

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
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LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committees on
WATER AND LAND
and
AGRICULTURE AND ENVIRONMENT
Friday, March 15, 2019
3:00 p.m.
State Capitol, Conference Room 224

In consideration of
HOUSE BILL 549, HOUSE DRAFT 1
RELATING TO THE ENVIRONMENT

House Bill 549, House Draft 1 proposes to amend the Hawaii Coastal Zone Management Act, Chapter 205A, Hawaii Revised Statutes (HRS), to reduce residential exposure to coastal hazards with sea level rise, strengthen protections for state beaches, and update language for consistency with other HRS. Our comments on this measure generally reflect the language in SB393, Senate Draft 1. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comments and amendments.**

1. To ensure clarity and consistency throughout the Chapter relating to coastal hazard adding the definition of "Coastal hazards" to HRS § 205A-1 Definitions as follows:

"Coastal hazards" includes tsunamis, hurricanes, wind, waves, storm surges, high tide, flood, erosion, sea level rise, subsidence, and point and nonpoint source pollution.
2. Page 7, lines 8-10, we recommend amending HRS § 205A-2(b)(6) Coastal hazards as follows:
(6) Coastal hazards;
(A) Reduce hazard to life and property from [~~tsunami, storm waves, stream flooding, erosion, subsidence, and pollution~~] coastal hazards.
3. Page 7, lines 19-21, and 8, lines 1-2, the we recommend amending HRS § 205A-2(b)(9) "Beach Protection" by re-organizing the section and by replacing the term "ecosystem

services” with “benefits of coastal ecosystems,” and making other technical amendments as follows:

- (9) Beach protection;
- (A) Protect beaches ~~[for public use and recreation]~~ and coastal dunes for:
 - (i) public use and recreation;
 - (ii) benefits of coastal ecosystems;
 - (iii) natural barriers to coastal hazards; and
- (B) Coordinate and fund beach management and protection.

- 4. Page 8, lines 17-21, and page 9 lines 1-5, we recommend amending HRS § 205A-2(c)(1)(B)(ii) by replacing the term “replacement” with “restoration, not “protection,” as follows:

- (ii) Requiring ~~[replacement]~~ restoration of coastal resources ~~[having]~~ that have significant recreational and ecosystem value including, but not limited to coral reefs, surfing sites, fishponds, [and] sand beaches, and coastal dunes, when [such] these resources will be unavoidably damaged by development; or requiring [reasonable] monetary compensation to the State for recreation when [replacement] restoration is not feasible or desirable;

- 5. For consistency with the proposed amendment to add the definition of coastal hazards; on Page 12, lines 20-21, and page 13 lines 1-8 we recommend amending HRS § 205A-2(c)(5)(B) as follows:

- (B) Ensure ~~[that coastal dependent development such as]~~ residential and commercial development, transportation infrastructure, [harbors and ports], and coastal related development such as visitor industry facilities and energy generating facilities, are located, designed and constructed to minimize exposure to coastal hazards, and minimize adverse social, visual, and environmental impacts in the coastal zone management area; and

- 6. For consistency with the proposed amendment to add the definition of coastal hazards; Page 14, lines 1-2, we recommend amending HRS § 205A-2(c)(5)(C)(ii) as follows:

- (ii) Adverse environmental effects and risks from coastal hazards are minimized; and

- 7. Page 14, lines 7-20, and page 15, lines 1-2, with the definition of “Coastal hazards” added to HRS § 205A-2, we recommend amending HRS § 205A-2(c)(6) Coastal hazards as follows:

- (6) Coastal hazards;
- (A) Develop and communicate adequate information about ~~[storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards]~~ risks of coastal hazards;
- (B) Control development, including planning and zoning controls, in areas subject to ~~[storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards]~~ coastal hazards;
- (C) Ensure that development comply with requirements of the ~~[Federal]~~ National Flood Insurance Program; and

