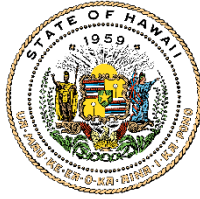


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

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

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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHANE
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

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND

Wednesday, February 5, 2025
1:00 p.m.

State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE BILL 1018
RELATING TO REAL ESTATE TRANSACTIONS

Senate Bill 1018 proposes to require a seller of real property adjacent to the shoreline, and the seller's agent, to disclose and include in all advertisements shoreline erosion certain issues related to the parcel. **The Department of Land and Natural Resources (Department) supports this bill.**

Coastal erosion and rising seas are threatening the State's iconic public trust beaches and threatening shoreline homes. Private property owners have built erosion control structures on public beaches, encroaching upon public trust lands, to protect their private properties.

In 2023, Hawai'i enacted Act 231 titled "Relating to Real Property Disclosures Within Shoreline Areas." This legislation mandated that sellers of residential properties adjacent to the shoreline disclose all existing permitted and unpermitted erosion control structures on the property, expiration dates of permitted structures, notices of alleged violation, and any pending fines associated with the parcel. The law aimed to enhance transparency in real estate transactions and to inform potential buyers about shoreline erosion issues.

The enactment of Act 231 underscored Hawai'i's commitment to addressing the challenges posed by climate change and coastal erosion, ensuring that prospective property owners are well-informed about the specific conditions affecting shoreline properties.

In Hawai'i, real estate transactions disclosure statements are provided to a potential buyer after an offer is accepted. Senate Bill 1018 would strengthen our shoreline disclosure requirements by mandating that these disclosures occur at the beginning of a real estate transaction rather than towards the end.

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



February 5, 2025

The Honorable Lorraine R. Inouye, Chair

Senate Committee on Water & Land

State Capitol, Conference Room 229 & Videoconference

RE: Senate Bill 1018, Relating to Real Estate Transactions

HEARING: Wednesday, February 5, 2025, at 1:00 p.m.

Aloha Chair Inouye, Vice Chair Elefante, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 10,000 members. HAR provides **comments** on Senate Bill 1018, which requires a seller of real property adjacent to the shoreline, and the seller's agent, to disclose and include in all advertisements shoreline erosion certain issues related to the parcel.

Requiring all advertisements to include detailed information on permitted and unpermitted erosion control structures, permit expiration dates, violation notices, and fines could be unworkable due to space constraints. Many real estate advertisements appear on platforms with character limits, such as online listings, newspaper, and social media posts. Ensuring full compliance in these settings may require significantly reducing or eliminating other key property details, potentially confusing buyers rather than informing them.

HAR has provisions regarding erosion control structures based on current law within the Seller's Real Property Disclosure Statement for the seller to disclose to the buyer if applicable.

- 14) ☐ ☐ ☐ ☐ Does the property lie adjacent to the shoreline?
- 14a) ☐ ☐ ☐ ☐ If yes, does the property include any erosion control structure? If yes, disclose in section G every permitted and unpermitted erosion control structure on the property, expiration dates for each permitted erosion control structure on the property, and notices of alleged violations and fines for each expired permitted or unpermitted erosion control structure on the property.

Additionally, HAR proactively created an Oceanfront Property Addendum to provide buyers with information specific to oceanfront properties. These documents help ensure buyers receive relevant details in the appropriate context. However, including this information in advertisements without context may make it even more difficult to interpret.

Mahalo for the opportunity to testify on this measure.

SB-1018

Submitted on: 2/3/2025 9:28:54 PM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Denise E Antolini	Testifying for Protect Paumalu	Support	Written Testimony Only

Comments:

Aloha WTL Chair Inouye, Vice Chair Elefante, and Members,

I strongly support SB1018. I am a member of a new community group "Protect Paumalū" that is engaged in monitoring and voicing community concerns about the "erosion hot spot" on the North Shore in an area called Kammies (between Sunset Beach and Rocky Point), in the ahupua'a of Paumalū.

This is the same area where two houses (owned by the same investor, Joshua VanEmmerik) were demolished last year by order of the City DPP when one house started to collapse into the beach after months of erosion and undermining of the house.

