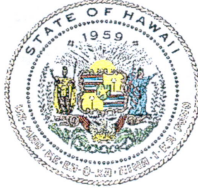
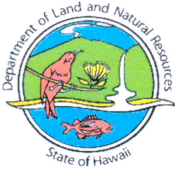


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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

P. O. BOX 621  
HONOLULU, HAWAII 96809

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

**Before the House Committee on  
JUDICIARY & HAWAIIAN AFFAIRS**

**Thursday, February 9, 2023  
2:00 p.m.**

**State Capitol, Conference Room 325 & Videoconference**

**In consideration of  
HOUSE BILL 15, HOUSE DRAFT 1  
RELATING TO REAL PROPERTY LIENS**

House Bill 15, House Draft 1 proposes to authorize the State and counties to place a lien on a property with unpaid civil fines resulting from a violation of a land use law in connection with the property. **The Department of Land and Natural Resources (Department) strongly supports this bill.**

Coastal erosion and rising seas are threatening our iconic public trust beaches and threatening shoreline homes throughout the State. Coastal properties often fall under both State and County jurisdictions. Private property owners whose property abuts public beaches are building erosion control structures on public beaches, and encroaching upon public trust land, to protect their private properties.

Shoreline hardening protects private property but destroys the public beaches for which Hawai'i is world-renowned and which provide recreational and cultural space for Hawai'i residents and visitors. Moreover, most makeshift and illegal hardening structures are band aid failures that end up washing away, leaving debris such as rock, concrete, rebar, and textiles along the shoreline and in the water. This debris creates public hazards in and out of the water, and can physically damage reef ecosystems, trap marine life, and pollute our nearshore waters.

These amendments would aid the Department in resolving encroaching structures that are largely unpermitted or remain under expired permits far beyond their allotted authorization. Unpermitted and illegal structures present an enforcement challenge when the shoreline property changes ownership.

Lien recordation will assist in the collection of civil penalties, abatement costs, and administrative costs as directed by the Board. A lien on property to address noncompliance of administrative enforcement actions for encroachments upon public lands will deter future violations and maintain the integrity of laws to protect public lands.

**DAWN N.S. CHANG**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

**LAURA H.E. KAAKUA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

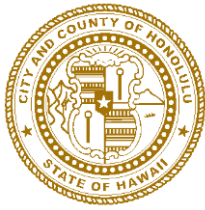
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND 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

The Department has found, in its investigations of alleged violations of conservation district rules, that subject properties often have additional unpaid civil violations.

The Department has also found that debris from unauthorized structures within the shoreline setback area is washed onto the beach and into the ocean during periods of high surf, creating a public hazard and negatively impacting the State's environment.

Both the Department and the individual counties have faced challenges in enforcing the laws that protect our natural resources, and we have been cooperating with each other when alleged violations cross jurisdictional lines. As such, the Department supports House Bill 15, House Draft 1, as it will strengthen the counties' ability to enforce the land use laws that protect our State's natural and cultural public trust resources.

Mahalo for the opportunity to provide testimony in support of this measure.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
530 SOUTH KING STREET, ROOM 202  
HONOLULU, HAWAII 96813-3065  
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

**Councilmember District 5**  
**Telephone: (808) 768-5005**  
**Email: ckysay@honolulu.gov**

February 7, 2023

**TO:** CHAIR DAVID A. TARNAS, COMMITTEE ON JUDICIARY & HAWAIIAN  
AFFAIRS  
VICE CHAIR GREGG TAKAYAMA, COMMITTEE ON JUDICIARY &  
HAWAIIAN AFFAIRS

**FROM:** COUNCILMEMBER CALVIN SAY  
HONOLULU CITY COUNCIL, DISTRICT V

**SUBJECT: TESTIMONY IN SUPPORT OF HOUSE BILL 15**

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee on Judiciary & Hawaiian Affairs:

I am a current member of the Honolulu City Council representing District 5 and serving as the Chair of the Zoning Committee. I stand in support of HB 15, which aims to authorize the State and the County in which the affected real property is situated to place a lien on the property for unpaid civil fines resulting from a violation of a land use law in connection with the property. It also authorizes the State and applicable County to sell the property after all notices, orders, and appeal proceedings, if any, are exhausted and use those revenues to pay unpaid civil fines related to that property.