- (D) Prevent coastal flooding from inland projects;
8. Page 16, lines 20-21, and page 17, lines 1-10, we recommend amending HRS § 205A-2(c)(9) Beach protection as follows:
- (9) Beach protection
- (A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline process, and minimize loss of improvements due to erosion;
- (B) Prohibit construction of private ~~[erosion protection]~~ shoreline hardening structures [seaward of the shoreline], such as seawalls and revetments, [except when they result in improved aesthetic and engineering solutions to erosion] at [the] sites and with beaches [do not interfere with beach processes] and at sites where shoreline hardening structures interfere with [and] existing recreational and waterline activities;
- (C) Minimize the construction of public ~~[erosion protection structure]~~ shoreline hardening structures [seaward of the shoreline], such as seawalls and revetments at sites with beaches and at sites where shoreline hardening structures interfere with existing recreational and water line activities;
- (D) Avoid grading of and damage to coastal dunes;
9. Under section § 205A-22(1) to help assess potential impacts on public beaches and shoreline, we recommend amending construction or reconstruction of a single-family residence as not “development” set forth in HRS § 205A-22(1) as follows:
- (1) Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area, is not situated on a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion, and is not part of a larger development;
10. Page 23, lines 1-2, we request that HRS § 205A-29(b) in which it is stated “This section shall not apply to permits for uses within the state land use conservation district designated pursuant to chapter 183C,” not be added to the statute.
11. Page 23, line 6, we support the amendments to HRS § 205A-43(a) to require setbacks along shorelines are established of not less than forty feet inland from the shoreline.
12. Page 24, lines 1- 7, we recommend amending HRS §205A-43.5(a)(2) as follows:
- (2) Temporary protection of a legal structure [costing more than \$20,000;] or a public facility, which does not fix the shoreline, under an emergency authorization issued by the authority; provided that the structure or public facility is at risk of immediate damage from shoreline erosion;
13. Page 25, lines 1-4, the Department respectfully asks that part (1), “The inadvertent taking from the shoreline area of the materials, such as those inadvertently carried away on the body, and on clothes, toys, recreational equipment, and bags;” not be removed from the statute. The Department appreciates the intent to strengthen prohibitions against taking sand or other natural beach or marine deposits from the shoreline area. However, we feel the proposed amendment may be too restrictive.

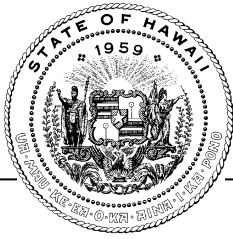
14. Page 27, lines 3-21, and page 28, lines 1-5, the purpose of shoreline setbacks and prohibition of structures within the shoreline area is to provide a buffer zone to protect beach processes, shoreline open space, public access to and along the shoreline, and minimize the risk of coastal hazards to life and property. We recommend amending HRS Section 205A-46(a)(8) and (9) as follows:

- (8) Private facilities or improvements, excluding seawalls and revetments, ~~[which]~~ that will neither adversely affect beach processes, or result in flanking shoreline erosion [nor artificially fix the shoreline]; provided that the authority ~~[also finds that]~~ may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area;
- (9) Private facilities or improvements that may artificially fix the shoreline except for areas with beaches; provided that the ~~[authority also finds that shoreline is likely to cause]~~ action will not interfere with existing recreational and water line activities; provided further that the authority may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area~~and the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interests];~~ or

15. Finally, we recommend addition a definite to define beach” as follows:

“For the purposes of this chapter, “beach” means a coastal landform composed predominantly of sand from eroded rock, coral, and/or shell material that is built and maintained by tides and waves. "Beach" is further defined as a dynamic system encompassing sand deposits in nearshore submerged areas, and in sand dunes and/or upland beach deposits landward of the shoreline, and as providing benefits for public use and recreation, coastal ecosystems, and as a natural barrier against coastal hazards.”

Thank you for the opportunity to comment on this measure.



OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

DIRECTOR
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Statement of
LEO R. ASUNCION
Planning Program Administrator, Office of Planning
before the
**SENATE COMMITTEES ON WATER AND LAND AND
AGRICULTURE AND ENVIRONMENT**

Friday, March 15, 2019
3:00 PM
State Capitol, Conference Room 224

in consideration of
HB 549, HD1
RELATING TO THE ENVIRONMENT.

Chairs Kahele and Gabbard, Vice Chairs Keith-Agaran and Ruderman, and Members of the Senate Committees on Water and Land and Agriculture and Environment.

The Office of Planning (OP) respectfully offers the following comments on HB 549, HD1 with critical and technical amendments to reduce residential exposure to coastal hazards and protect beaches, while allowing continuity of services for public facilities and improvements. The OP prefers the language in **SB 393, SD1** relating to Coastal Zone Management, however the comments provided are in reference to HB 549, HD1.

Critical Amendments

1. **Page 27, lines 3-21, and page 28, lines 1-5**, the shoreline setback variance is an exception to the prohibition of structures within the shoreline area. For the purposes of leaving the discretionary variance to the county authorities to allow private facilities or improvements within the shoreline area, and restrict new shoreline hardening structures, the OP recommends amending HRS §§ 205A-46(a)(8) and (9) as follows:
 - (8) Private facilities or improvements ~~[which]~~ that will ~~[neither]~~ not adversely affect beach processes ~~[nor]~~, result in flanking shoreline erosion, or artificially fix the shoreline; provided that the authority ~~[also finds that]~~ may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area;
 - (9) Private facilities or improvements that may artificially fix the shoreline except for areas with beaches; provided that the

~~[authority also finds that shoreline is likely to cause] action will not interfere with existing recreational and water line activities; provided further that the authority may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area[, and the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interests]; or~~