(The house that collapsed was notorious because Mr. VanEmmerik, who is not from the North Shore, had poured tons of concrete illegally on the beach when erosion began to accelerate in front of the house after he bought the home and the one next door to use as illegal vacation rental.s)

Let me tell you a story about why this bill is **SUPER important:** the landowner of those two homes (Mr. VanEmmerik) had put them up for sale on Zillow AFTER he had been caught by DLNR for the illegal concrete pour and AFTER he put in an illegal burrito system. He was trying to dump them - but for millions each. The real estate agent who represented him did NOT disclose to buyers the severe erosion issues, the pending fines from DLNR, or the unpermitted "erosion control devices."

I know this first hand because I went to an Open House when the first home was on the market - the seller's agent NEVER mentioned the problems with the erosion or violations or the *two* BLNR enforcement actions (the ad, as I recall, simply said the buyer had to do "due diligence" on their own), and the buyer's agent (supposedly representing me as the potential buyer) only vaguely mentioned the erosion issue (about which I had extensive knowledge from attending several BLNR meetings on the matter).

"My" (buyer) agent handed me "engineered drawings" that supposedly would "secure" the house from falling into the ocean. I showed the drawings to experts who just laughed at the fool's errand and misrepresentation of putting an "anchor system" under the house that was sitting on an rapidly eroding sand dune.

This is the same house that COLLAPSED onto the beach and spread debris all over the beach and into the ocean a few months later! Mr. VanEmmerik ultimately had to demolish both houses, and defaulted on his mortgages to two banks. Remember, these houses were being marketed for months on Zillow to buyers without disclosure of key info in the advertising. Outrageous.

Some real estate agents, particularly those with roots in the community, are honest with buyers. Many are not. I can say that with some confidence after recently speaking to an agent up here on the North Shore who was "appalled" to hear a seller's agent (for a different home, on Waialua shoreline) fail to disclose the home's illegal seawall. She was so outraged she insisted on walking her client out of the home on the spot - and she told me that many shoreline homes are being sold without full disclosure of the erosion risks to buyers.

This bill is a big step forward for "truth in advertising" and also will protect buyers who should be able to rely on agents to tell them the truth. In turn, agents would be required to get accurate information from the seller. Most importantly, it provides key information to the market as a whole for shoreline property about the true risk and value. It makes no sense and is inconsistent with the state shoreline policies in Act 16 (2020) to wait until an offer is made for this critical information to be shared with potential buyers.

Please move this bill forward and build on the prior "transaction" disclosure bill passed by the Legislature two years ago to protect our beaches held in public trust.

Mahalo.

Denise Antolini, Pūpūkea resident

Member, Protect Paumalū



February 5, 2025

Senate Committee on Water and Land
Hawai'i State Legislature
Via Electronic Transmission

Re: Testimony in SUPPORT of SB1018, Relating to Real Estate Transactions
Hearing: Wednesday, February 5, 2025, 1:00 PM Conference Room 229 and
Videoconference

To: The Honorable Chair Inouye, Vice Chair Elefante, and Members of the Committee

Surfrider Foundation Hawai'i Region strongly supports Senate Bill 1018 which would require a seller of real property adjacent to the shoreline, and the seller's agent, to disclose and include in all advertisements shoreline erosion certain issues related to the parcel. Prospective beachfront property buyers in Hawai'i need to know about the possible risks associated with a property as early as possible in a real estate transaction, and SB1018 would help do just that.

Surfrider Foundation is a grassroots activist network dedicated to the protection of our oceans, waves, and beaches. Our Coast & Climate initiative protects our shorelines by proactively addressing threats like coastal development, sea walls, and other types of shoreline armoring. The three Hawai'i Chapters on Maui, Kaua'i, and O'ahu are taking on issues that threaten our beaches and shorelines.

Beachfront properties in Hawai'i are often purchased by out-of-state investors who lack a deep understanding of Hawai'i's unique coastal erosion patterns, including long-term trends, localized hotspots, and the impacts of climate change. Buyers may underestimate the rate of erosion and the potential for future property loss and overestimate what they can do to protect their property - both legally and financially. Further, there have been instances where buyers have closed on beachfront properties in Hawai'i sight unseen, solely reliant on online advertisements and the advice of real estate agents who stand to gain from any transaction.

