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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

TWENTY-FOURTH LEGISLATURE Regular Session of 2008

Monday, March 17, 2008 3:30 p.m.

TESTIMONY ON SENATE BILL NO. 2783, S.D. 2, Proposed H.D. 1 – RELATING TO LOSS MITIGATION

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is J. P. Schmidt, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department").

The Department believes that it may be beneficial to prepare a report on comprehensive natural disaster impact zones for the State of Hawaii. This is a good first step in developing a comprehensive disaster mitigation plan. However, the Department opposes funding any such study from the hurricane reserve trust fund.

In addition, the Insurance Commissioner is amenable to doing a <u>study</u> of converting the Hawaii hurricane relief fund into a natural disaster relief program. However, we respectfully request that the Committee clarify exactly what is meant by a "natural disaster relief program." We are not certain whether this means a program to pay for uninsured losses in the event of a natural disaster or whether this means a multi-peril catastrophe insurance program.

We thank this Committee for the opportunity to present testimony.

<u>Testimony of Gerald Peters</u> and The Hawaii Lumber Products Association

(CPC) House Committee on Consumer Protection and Commerce

Monday, March 17, 2008. Room 3225 3:30 pm

RE: SENATE BILL 2783SD2 PROPOSED HD1 -- RELATING TO LOSS MITIGATION

Chair Herkes, Vice Chair McKelvey, and Members:

My name is Gerald Peters. I am testifying in **strong opposition to the proposed HD1** of this legislation on behalf of (1)The Hawaii Lumber Products Association;

- (2) As the volunteer legislative co-ordinator for 13 years of the Loss Mitigation Ad Hoc Group of private sector, building industry associations, academia, and public sector individuals and organizations;
- (3) Myself as an individual. I run a Licensed General Engineering and General Contracting Corporation, with hurricane protection as one line of our several specialties, and also for four years have produced and co-hosted with Mike Buck on Clear Channel Broadcasting, KHVH, a weekly all island, live call in home improvement show.

This proposed HD1 has entirely stripped out the intellectually well considered 08 Session work of the Senate through crossover, plus the work of the House PSM last week. Such action is so drastic and ill advised that it seems to be in technical error and I have inquired of the CPC Chair and some members if that is the case.

Yes, the HD1 agenda does propose a certainly necessary and useful review of all elements of the current state disaster preparedness and mitigation plan required by, and filed with FEMA. It does well to propose overhauling the relatively limited use and antiquated HHRF Statute. And it seeks to address gargantuan tasks like utilities mitigation, airports, harbors, dams, rivers and waterways....all necessary but requiring a daunting effort.

However, this HD1 content would seem to take some years to effectuate. Meanwhile, the public should not be left without access to its money left in the hurricane relief trust fund and have the current and improved (under SB2783SD2) opportunity/option provided by the Legislature to take preventive action on its own taken away. Otherwise the entire Hawaii Safe room and testing facility work in process, and the incentives for installation of hurricane clips and window and door glass protection is gone. And, in my opinion, the public and media will blame the House for coming up with an excuse to shut them out of their HHRF money forever

Thus HD1 Proposed should be withdrawn and re cast into a viable HD1 to include the content of SB2783SD2, which passed out of House PSM last week. I have summarized the benefits of this bill on page 2 which follows. Thank you.

Testimony of Gerald Peters and the HLPA Mon 3/17/08 Hse CPC SB2783SD2Proposed HD1 Room 325 3:30 p.m.

TO THE CPC MEMBERS:

SB2783SD2 Relating to Loss Mitigation. This bill will re authorize and allow the Loss Mitigation Grant Program (LMGP) to continue, and be expanded to include earthquake

loss mitigation, which engineers tell us will has a dual usefulness, at the same time help hurricane and tropical storm wind resistance, particularly for our weakest & oldest houses. Importantly, the LMGP re authorization will give a fall back option to the thousands with paid off older, weaker houses who are dropping hurricane insurance due to costs up to \$2000 a year for hurricane only, an increase of 500% or more in 7 years via a chance to get access to their left behind hurricane relief fund money.

