding any law to the contrary”, could be construed as having the force of law that supersedes all other existing or proposed laws within HRS §201H which excludes exemptions for Special Flood Hazard Area development.

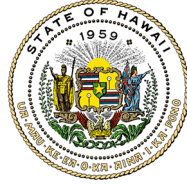
The Department recommends the following amendments be made instead:

"§201H-38 **Housing development; exemption from statutes, ordinances, charter provisions, and rules.** (a) ~~[The]~~ Provided that the development is not within a Special Flood Hazard Area as identified on the current Federal Emergency Management Agency's Flood Insurance Rate Maps, the corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects that shall be exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon; provided that:"

Mahalo for the opportunity to provide comments and proposed amendments to this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

LATE



KENNETH S. HARA
DIRECTOR OF EMERGENCY
MANAGEMENT

JAMES DS. BARROS
ADMINISTRATOR OF
EMERGENCY MANAGEMENT

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
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STATE OF HAWAI'I
DEPARTMENT OF DEFENSE
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 551 SD1
RELATING TO HOUSING

BEFORE THE SENATE COMMITTEE ON **HOUSING**

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAI'I EMERGENCY MANAGEMENT AGENCY

FEBRUARY 13, 2023

Aloha Chair Chang, Vice-Chair Kanuha, and members of the committees:

I am James Barros, Administrator of the Hawai'i Emergency Management Agency (HI-EMA).

HI-EMA provides written testimony to **OFFER COMMENTS** of SB551 SD1.

This bill would add language to Hawaii Revised Statutes Chapter 201H that in certain circumstances would allow the development of housing projects that are exempt from a wide array of statutes, ordinances, charter provisions and other government rules and regulations "notwithstanding any law to the contrary."

HI-EMA recognizes the value of such initiatives in addressing and reducing the shortage of affordable housing in Hawai'i. However, we have substantial concerns about the bill's approach to exempting developments from existing law.

The changes embodied in SB551 SD1 could be construed to exempt certain developments from provisions of Hawai'i Revised Statutes 46. The intent appears to be to remove potential regulatory obstacles to the rapid development of housing.

However, HRS 46 is a vital provision for Hawaii's participation in the National Flood Insurance Program (NFIP). In the past, legislation which exempted development from HRS 46 threatened the State's participation in this national program, and potentially could lead to federal sanctions.

If Hawai'i were to be sanctioned by NFIP, the state's property owners would no longer be able to obtain federal flood insurance, and existing policies could not be renewed. As of the most recent data, more than 54,000 Hawai'i property owners were covered by NFIP, with more than \$13 billion in property insured. Typical homeowner's insurance does NOT cover flood damage, which is among the most common disaster-related claims in the state.

Any exemption from HRS 46 which triggers NFIP sanctions would leave those tens of thousands of property owners with no flood coverage, and they also potentially would be excluded from federal disaster relief.

HI-EMA supports the testimony of the Department of Land and Natural Resources (DLNR), which serves as the State's coordinating agency for NFIP, to amend the language of SB551 SD1 to protect Hawaii's participation in the flood insurance program.

Several other pending bills which would exempt much-needed projects from HRS 46 contain similar potential threats to NFIP. We would also urge the committees to apply eagle-eyed scrutiny to these exemptions and amend them as needed to reduce the risk of inadvertently leaving 54,000 property owners without flood insurance coverage.

Thank you for the opportunity to provide testimony.

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