2. **Page 23, lines 1-2**, Pursuant to HRS § 205A-5, all state and county agencies shall ensure that their rules comply with the objectives and policies of Chapter 205A, and any guidelines enacted by the legislature. Therefore, the OP does not see the reasons why HRS § 205A-29 shall not apply to permits for uses within the state conservation district as proposed by this measure. The SMA permit requirements shall apply to uses of the state conservation districts if they are located within the county designated special management areas. The SMA permit requirements for uses within the conservation district will ensure the participation of the local communities to protect coastal resources and public shoreline access.
3. **Page 23, lines 5-9**, the OP supports the amendments to HRS § 205A-43(a) to require setbacks along shorelines are established of not less than forty feet inland from the shoreline.
4. **Page 24, lines 1- 7**, the OP recommends amending HRS §205A-43.5(a)(2) to potentially waive a public hearing prior to action on a variance application for:
 - (2) Protection of a legal structure [costing more than \$20,000;] or a public facility that is regulated pursuant to chapter 269, that does not fix the shoreline, under an emergency authorization issued by the authority; provided that the structure or public facility is at risk of immediate damage from shoreline erosion;

Technical Amendments

The OP proposes the following technical amendments for the purpose of clarity, consistency, and style.

5. To ensure clarity and consistency throughout the Chapter relating to coastal hazards, adding the definition of “Coastal hazards” to HRS § 205A-1
Definitions as follows:

"Coastal hazards" means any tsunami, hurricane, wind, wave, storm surges, high tide, flooding, erosion, sea level rise, subsidence, and point and nonpoint source pollution.

6. **Page 7, lines 7-10**, the OP recommends amending HRS § 205A-2(b)(6) Coastal hazards as follows:
 - (6) Coastal hazards;
 - (A) Reduce hazard to life and property from [~~tsunami, storm waves, stream flooding, erosion, subsidence, and pollution~~] coastal hazards.

7. **Page 7, lines 19-21**, the OP recommends amending HRS § 205A-2(b)(9) Beach protection by replacing the term “ecosystem services” with “benefits of coastal ecosystems”, and replacing the proposed language on **page 8, lines 1-2**, with the language for the beach protection objective, as follows:
 - (9) Beach protection;
 - (A) Protect beaches and coastal dunes for
 - (i) public use and recreation;
 - (ii) benefits of coastal ecosystems; and
 - (ii) as natural barriers to coastal hazards; and
 - (B) Coordinate and fund beach management and protection.

8. **Page 8, lines 17-21**, and **page 9, lines 1-5**, the OP recommends amending HRS § 205A-2(c)(1)(B)(ii) by replacing the term “replacement” with “restoration” as follows:
 - (ii) Requiring [~~replacement~~] restoration of coastal resources [~~having~~] that have significant recreational and ecosystem value including, but not limited to coral reefs, surfing sites, fishponds, and sand beaches, when [~~such~~] these resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when [~~replacement~~] restoration is not feasible or desirable;

9. For consistency with OP’s proposed amendment to add the definition of coastal hazards, on **Page 12, lines 20-21**, and **page 13, lines 1-10**, the OP recommends amending HRS § 205A-2(c)(5)(B) as follows:
 - (B) Ensure that [~~coastal dependent development such as~~] residential and commercial development, transportation infrastructure, [harbors and ports], and coastal related development [such as] including but not limited to visitor industry facilities and energy generating facilities, are located, designed and constructed to minimize exposure to coastal hazards, and minimize adverse social, visual, and environmental impacts in the coastal zone management area; and

10. For consistency with OP’s proposed amendment to add the definition of coastal hazards, on **Page 14, lines 1-2**, the OP recommends amending HRS § 205A-2(c)(5)(C)(ii) as follows:
 - (ii) Adverse environmental effects and risks from coastal hazards are minimized; and

11. **Page 14, lines 6-20, and page 15, lines 1-8**, with the definition of “Coastal hazards” added to HRS § 205A-2, the OP recommends amending HRS § 205A-2(c)(6) Coastal hazards as follows:
- (6) Coastal hazards;
 - (A) Develop and communicate adequate information about [~~storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards~~] the risks of coastal hazards;
 - (B) Control development, including planning and zoning control, in areas subject to [~~storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution~~] coastal hazards;
 - (C) Ensure that development comply with requirements of the [~~Federal~~] National Flood Insurance Program; and
 - (D) Prevent coastal flooding from inland projects;
12. **Page 16, lines 15-21, and page 17, lines 1-18**, to restrict shoreline hardening structures, the OP recommends amending HRS § 205A-2(c)(9) Beach protection as follows:
- (9) Beach protection
 - (A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline process, and minimize loss of improvements due to erosion;
 - (B) Prohibit construction of private [~~erosion protection~~] shoreline hardening structures [~~seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not~~], such as seawalls and revetments, at sites with beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;
 - (C) Minimize the construction of public [~~erosion protection~~] shoreline hardening structures [~~seaward of the shoreline~~], such as seawalls and revetments, at sites with beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;
 - (D) Avoid grading of and damage to coastal dunes;
 - ~~(E)~~ (E) Prohibit private property owners from creating a public nuisance by inducing or cultivating the private property owner’s vegetation in a beach transit corridor; and
 - ~~(F)~~ (F) Prohibit private property owners from creating a public nuisance by allowing the private property owner’s unmaintained vegetation to interfere or encroach upon a beach transit corridor.