The LMGP authorization and appropriations were initiated by your Disaster Emergency Preparedness Act of 2005 (DEPA) (July 2, 2005 Override session) and the 3 year authorization is running out this coming June 30. LMGP is 30 months old, but half of that time was spent setting it up, and only two ads were run by the Ins. Division.

This SD2 addresses the weaknesses learned during the 31 months to date, including improved incentives for the public, the addition of earthquake/hurricane combination strengthening, and provision for a meaningful public awareness program in co-ordinator with the FEMA, State, and County sanctioned Hawaii Statewide Mitigation Forum, Chaired by Dr. Michael Hamnett, founding member of the Ad Hoc Group also.

This SD2 also includes continuing support for the Diamond Head Crater disaster preparedness devices — safe room testing facility. The testing facility is a joint venture of the UH School of Civil Engineering, State Civil Defense, and all the leading engineering and building associations and members. It was also authorized by your DEPA override. Future building and shelter safety devices, and the \$450,000 invested so far in the facility equipment will be wasted without this bill becoming law.

There is considerable confusion and misinformation about how much of the authorized trust fund corpus and how much of the annual interest was actually released an spent. Some say \$600,000 for the LMGP, and some say more than that. The true numbers must be released by the Insurance Division, in order to cast real facts on the decision to use the rest of the authorized corpus from the Act 5 override, and/or to use a piece of the \$6 million a year earned interest from the \$192 or \$194 million still in the trust fund. It is important to note that approximately \$65 million of the people's money from the relief fund and interest has been sent to the general fund, but only about 1 to 2% of that actually spent on the LMGP. My guess only is that less than half of the amount appropriated from the trust fund in DEPA 2005 (\$2 million) has been released to the LMGF, and testimony from the Realtors at PSM that the number is \$4 million appears way off.

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STRUCTURAL ENGINEERS ASSOCIATION OF HAWAII

P.O. Box 3348, Honolulu, Hawaii 96801

March 17, 2008

TO:

State of Hawaii - House of Representatives

Committee on Consumer Protection and Commerce (CPC)

State Capitol, Conference Room 325

SUBJECT:

SB2783 SD2 Proposed HD1- Relating to Loss Mitigation

Hearing Date: Monday, March 17, 2008, 3:30 PM.

ATTENTION:

Chair Herkes, Vice Chair McKelvey, and Members of the House Committee on Consumer Protection

and Commerce (CPC)

The Structural Engineers Association of Hawaii (SEAOH) is the local chapter of the National Council of Structural Engineering Associations (NCSEA), with over 200 active members in Hawaii. The members of SEAOH have an historic and ongoing role in the development and implementation of building codes and criteria relating to seismic and hurricane resistant design of new structures and the retrofit of existing structures. Ian Robertson, President of SEAOH, has just completed a three year term as chair of the Hawaii State Earthquake Advisory Committee (HSEAC) of State Civil Defense, while Gary Chock, SEAOH past-president, is the chief technical author of the Wind Resistive Devices Technical Specifications for the Loss Mitigation Grant program administered by the Insurance Division of the Department of Commerce and Consumer Affairs.

Because the proposed House Draft 1 completely removes the excellent contents of SB2783 SD2, replacing them with a long-term effort to study hazards in Hawaii, SEAOH strongly opposes the proposed HD1. It is essential that homeowners be encouraged to strengthen their homes against disasters, and SB2783 SD2 did exactly that.

Because of our interest in improving the safety and welfare of the residents of Hawaii during future natural disasters, SEAOH testified in strong support of Senate Bill 2783 SD2, "Relating to Loss Mitigation", and now request that your committee restore the original SD2 wording of this bill. The testimony below speaks to our continued support for SB 2783 SD2.