Within the district I represent, we have multiple properties with Notices of Violations and/or Notices of Orders which have resulted in substantial fines to the property owners. These properties have brought health and safety hazards to the neighboring residents and community, however the accruing fines have not been a strong enough incentive to move the property owners to corrective action.

Our City Corporation Counsel is currently able to initiate a Judicial Foreclosure process, which has been successful in similar instances, however this is a long process that takes valuable resources away from other pressing legal matters. It also leaves the community with detrimental public nuisances such as fires, trash, and vermin. HB 15 would allow the City to keep our neighborhoods safe by stopping illegal activities, health hazards, and other public nuisances on properties in a more efficient and expeditious manner.

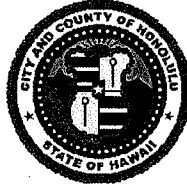
Thank you for this opportunity to testify in support of HB 15. Thank you for your time and consideration.

Calvin K.Y. Say  
District 5,  
Honolulu City Council

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

RICK BLANGIARDI  
MAYOR



DAWN TAKEUCHI APUNA  
DIRECTOR DESIGNATE

JIRO SUMADA  
DEPUTY DIRECTOR

February 9, 2023

The Honorable David A. Tarnas, Chair  
and Members of the Judiciary and Hawaiian Affairs  
Hawaii State House  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Tarnas and Committee Members:

**Subject: House Bill No. 15, HD 1  
Relating to the Real Property Liens**

The Department of Planning and Permitting (DPP) **supports** House Bill No. 15, HD 1, which would allow the counties to collect liens on properties for civil fines through a non-judicial foreclosure process.

This Bill would empower the DPP to better enforce against repeat and egregious offenders, which generally rack up the largest accruals of fines. Specifically, this Bill would authorize the City to bring closure to pending civil fines imposed on landowners who are in violation of the City's land use ordinances and building codes, through a non-judicial or administrative process. The counties currently have and exercise the authority to use the non-judicial foreclosure process for collection of real property tax liens, which this Bill would extend to collection of liens on properties for civil fines.

Currently, the DPP issues a Notice of Violation (NOV) to notify the violator of the violation and to provide a reasonable amount of time to cure the violation, either by removing the violation or obtaining the proper approvals. If the landowner fails to comply with the NOV, a Notice of Order is issued to impose daily civil fines until the violation is corrected. Once the fines accrue to a certain amount based on the type of violation, a lien is placed on the property. If the violator continues to be noncompliant and/or does not pay the fines, the City moves forward with the judicial foreclosure process. However, the current judicial foreclosure process is a much lengthier and costlier process subject to a legal process mostly beyond of the City's control. The City has lacked the legal manpower and funding to pursue judicial foreclosures, and believes that the non-judicial foreclosure process as currently employed by the real property tax collections, is a viable, more efficient and effective method for the City to collect liens on properties for civil fines.

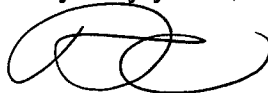
The Honorable David A. Tarnas, Chair  
and Members of the Judiciary and Hawaiian Affairs  
Hawaii State House  
House Bill No. 15, HD 1  
February 9, 2023  
Page 2

Concern has been raised that the City will abuse this authority and use it to “take” private property from our citizens. This could not be further from the truth. We assure you that this method of foreclosure provides abundant notice and opportunity to contest the foreclosure.

We respectfully request that you approve this Bill to allow the counties to implement non-judicial foreclosures to efficiently and effectively collect civil fines.

Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned below the text "Very truly yours,".

Dawn Takeuchi Apuna  
Director Designate