13. The OP suggests that a definition of “beach” be added to Chapter 205A to clarify the amendments that were proposed in this measure to prohibit or restrict shoreline hardening structures at sites with beaches.

Thank you for the opportunity to testify on this measure.



DEPARTMENT OF PLANNING
THE COUNTY OF KAUAI

DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

KA'ĀINA S. HULL
DIRECTOR

JODI A. HIGUCHI SAYEGUSA
DEPUTY DIRECTOR

Testimony of Ka'āina Hull
Planning Director, County of Kaua'i

Before the
Senate Committee on Agriculture and Environment and the
Senate Committee on Water and Land

March 15, 2019; 3:00 pm
Conference Room 224

In consideration of
House Bill 549 HD1
Relating to the Environment

Honorable Chairs Mike Gabbard and Kaiali'i Kahele, and Members of the
Committees:

The County of Kaua'i, Department of Planning submits the following **comments on HB549 HD1**, which seeks to reduce residential exposure to coastal hazards and to new developments to plan for the impacts of projected sea level rise and prohibits development in areas significantly affected by projected sea level rise.

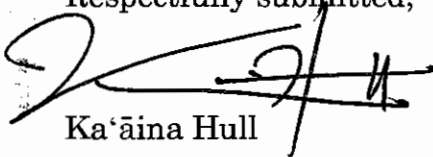
1. In various sections of HB 549 HD1, reference is made to "sea level rise" on: Page 13, Line 7; Page 7, Line 10; Page 14; and Page 20, Line 3. The Department appreciates the importance of considering sea level rise (SLR) to support and effectuate Hawai'i Revised Statutes (HRS) Chapter 205A's objectives and guidelines; however, the counties collectively need greater guidance to effectuate this objective and policy. For instance, the sea level rise exposure area (SLR-XA) is based on several data points that reflect various effects to the shoreline and nearshore areas including coastal erosion, passive flooding, and annual high wave flooding as outlined in the Sea Level Vulnerability and Adaptation Report. The result is a map area that meanders in some instances far into inland portions and does not present a discernable line to base permit decisions upon. Additionally, there are numerous assumptions and limitations that were outlined in the report that imply that the data is not parcel specific.

In addition to discerning where SLR considerations should be imposed in SMA permits, the Department needs guidance to determine the appropriate mitigation that would be required for a simple re-roofing permit versus additions and/or renovations to a residence or construction of a guest house.

The Department respectfully requests that guidance be developed first for evaluating each of these scenarios and that consistent review and mitigation standards be established statewide in regards to SLR.

2. The Planning Department has concerns over the language on Page 23, Lines 1 and 2, which exempts uses within the state land use conservation district from the County's Special Management Area Permit scheme that was developed in accordance with HRS Chapter 205A. The County's SMA permit process is designed to accommodate local, place-based knowledge and public input by requiring review by the County's Planning Department or review and hearing by the Planning Commission. The State Land Use Conservation District Permits process does not always allow for the localized public input, or at least makes it less accessible by requiring attendance to meetings held on Oahu. Thus, we respectfully request that this clause be deleted from the bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ka'aina Hull', written over a horizontal line.

Ka'aina Hull

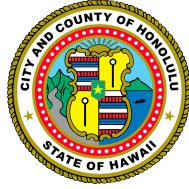
Director of Planning, County of Kaua'i

OFFICE OF CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCY
CITY AND COUNTY OF HONOLULU

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LATE

KIRK CALDWELL
MAYOR



JOSHUA W. STANBRO
EXECUTIVE DIRECTOR &
CHIEF RESILIENCE OFFICER

FRIDAY, MARCH 15, 2019 3:00PM

STATE OF HAWAII
COMMITTEE ON AGRICULTURE & ENVIRONMENT
COMMITTEE ON WATER & LAND

**TESTIMONY ON HOUSE BILL 549 HD1
A BILL RELATING TO THE ENVIRONMENT**

BY,

JOSHUA STANBRO
EXECUTIVE DIRECTOR AND CHIEF RESILIENCE OFFICER
OFFICE OF CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCY

Dear Chairs Gabbard and Kahele, Vice Chairs Ruderman and Keith-Agaran, and Committee Members:

The City and County of Honolulu (City) Office of Climate Change, Sustainability and Resiliency (Resilience Office) **supports** House Bill 549 HD1, which requires new developments to plan for the impacts of projected sea level rise by amending the Hawaii Coastal Zone Management Act (CZMA), Chapter 205A, Hawaii'i Revised Statutes.