All buildings in Hawaii are subject to hurricanes, and most are potentially subject to moderate to severe seismic ground motion. The recent Kiholo Bay earthquake, which was well below the maximum anticipated intensity for Hawaii County, highlighted numerous weaknesses with existing residential construction in Hawaii. The adoption of the International Building Code in the State Building Code for application throughout Hawaii will go a long way to reducing these types of damage during future earthquakes. However, there is a large inventory of existing residential buildings in Hawaii, Maui and Honolulu Counties which were built under much older codes and do not have adequate seismic resistance. For many years, SEAOH has organized workshops, seminars, and technical publications intended to encourage homeowners to retrofit their homes for earthquakes and hurricanes. The Loss Mitigation Grant Program offering grants for installation of wind resistive devices has lead to an increase in the number of homes retrofitted for hurricanes, and the same would occur if earthquake resistive devices are added to this program as proposed in SB2783 SD2. Since the same elements of the building system are used to resist earthquake and hurricane forces most earthquake resistive retrofit devices will also enhance the hurricane resistance of the building structure. Therefore, there will be dual risk reduction benefits for the homeowner.

The University of Hawaii Department of Civil and Environmental Engineering is currently involved in a research project funded by FEMA to develop seismic retrofit procedures for post-and-pier foundations, one of the residential construction systems most frequently damaged during the Kiholo Bay earthquake. Ian Robertson (SEAOH president) is principal investigator on this project, while Gary Chock (SEAOH past-president) is a Co-PI. Both HSEAC of State Civil Defense and SEAOH are providing review oversight for the project. The project objective is to develop engineered seismic retrofits for post-and-pier foundations that can be implemented by homeowners, or their contractor, in most cases without additional input from a design professional. The project final report, including proposed retrofit measures, will be available in Fall 2008, and those retrofit techniques could be incorporated into the criteria for earthquake resistive devices to be developed by the insurance commissioner under the provisions of SB2783 SD2.

STRUCTURAL ENGINEERS ASSOCIATION OF HAWAII

P.O. Box 3348, Honolulu, Hawaii 96801

Because of the likely costs of typical residential seismic retrofits, hurricane resistive saferooms and window protection systems, SEAOH strongly supports the proposed increase in the grant program to 50% of the cost of the retrofit with a maximum total reimbursement per dwelling of \$5,000. This increase will serve as added incentive for homeowners to perform these retrofits. SEAOH also strongly supports the appropriation of funds to advertise and promote the Loss Mitigation Grant Program through education and outreach activities.

All of these excellent programs will be lost if the proposed HD1 is adopted. We therefore strongly oppose House Draft 1.

Thank you very much for the opportunity to provide testimony on this bill.

For the Structural Engineers Association of Hawaii:

Ian Robertson, S.E., Ph.D.

SEAOH 2008 President 956-6536

www.seaoh.org

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March 17, 2008

The Honorable Robert Herkes, Chair

House Committee on Consumer Protection & Commerce State Capitol, Room 320 Honolulu, Hawaii 96813

RE: S.B. 2783, SD2, Proposed HD1, Relating to Loss Mitigation Hearing Date: March 17, 2008 @ 3:30 p.m., Room 325

Dear Chair Herkes and members of the House Committee on Consumer Protection & Commerce,

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) supports the intent of S.B. 2783, SD2, Proposed HD1.

S.B. 2783, SD2, Proposed HD1 will 1) provide funding to RCUH to develop and prepare a report on a comprehensive natural disaster impact zones; and 2) allow the insurance commissioner to create a plan to the HHRF into a natural disaster relief program.

HAR is much more supportive of efforts to create a statewide natural disaster plan, especially if the appropriation is made from the HHRF. We look forward to reports from RCUH and the insurance commissioner.

Mahalo for the opportunity to testify.



DEPARTMENT OF CIVIL AND ENVIRONMENTAL ENGINEERING UNIVERSITY OF HAWAII AT MANOA

2540 Dole Street, Holmes Hall 383, Honolulu, Hawaii 96822

March 17, 2008

TO:

State of Hawaii - House of Representatives

Committee on Consumer Protection and Commerce (CPC)

State Capitol, Conference Room 325

SUBJECT:

SB2783 SD2 Proposed HD1 - Relating to Loss Mitigation

Hearing Date: Monday, March 17, 2008, 3:30PM.