Prospective homebuyers also sometimes lack important knowledge on legal and regulatory regimes such as shoreline setbacks and emergency hardening provisions. More importantly,

prospective homebuyers can lack awareness about the legality of existing structures installed to protect a property from sea level rise, let alone the history of these structures, their effectiveness (or lack thereof), the permitting process involved in maintaining or repairing them, or potential legal liabilities associated with them. They are also likely unaware of the environmental, social, and financial controversies surrounding such structures and their impact on adjacent beaches.

Sellers and their agents may downplay or omit details about erosion issues in initial property listings and marketing materials, focusing instead on the desirable aspects of beachfront living. Brochures and online listings often highlight stunning views and luxurious amenities but rarely mention the risks of coastal erosion. Critical information about erosion, shoreline setbacks, and existing shoreline protection structures is currently not disclosed until later in the real estate transaction, during the disclosure phase. See H.R.S. § 508D-15(a). This disclosure phase occurs after the buyer has already spent significant time and money on inspections, appraisals, and legal due diligence.

By the time a prospective buyer learns the full extent of the coastal erosion risks, they may have already invested considerable resources in the purchase. This can create a "sunk cost" fallacy, making them more likely to proceed with the transaction despite the risks, rather than walk away and lose their investment. Their negotiating position is also weakened, as the seller is aware of the buyer's commitment. The disclosure phase often occurs under tight deadlines, giving buyers limited time to fully assess the implications of the disclosed information. A buyer may feel pressured to make a quick decision, potentially overlooking crucial details or feeling they don't have time to seek independent expert advice on coastal issues affecting their potential property.

Additionally, after going through great lengths to buy an oceanfront property new homeowners may be more likely to go to great lengths to protect that property. SB1018 would essentially be the opposite of 'kicking the can down the line' and brings to light the inherent limitations of oceanfront properties. Homeowners may enjoy the benefits of having an oceanfront property, but they also must carry the associated risk.

In summary, by requiring real estate agents and sellers to include all shoreline erosion related issues in all advertisements, long-term coastal erosion issues cannot as easily be passed off as someone else's issue. **Coastal erosion issues facing oceanfront property owners must be brought into the open and addressed with urgency.** This is not an issue that can be swept under the rug and prolonged through new homeownership.

Mahalo for your time and the opportunity to provide testimony.

Sincerely,

Hanna Lilley
Hawai'i Regional Manager
Surfrider Foundation

SB-1018

Submitted on: 2/3/2025 3:34:05 PM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
tiare lawrence	Individual	Support	Written Testimony Only

Comments:

Testimony in Support of SB 1018

Aloha Chair and Members of the Committee,

I strongly support SB 1018, which requires sellers and their agents to disclose shoreline erosion issues in all advertisements for oceanfront properties. Out-of-state investors frequently purchase beachfront homes in Hawai‘i without fully understanding the long-term impacts of coastal erosion, rising sea levels, and regulatory restrictions. Many buyers rely solely on online listings and real estate agents who prioritize closing sales over full transparency. This lack of awareness has led to homeowners facing unexpected legal and financial burdens when they realize their property is at risk of erosion or subject to strict setback laws. By ensuring full disclosure from the outset, SB 1018 will protect prospective buyers from making uninformed investments while also promoting responsible shoreline management.

This measure also addresses a long-standing issue of real estate marketing that often downplays or omits critical details about erosion risks. Too often, the focus is placed on the appeal of beachfront living, while the reality of land loss, costly emergency hardening measures, and legal restrictions remains hidden until after a sale is finalized. SB 1018 helps prevent this cycle by making erosion risks a mandatory part of property disclosures, ensuring that buyers are fully informed before making a commitment. This is not about discouraging property sales but about creating accountability—those who benefit from owning oceanfront land must also acknowledge and plan for the responsibilities that come with it. Passing SB 1018 is a step toward sustainable coastal management and fairness in real estate transactions. Mahalo for your time and consideration.

Tiare Lawrence

SB-1018

Submitted on: 2/3/2025 6:13:21 PM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
arleen velasco	Individual	Support	Written Testimony Only

Comments:

I strongly SUPPORT Senate Bill 1018

Knowing the true state of a coastal property should be the right of a person considering purchasing property near a coastal zone.

Homebuyers should be informed about legal and regulatory requirements regarding the property under consideration. Shoreline setbacks, sewage upgrade requirements and emergency hardening provisions need to be part of a detailed description of the property.