Per City Charter Section 6-107, the Resilience Office is mandated to coordinate actions and policies on behalf of the City to protect coastal areas and beaches and promote resiliency of communities and coastal areas. The proposed bill will strengthen objectives and policies of the CZMA to better protect and preserve the natural shoreline, especially sandy beaches; to protect and preserve public access to and along the shoreline; protect and preserve open space; all while reducing risk and damages to properties and structures, and helping protect people from the impacts of coastal hazards and climate change, especially sea level rise, erosion, and storm surge.

Thank you for the opportunity to testify.



Environmental Caucus

The Democratic Party of Hawai'i

SENATE JOINT COMMITTEE ON WATER & LAND AND AGRICULTURE & THE ENVIRONMENT

March 15, 2019 3:00 p.m. Room 224

In **SUPPORT** of **HB549 HD1**: Relating to The Environment

Aloha Chairs Kahele and Gabbard, Vice Chairs Keith-Agaran and Ruderman and Committee Members,

On behalf of the Environmental Caucus of the Democratic Party of Hawai'i (ECDPH), we **support passage of HB549 HD1**, relating to the environment, and offer comments.

Climate change and efforts to mitigate its effects is the single most pressing issue of our time. The impact of a 3.2 foot sea level rise, as outlined in the the findings of the Sea Level Rise Vulnerability and Adaptation Report in 2017, is likely to be disastrous for Hawai'i's economy, sustainability, and way of life.

Sea level rise is a reality, and it is necessary to revise our statutes accordingly. HB549 HD1 provides updates to Chapter 205A,-the Hawaii Coastal Zone Management Act (HCZMA), to incorporate sea level rise within its objectives, policies, and permitting processes related to Special Management Areas and Shoreline Setbacks.

As the sea level rises, many property owners in affected areas are likely to seek variances to armor their properties. HB549 HD1 provides measures needed to guard against further coastal armoring and promote managed retreat alternatives, but makes the hardship provision only "optional". We believe the hardship provision should be a mandatory requirement for a shoreline setback variance (if hardship cannot be proved, no variance can be granted).

Mahalo for this opportunity to provide testimony in **support of HB549 HD1**.

Kimiko LaHaela Walter

Interim Chair, Energy & Climate Change Subject Committee, Environmental Caucus of the Democratic Party of Hawai'i



SIERRA CLUB OF HAWAI'I

MĀLAMA I KA HONUA. *Cherish the Earth.*

JOINT SENATE COMMITTEES ON WTL AND AEN

March 15, 2019 3:00 PM Room 225

In **SUPPORT** of **HB 549 HD1**: Relating to the Environment

Aloha Chair Kahele, Chair Gabbard, and members of the WTL and AEN committees,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **supports passage of HB 549 HD 1, Relating to the Environment.**

HB 549 updates Chapter 205A, the Hawaii Coastal Zone Management Act, to incorporate sea level rise within its objectives, policies, and permitting processes related to Special Management Areas and Shoreline Setbacks. This is necessary and timely, as sea level rise is here and will continue, at increasing rates, in future years. Its impacts are already being felt, especially in the form of narrowing or loss of beaches--a public trust resource which should be afforded the highest levels of protection.

As mentioned in Section 1 of the bill, a study by UH researchers documents that over the time period covered by the study (1925-2015) more than thirteen miles of beach statewide have been completely lost to erosion fronting seawalls and revetments, due in part to a history of county agencies ("authorities" under Chapter 205A) frequently granting shoreline setback variances where the authorities have made a finding that denial of such variances would present a hardship to the private property applicants.

We strongly support the intent of this bill to halt, and reverse, the narrowing and loss of beaches and public access caused in large part by granting of shoreline setback variances, especially as we enter a new era of sea level rise. As the sea level rises we can expect a dramatic increase in the number of variances sought to armor coastal properties. It is appropriate to take measures now to guard against further coastal armoring and promote managed retreat alternatives where feasible.

We encourage the Committee to take a look at the hardship provision in HRS 205A-46, Section 8, part 8 & 9 of the bill (pages 27-28). The HD1 proposes to address shoreline setback variance issues by requiring that the proposed action for which a variance is sought will neither adversely affect beach processes, result in flanking of adjacent properties, nor curtail public access unless it is clearly in the public interest. The HD1 also makes the hardship provision optional, stating "the authority may consider hardship that will result to the applicant if the facilities of improvements are not allowed within the shoreline area." We assert that the hardship provision

is currently a mandatory requirement for a shoreline setback variance (if hardship cannot be proved, no variance can be granted) and that making it an optional consideration weakens the current law and could potentially lead to challenges based upon constitutional requirements for due process. In the previous committee, we recommended that the hardship test be retained as a necessary condition in addition to, and not overruling, other requirements including those suggested in HB 549 HD1, i.e. neither adversely affect beach processes, result in flanking of adjacent properties, nor curtail public access.