ATTENTION:

Chair Herkes, Vice Chair McKelvey, and Members of the House Committee on Consumer

Protection and Commerce:

I am a professor of structural engineering in the department of civil and environmental engineering at the University of Hawaii at Manoa. I serve as principal investigator on a project funded by State Civil Defense to develop a hurricane saferoom test facility at the Diamond Head Civil Defense Operation center. I am submitting this testimony in my capacity as PI on this project, and as a private individual.

SB2783 SD2 contained a much needed appropriation of funds for the first year of operation of this hurricane saferoom test facility. Without these funds the test facility will be considerably less effective than intended when the legislature appropriated \$450,000 to create the test facility.

I must therefore opposed the proposed House Draft 1 because it removes all support for the hurricane saferoom test facility, as well as effectively ending the excellent Loss Mitigation Grant Program.

For the committees benefit, I have included below my testimony in support of SB2783 SD2, and strongly request that the committee remove the proposed House Draft 1 and reinstate the SD2 wording for this bill.

Because of my background in hazard mitigation research and preparedness, I am in strong support of SB 2783 SD2. In particular, I am in support of the appropriation of funds to support annual operation of the SCD/UH Hurricane Saferoom Test Facility.

The SCD/UH Hurricane Saferoom Test Facility will enable the testing of hurricane resistive saferooms, and window and door opening protection systems, when subjected to wind-borne debris and cyclic wind loading pressures. Similar test facilities have been developed at Texas Tech University, Louisiana State University and Florida. Design of the test facility is now complete and the various components are being ordered. The test equipment will be assembled and installed in an existing warehouse facility at SCD Diamond Head facility this summer.

Residential construction in Hawaii often differs significantly from that used in the rest of the US. A prime example is the use of single wall construction in older residential buildings. Hurricane protective systems that have been tested on double wall construction may not perform adequately when applied to windows and doors of single wall buildings, hence the need to test these systems here in Hawaii. Much of the research and development of saferooms in the US has focused on providing refuge from tornados when a basement is not available. In Hawaii, however, saferooms are needed for hurricane conditions, which will allow for somewhat more economical saferoom designs. These designs must be tested before they can be approved as part of the Loss Mitigation Grant Program. In addition, this test facility will encourage local innovation of improved saferoom and hurricane protective systems with the convenience of being able to verify performance locally rather than the expensive option of shipping test specimens to mainland test sites.

There is considerable interest from the local construction and material supply industry for testing of locally manufactured saferooms and hurricane protection systems. It is anticipated that after two years of operation the test facility will be self-sufficient based on revenue generated by its testing operations. However, for the first two years funding will be required to operate the facility for saferoom testing, single wall opening protection testing, educational and outreach activities. The facility will be used to inform the public about the need for hurricane saferooms and protective devices. It will also be used to promote the Loss Mitigation Grant Program, and to demonstrate the potential consequences of seeking protection from a hurricane in a home that does not have hurricane resistive devices.

The 2007 legislative appropriation of \$450,000 was for a one year period to cover the design, fabrication and installation of the test facility. Operation of the facility for the first year of testing is estimated at \$150,000 to cover salary and benefits for the research technician operating the facility, and funds for maintenance and repair of the equipment, and fabrication of test specimens. Funds are also included for certification of the test facility by the International Code Council (ICC) so that products tested at the facility will qualify for ICC certification. This is highly desirable so that these products can then be used throughout the USA, and not only in Hawaii.

As Principal Investigator of the SCD/UH hurricane saferoom test facility, I was in strong support of the SB2783 SD2 appropriation of \$150,000 for operation of the facility for the 2008-2009 fiscal year. Because this appropriation is removed by the proposed House Draft 1, I must oppose SB2783 SD2 HD1 and ask that the committee reinstate the excellent mitigation measures included in SD2.