It is often not in the best interest of the sellers or their agents to disclose the true state of the coastal property, therefore this bill is critical to protecting prospective buyers.

Please support this bill.

SB-1018

Submitted on: 2/3/2025 6:35:45 PM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Suparna Vashisht	Individual	Support	Written Testimony Only

Comments:

I strongly SUPPORT Senate Bill 1018 which would require a seller and the seller's agent, of real property adjacent to the shoreline, to disclose and include in all advertisements, shoreline erosion and related issues related to the parcel.

I support SB 1018 because **out-of-state investors often purchase beachfront properties in Hawai'i and lack a deep understanding of Hawai'i's unique coastal erosion patterns**, including long-term trends, localized hotspots, and the impacts of climate change. There have been instances where buyers have closed on beachfront properties in Hawai'i sight unseen, solely reliant on online advertisements and the advice of real estate agents who stand to gain from any transaction.

This measure is the opposite of 'kicking the can down the line' and **brings to light the inherent limitations of oceanfront properties**. After going through great lengths to buy an oceanfront property new homeowners may be more likely to go to great lengths to protect that property. Homeowners may enjoy the benefit of the shoreline property but also must bear the burden.

Thank you for your consideration.

Suparna Vashisht

SB-1018

Submitted on: 2/3/2025 11:01:57 PM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Dadds, PA-C	Individual	Support	Written Testimony Only

Comments:

I am writing to Support bill SB 1018 so that Any homes that are sold on the coast have disclosures that notify potential buyers of erosion issues, which will include legal and illegal erosion control structures. I feel that property with these issues should be taxed and any illegal structures should ensue fines. This is done in hopes to discourage Continued Shoreline building

SB-1018

Submitted on: 2/4/2025 5:01:24 AM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanoelehua Hook	Individual	Support	Written Testimony Only

Comments:

Statement in Support of S.B. 1018

I strongly support this measure, which requires sellers and their agents to disclose complete and accurate information regarding shoreline erosion issues in any advertisement for real property adjacent to the shoreline. This bill is essential for ensuring transparency in real estate transactions, protecting homebuyers, and promoting responsible coastal management in Hawai'i.

Shoreline erosion is a growing concern due to rising sea levels, stronger storms, and natural coastal processes. Buyers of oceanfront properties deserve to have full knowledge of existing erosion control structures, their permit status, any outstanding violations, and potential fines before making a purchase. Without clear and accurate disclosure, buyers may unknowingly invest in properties that require costly mitigation efforts or face legal consequences due to unpermitted structures.

By requiring this level of transparency in advertisements, the bill not only safeguards consumers but also discourages misleading real estate marketing that could obscure the true risks of shoreline properties. Additionally, it aligns with the state's commitment to climate resilience and responsible coastal development by ensuring that all parties involved in shoreline property transactions are informed of environmental risks and regulatory obligations.

This measure represents a necessary step toward strengthening consumer protection and fostering sustainable coastal development in Hawai'i. I urge lawmakers to pass this bill to enhance real estate transparency, promote responsible land use, and support long-term coastal management efforts.

SB-1018

Submitted on: 2/4/2025 9:09:21 AM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Charlie Quesnel	Individual	Support	Written Testimony Only

Comments:

February 4, 2025

Senate Committee on Water and Land

Hawai'i State Legislature

Via Electronic Transmission

Re: Testimony in SUPPORT of SB1018, Relating to Real Estate Transactions Hearing:
Wednesday, February 5, 2025, 1:00 PM Conference Room 229 and Videoconference

To: The Honorable Chair Inouye, Vice Chair Elefante, and Members of the Committee

Surfrider Foundation Hawai'i Region strongly supports Senate Bill 1018 which would require a seller of real property adjacent to the shoreline, and the seller's agent, to disclose and include in all advertisements shoreline erosion certain issues related to the parcel. Prospective beachfront property buyers in Hawai'i need to know about the possible risks associated with a property as early as possible in a real estate transaction, and SB1018 would help do just that.

Surfrider Foundation is a grassroots activist network dedicated to the protection of our oceans, waves, and beaches. Our Coast & Climate initiative protects our shorelines by proactively addressing threats like coastal development, sea walls, and other types of shoreline armoring. The three Hawai'i Chapters on Maui, Kaua'i, and O'ahu are taking on issues that threaten our beaches and shorelines.