We therefore offer the following suggested language in SECTION 8, page 27-28 of the bill:

“(8) Private facilities or improvements that will neither adversely affect beach processes, result in flanking of adjacent properties, or curtail public access, provided that the authority also finds that hardship will result to the applicant if the facilities or improvements are not allowed within the shoreline area;

(9) Private facilities or improvements that may artificially fix the shoreline; provided that the authority also finds (a) that hardship will result to the applicant if the facilities or improvements are not allowed within the shoreline area; and (b) the action will neither adversely affect beach processes, result in flanking of adjacent properties, nor curtail public access unless it is clearly in the public interest, for example, in the case of imminent threat of a road or highway failure, or to other critical public infrastructure.”

We recognize that the hardship provision is often used by homeowners to obtain a variance and build a seawall, but believe that including both requirements as mandatory provisions is better than the language currently proposed in the HD1.

Mahalo for this opportunity to provide testimony in **support of HB 549 HD1**.

Mahalo,



Jodi Malinoski, Policy Advocate



**Testimony to the Senate Committees on Agriculture and Environment and
Water and Land**

**Friday, March 15, 2019 at 3:00 P.M.
Conference Room 224, State Capitol**

RE: HB 549 HD1 RELATING TO THE ENVIRONMENT

Chair Gabbard and Kahele, Vice Chairs Ruderman and Keith-Agaran, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") is **opposed** to HB 549 HD 1, which proposes to amend policies and objectives related to coastal zone management to reduce residential exposure to coastal hazards and protect state beaches and public shoreline access.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We understand that the proposed bill is in response to findings from a University of Hawaii Coastal Geology Study found that the current polices, objectives and practices allow for:

- 1) The hardening of shorelines through a hardship variance that is granted based upon demonstrating hardship brought on by coastal erosion. When granted, these hardship variances set into motion a cycle of shoreline armoring that causes "flanking", or amplified erosion, on properties adjacent to armored shorelines. This continuous cycle of hardening and flanking can extend along an entire beach and, in a section of northeast Oahu, approximately forty-five per cent of observed shoreline hardening was implemented in response to adjacent hardening. This cycle, caused by a combination of beach erosion and coastal policy, has resulted in the narrowing and even elimination of beaches to the extent that they can no longer be used for public recreation or cultural practice; and,
- 2) Renovation and expansion of single-family homes in erosion and flood-prone coastal areas, thereby extending building lifetimes indefinitely and allowing for virtually complete coverage of coastal parcels by these structures. The average building surface area increased by twenty per cent following the establishment of the State's coastal zone management program and, combined with sea level rise, this development



Chamber of Commerce HAWAII

The Voice of Business

increases the likelihood of mass structural failure and deposit of debris on public beaches.

As an Island State, we all should be concerned about how climate change and sea level rise are impacting our coastal areas. The proposed amendments to the Coastal Zone Management statutes makes it more difficult for private property owners to protect or improve their properties along the coast. If government prevents a property owner from protecting their property because of the impact it would generate on the adjacent public lands, who should compensate the land owner for their loss?

Rather than create a system that gradually infringes upon private property rights over time, we would suggest a more comprehensive approach to addressing the problem today by doing the following:

- 1) Formally adopt the maps created by the Hawai'i Climate Change Mitigation & Adaptation Commission that identifies areas, now and in the future, that will be impacted by sea level rise. This would allow affected landowners to be informed of the possible designation and raise any concerns they may have through the Administrative Rule making process used to adopt the maps.
- 2) Identify those areas around the state that will be subject to high rates of coastal erosion due to sea level rise. Provide funding for condemnation of the private properties impacted and relocation of public infrastructure.

We appreciate the opportunity provide testimony.

LATE



**TESTIMONY TO THE HOUSE COMMITTEES ON WATER AND LAND, AND AGRICULTURE
AND ENVIRONMENT
State Capitol, Conference Room 224
415 South Beretania Street
3:00 PM**

March 15, 2019

RE: HOUSE BILL NO. 549 HD 1, RELATING TO THE ENVIRONMENT

Chairs Kahele and Gabbard, Vice Chairs Keith-Agaran and Ruderman, and members of the committees:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii is **opposed** to H.B. 549 HD 1, which proposes to require new developments to plan for the impacts of projected sea level rise and prohibits development in areas significantly affected by projected sea level rise.