Thank you very much for this opportunity to testify on this bill.

lan Robertson, S.E., Ph.D.

Professor and Principal Investigator

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956-6536

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

TWENTY-FOURTH LEGISLATURE Regular Session of 2008

Monday, March 17, 2008 8:30 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL NO. 2783, SD 2 – RELATING TO LOSS MITIGATION.

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Lloyd Lim. I take no position on this bill, but I wish to offer some comments as a concerned citizen. Although I work for State government, I am testifying solely in my capacity as a private citizen and not in any official capacity.

The loss mitigation grant program sets a disturbing precedent for government programs. First, it gives money away to people to buy things. Second, it gives some private businesses a price subsidy for their products and services. Both of these would make for a bad and impractical general rule, and therefore they may not be good policy. It used to be that people were willing to stand on their own two feet and all they asked for from government was a level playing field. Apparently, those days are behinds us. The grant program puts us a step further down a slippery slope towards an untenable policy position. It started with the tax credit for solar water heaters, then became the hurricane retrofit grant program, and now we heading off to do earthquake mitigation grants. What is next? The grant program is like drinking soda. It tastes good, but it really isn't good for you. So what should we do about mitigation? Perhaps we should leave it to the market to determine the appropriate allocation of resources.

This Committee should take notice of the number of homeowners that are testifying for this grant program. This is special interest legislation.

As to the Proposed H.D. 1, I think that is a constructive step for the people of the State of Hawaii.

Thank you for the opportunity to submit testimony to the Committee.

Emailed to: testimony@capitol.hawaii.gov
Feb. 10, 2008

Testimony to the House Committee on Consumer Protection and Commerce Monday, March 17, 2008. Room 3225 3:30 pm

RE: SENATE BILL 2783SD2 PROPOSED HD1 -- RELATING TO LOSS

MITIGATION

By Michael P. Hamnett 47-655 Hui Kelu Street, No. 5 Kaneohe, Hawaii 96744 Phone: (808) 292-2838

Chair Herkes, Vice Chair McKelvey, and Members:

My name is Michael Hamnett. I am Executive Director of the Research Corporation of the University of Hawaii and a research faculty member at the University of Hawaii. I have worked in the field of disaster preparedness and mitigation for the past 26 years. I have chaired the Statewide Hazard Mitigation Forum since 1998 and I currently sit on the Hawaii Hurricane Relief Fund Board of Directors.

I testified strongly in favor of SB2783SD2 and I stand by that testimony. I have very serious concerns with the proposed HD1, however, and must oppose it.

As Executive Director of the Research Corporation of the University of Hawaii (RCUH), I am flattered that members of the Legislature (in HD1) would like RCUH to assist with assessing the risk of losses and developing mitigation tools to improve disaster management in Hawaii. However, RCUH cannot directly receive appropriated funds from the Legislature based on its enabling legislation.

On the substance of the proposed House draft, SB2783SD2HD1 calls for identification of natural disaster impact zones. While not using the *term impact zones*, the State of Hawaii Mutlihazard Mitigation Plan provides a risk and vulnerability assessment for Hawaii's populations, its infrastructure, housing stock, and economic sectors from a broader range of hazards than identified in HD1 using the best available science. This was plan was drafted by Dr. Cheryl Anderson of the University of Hawaii and done in collaboration with the agencies identified in HD1, most of which are represented on the Hazard Mitigation Forum, the policy body for the plan. The plan was approved by the Forum, adopted by the Governor, and approved by FEMA late last year.

The Hazard Mitigation Forum and State Civil Defense clearly recognize that the current plan could be improved. And, Dr. Anderson is working the State Civil Defense to revise the county mitigation plans for which updates are required by FEMA in the next year or so. The updated county plans will provide a foundation for further improvements in the state plan.