Beachfront properties in Hawai'i are often purchased by out-of-state investors who lack a deep understanding of Hawai'i's unique coastal erosion patterns, including long-term trends, localized hotspots, and the impacts of climate change. Buyers may underestimate the rate of erosion and the potential for future property loss and overestimate what they can do to protect their property - both legally and financially. Further, there have been instances where buyers have closed on beachfront properties in Hawai'i sight unseen, solely reliant on online advertisements and the advice of real estate agents who stand to gain from any transaction.

Prospective homebuyers also sometimes lack important knowledge on legal and regulatory regimes such as shoreline setbacks and emergency hardening provisions. More importantly,

prospective homebuyers can lack awareness about the legality of existing structures installed to protect a property from sea level rise, let alone the history of these structures, their effectiveness (or lack thereof), the permitting process involved in maintaining or repairing them, or potential legal liabilities associated with them. They are also likely unaware of the environmental, social, and financial controversies surrounding such structures and their impact on adjacent beaches.

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By the time a prospective buyer learns the full extent of the coastal erosion risks, they may have already invested considerable resources in the purchase. This can create a "sunk cost" fallacy, making them more likely to proceed with the transaction despite the risks, rather than walk away and lose their investment. Their negotiating position is also weakened, as the seller is aware of the buyer's commitment. The disclosure phase often occurs under tight deadlines, giving buyers limited time to fully assess the implications of the disclosed information. A buyer may feel pressured to make a quick decision, potentially overlooking crucial details or feeling they don't have time to seek independent expert advice on coastal issues affecting their potential property.

Additionally, after going through great lengths to buy an oceanfront property new homeowners may be more likely to go to great lengths to protect that property. SB1018 would essentially be the opposite of 'kicking the can down the line' and brings to light the inherent limitations of oceanfront properties. Homeowners may enjoy the benefits of having an oceanfront property, but they also must carry the associated risk.

In summary, by requiring real estate agents and sellers to include all shoreline erosion related issues in all advertisements, long-term coastal erosion issues cannot as easily be passed off as someone else's issue. Coastal erosion issues facing oceanfront property owners must be brought into the open and addressed with urgency. This is not an issue that can be swept under the rug and prolonged through new homeownership.

Mahalo for your time and the opportunity to provide testimony.

Sincerely,

Charlie Quesnel

concerned citizen

SB-1018

Submitted on: 2/4/2025 11:24:14 AM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Natalie Wohner	Individual	Support	Written Testimony Only

Comments:

Please support this important bill so that the risks of owning a coastal property is clearly communicated and the buyer is aware of all limitations and responsibilities.

Testimony in Support of SB1018: Mandating Disclosure of Shoreline Erosion Issues in Property Sales

Aloha Chair Inouye, Vice Chair Elefante, and Honorable Members of the Committee,

Mahalo for the opportunity to provide testimony in strong support of SB1018, which would require sellers and their agents to disclose and include information on current or potential shoreline erosion issues in all advertisements for shoreline-adjacent real estate. As a long time resident I have watched as community members tirelessly fought the laws, other community members, and the forces of nature to save their homes.

Shoreline erosion is not a hypothetical issue; it is a reality we are already facing. Properties situated along the coastline are at the forefront of this challenge. Without transparent and proactive disclosure of erosion risks, restrictions on protective barriers, and other imperative knowledge, potential buyers may unknowingly invest in properties that pose significant financial and safety concerns for themselves as well as our ocean. The lack of transparency will likely lead to more homeowners cementing the beach and breaking other laws that have devastating consequences to our ocean life in their attempts to save their large investment.

For our keiki and their keiki, we must commit to protecting our shoreline and fostering trust within our communities. By mandating the disclosure of shoreline erosion risks in real estate transactions, we take a step forward in preserving not just the beauty of our coasts but also the integrity of our island way of life.

I urge this committee to pass SB1018 and set a standard of transparency and responsibility that reflects our shared values of mālama ‘āina and kuleana. Mahalo for considering this critical measure.

Me ka ha‘aha‘a,

B. Oriana McCallum

Kahuku, O‘ahu

LATE