We understand that the proposed bill is in response to findings from a University of Hawaii Coastal Geology Study found that the current policies, objectives and practices allow for:

- (1) The hardening of shorelines through a hardship variance that is granted based upon demonstrating hardship brought on by coastal erosion. When granted, these hardship variances set into motion a cycle of shoreline armoring that causes "flanking", or amplified erosion, on properties adjacent to armored shorelines. This continuous cycle of hardening and flanking can extend along an entire beach and, in a section of northeast Oahu, approximately forty-five per cent of observed shoreline hardening was implemented in response to adjacent hardening. This cycle, caused by a combination of beach erosion and coastal policy, has resulted in the narrowing and even elimination of beaches to the extent that they can no longer be used for public recreation or cultural practice; and,



- (2) Renovation and expansion of single-family homes in erosion and flood-prone coastal areas, thereby extending building lifetimes indefinitely and allowing for virtually complete coverage of coastal parcels by these structures. The average building surface area increased by twenty per cent following the establishment of the State's coastal zone management program and, combined with sea level rise, this development increases the likelihood of mass structural failure and deposit of debris on public beaches.

As an island state, we all should be concerned about how climate change and sea level rise are impacting our coastal areas. The proposed bills are intended to create one entity in the State to oversee issues and impacts of sea level rise and coastal erosion. While we strongly support the need to centralize this efforts, we also believe that this effort needs to be focused on science, facts and evidence. It also needs to address the reality of how to deal with private property rights. If government prevents a property owner from protecting their property because of the impact it would generate on the adjacent public lands, who should compensate the land owner for their loss?

The legislature should consider a more comprehensive approach to addressing the problem today by doing the following:

1. Formally adopt the maps created by the Hawai'i Climate Change Mitigation & Adaptation Commission that identifies areas, now and in the future, that will be impacted by sea level rise. This would allow affected landowners to be informed of the possible designation and raise any concerns they may have through the Administrative Rule-making process used to adopt the maps.
2. Identify those areas around the state that will be subject to high rates of coastal erosion due to sea level rise. Provide funding for condemnation of the private properties impacted and relocation of public infrastructure.

We are opposed to H.B. 549, HD 1 and appreciate the opportunity provide comments.



HB 549, HD 1, RELATING TO THE ENVIRONMENT

MARCH 15, 2019 · SENATE COMMITTEES ON
WATER AND LAND AND AGRICULTURE AND
ENVIRONMENT · CHAIR SEN. KAIALI'I KAHELE AND
SEN. MIKE GABBARD

POSITION: Support.

RATIONALE: IMUAlliance supports HB 549, HD 1, relating to the environment, which requires new developments to plan for the impacts of projected sea level rise and prohibits development in areas significantly affected by projected sea level rise.

According to a report produced by the Hawai'i Climate Change Mitigation and Adaptation Commission, global sea levels could rise more than three feet by 2100, with more recent projections showing this occurring as early as 2060. In turn, over the next 30 to 70 years, approximately 6,500 structures and 19,800 people statewide will be exposed to chronic flooding. Additionally, an estimated \$19 billion in economic loss would result from chronic flooding of land and structures located in exposure areas. Finally, approximately 38 miles of coastal roads and 550 cultural sites would be chronically flooded, on top of the 13 miles of beaches that have already been lost on Kaua'i, O'ahu, and Maui to erosion fronting shoreline armoring, like seawalls.

As we work to reduce carbon emissions and stave off the worst consequences of climate change, we must begin preparing for the adverse impact of sea level rise on our shores. We are now quantifying the speed at which we must act. We cannot continue to develop the 25,800-acre statewide sea level rise exposure area—one-third of which is designated for urban use—without risking massive structural damage and, potentially, great loss of life.

HB-549-HD-1

Submitted on: 3/12/2019 1:22:24 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Erica Scott	Individual	Support	No

Comments:

HB-549-HD-1

Submitted on: 3/12/2019 9:48:48 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lois Crozer	Individual	Support	No

Comments:

HB-549-HD-1

Submitted on: 3/13/2019 7:59:50 AM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

HB-549-HD-1

Submitted on: 3/13/2019 3:50:55 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Greg Puppione	Individual	Support	No

Comments:

I support this bill. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. We need to be incorporating sea level rise projections into our state plans, avoiding construction within hazardous coastal areas to protect our beaches, and supporting innovative solutions to address climate change.

HB-549-HD-1

Submitted on: 3/13/2019 3:57:31 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
B.A. McClintock	Individual	Support	No

Comments:

I support this bill. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. We need to be incorporating sea level rise projections into our state plans, avoiding construction within hazardous coastal areas to protect our beaches, and supporting innovative solutions to address climate change.

HB-549-HD-1

Submitted on: 3/13/2019 4:10:26 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cheryl Reeser	Individual	Support	No

Comments:

I support this bill. Climate Change impacts, especially sea level rise, will impact everyone in Hawaii and will be devastating if we don't address it now.

HB-549-HD-1

Submitted on: 3/13/2019 4:16:52 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tom Eisen	Individual	Support	No

Comments:

HB-549-HD-1

Submitted on: 3/13/2019 4:19:29 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley Wilcox	Individual	Support	No

Comments:

I support this bill. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. We need to be incorporating sea level rise projections into our state plans, avoiding construction within hazardous coastal areas to protect our beaches, and supporting innovative solutions to address climate change.