While HD1 does not address funding for the Loss Mitigation Grant Program, by omission it appears to kill that program, which is one of the best investments the state could make with HHRF. HD1 calls for the conversion of the Hawaii Hurricane Relief Fund into a relief program, which clearly hamper revival of the HHRF insurance program, which will probably be required after the next major hurricane.

In conclusion, I would strongly recommend that the Legislature pass SB2783SD2.

Thank you for the opportunity to submit testimony.

March 16, 2008

TO:

State of Hawaii - House of Representatives

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair

Rep. Angus L.K. McKelvey, Vice Chair State Capitol, Conference Room 325

SUBJECT:

SB2783 SD2 - Relating to Loss Mitigation

Hearing Date: Monday, March 17, 2008, 3:30 PM.

ATTENTION:

Chair Herkes, Vice Chair McKelvey, and Members of the House Committee on Consumer

Protection and Commerce

I am Gary Chock, SEAOH past-president, chief technical author of the Wind Resistive Devices Technical Specifications for the Loss Mitigation Grant program administered by the Insurance Division of the Department of Commerce and Consumer Affairs, and a Board member of the Hawaii Hurricane Relief Fund.

I am opposed to SB 2783 SD2 HD1, which was just made available on March 14th. This bill has no common elements with the SB 2783 SD2 that has been reviewed and amended by the Senate and the House Committee on Public Safety and Military Affairs. I would also note that RCUH and the Social Science Research Institute of the University of Hawaii has already prepared a a comprehensive multihazard natural disaster plan that has been approved by FEMA. I invite this committee to become more familiar with that plan, which was just updated this year. Last year, the State Legislature also passed a State Building Code Act, which is proceeding to adopt the latest building codes complete with special provisions for natural disasters. Work on evaluating and strengthening disaster shelters is ongoing through a collaborative effort by the Department of Accounting and General Services and State Civil Defense. Also, it is my understanding from the Research Corporation of the University of Hawaii that they would not be legally eligible to receive the direct appropriation indicated in Section 5. Therefore, in my opinion, Sections 2, 3, and 5 of HD1 are duplicative or in conflict with existing efforts and statutes. In fact, HD1 would effectively terminate the funding appropriation necessary to keep the existing Loss Mitigation Grant Program in operation in the next fiscal year. Should this committee desire a study of the potential future uses of the Hawaii Hurricane Relief Fund, it can add this tasking to the current SB 2783 SD2 rather than terminating funding for the Loss Mitigation Grant Program.

I would request that you support Senate Bill 2783 SD2, which will be of most benefit to homeowners in Hawaii and Maui counties. All buildings in Hawaii are subject to hurricanes, and most are potentially subject to moderate to severe seismic ground motion. The recent Kiholo Bay earthquake highlighted numerous weaknesses with existing residential construction in Hawaii. The Loss Mitigation Grant Program offering grants for installation of wind resistive devices has lead to an increase in the number of homes retrofitted for hurricanes, and the same would occur if earthquake resistive devices are added to this program as proposed in SB2783 SD2. Bear in mind that earthquake resistive devices also enhance the hurricane resistance of the building's lateral-load-resisting system, thereby providing dual benefit to homeowners. Because earthquake retrofits strengthen against hurricanes as well, there is no conflict with use of earnings from Hawaii Hurricane Relief Fund, since the new retrofits would simply add to the types of measures available for loss mitigation against hurricanes.

The University of Hawaii Department of Civil and Environmental Engineering has been engaged by FEMA to develop seismic retrofit procedures for post-and-pier foundations, one of the residential construction systems most frequently damaged during the Kiholo Bay earthquake. The project final report, including proposed retrofit measures, will be available in Fall 2008, and those retrofit techniques could be incorporated into the criteria for earthquake resistive devices to be developed by the insurance commissioner under the provisions of SB2783 SD2. This committee should not abandon this federally funded effort that will particularly help residents of Hawaii and Maui counties.

I would ask you to table HD1 and recommend that SB 2783 SD2 be passed.

Gary Chock, Structural Engineer Past-President, Structural Engineers Association of Hawaii