HB-549-HD-1

Submitted on: 3/13/2019 4:35:05 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Hunter Heavilin	Individual	Support	No

Comments:

I support this bill. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. We need to be incorporating sea level rise projections into our state plans, avoiding construction within hazardous coastal areas to protect our beaches, and supporting innovative solutions to address climate change.

HB-549-HD-1

Submitted on: 3/13/2019 4:38:13 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sandra Fujita	Individual	Support	No

Comments:

I support this bill. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. We need to be incorporating sea level rise projections into our state plans, avoiding construction within hazardous coastal areas to protect our beaches, and supporting innovative solutions to address climate change

HB-549-HD-1

Submitted on: 3/13/2019 4:56:33 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Denise Boisvert	Individual	Support	No

Comments:

I support this bill - - especially because we live on an island!

Please support it as well.

HB-549-HD-1

Submitted on: 3/13/2019 5:03:30 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dyson Chee	Individual	Support	No

Comments:

HB-549-HD-1

Submitted on: 3/13/2019 5:08:35 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stacey Gray	Individual	Support	No

Comments:

Aloha Chairs and honorable members of the joint committee,

I urge you to support HB 549 requiring new developments to plan for the impacts of sea level rise. The response to sea level rise from the State is a policy of managed retreat and this bill is an important step towards moving new infrastructure to a safer location inland. The amount of damage to current land and structures (not including infrastructure such as roads and utilities) is \$19 billion with 3.2 feet of sea level rise. (2017 DLNR/Tetra Tech Report) This is a common sense bill that has the full weight of current science and policy to support it.

Thank you for your time and consideration of this testimony. I hope you will support this important bill.

Regards,

Stacey Gray

HB-549-HD-1

Submitted on: 3/13/2019 5:19:41 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Bohlen	Individual	Support	No

Comments:

HB-549-HD-1

Submitted on: 3/13/2019 6:11:15 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
L.M. Holmes	Individual	Support	No

Comments:

I support this bill. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. We need to be incorporating sea level rise projections into our state plans, avoiding construction within hazardous coastal areas to protect our beaches, and supporting innovative solutions to address climate change. Dr. L.M. Holmes, Honolulu 96817

HB-549-HD-1

Submitted on: 3/13/2019 7:06:40 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Emily Garland	Individual	Support	No

Comments:

I support this bill. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. We need to be incorporating sea level rise projections into our state plans, avoiding construction within hazardous coastal areas to protect our beaches, and supporting innovative solutions to address climate change.

HB-549-HD-1

Submitted on: 3/14/2019 7:30:54 AM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey Bronfman	Individual	Support	No

Comments:

I support this bill. Climate change is a reality we are seeing here in the Pacific Islands we need to plan for. We cannot afford to be in denial or foolish. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. We need to be incorporating sea level rise projections into our state plans, avoiding construction within hazardous coastal areas to protect our beaches, and supporting innovative solutions to address climate change.

HB-549-HD-1

Submitted on: 3/14/2019 7:44:07 AM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Jorgensen	Individual	Support	No

Comments:

I strongly support this bill because I don't own a boat!

HB-549-HD-1

Submitted on: 3/14/2019 3:43:33 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support HB549. Sea levels are rising at a rate of 3mm/year, which is unprecedented in the geologic record. Paying for all the damage this will do will be costly to our state, and even more so if new developments don't plan for this rise.

Thank you for the opportunity to present my testimony.

Sincerely,

Andrea Quinn

Kihei

LATE

HB-549-HD-1

Submitted on: 3/14/2019 4:30:45 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn Mick	Individual	Support	No

Comments:

I support this bill. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. We need to be incorporating sea level rise projections into our state plans, avoiding construction within hazardous coastal areas to protect our beaches, and supporting innovative solutions to address climate change.

HB-549-HD-1

Submitted on: 3/14/2019 4:36:40 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
James McCay	Individual	Support	No

Comments:

LATE

HB-549-HD-1

Submitted on: 3/14/2019 11:28:43 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara L. George	Individual	Support	No

Comments:

SUPPORT. Climate Change impacts, especially sea level rise, create a new type of coastal hazard affecting coastal areas now and increasingly in the future. Policy and permitting decisions with long-term effects related to sea level rise are happening now, including approvals of structures with long life spans, siting of utilities and other capital improvements, and other actions with long-range consequences. NOW, we must incorporate sea level rise projections into our state plans, avoid construction within hazardous coastal areas to protect our beaches, and support innovative solutions to address climate change.

LATE

HB-549-HD-1

Submitted on: 3/15/2019 2:58:04 PM

Testimony for AEN on 3/15/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicole Chatterson	Individual	Support	No

Comments: