

**TESTIMONY**  
**HB 589, HD1, SD1**

*Castle & Cooke*  
*Hawai'i*

100 Kahelu Avenue  
Mililani, Hawai'i 96789-3997  
P.O. Box 898900  
Mililani, Hawai'i 96789-8900  
O'ahu: (808) 548-4811 • Fax (808) 548-2980  
Lana'i: (808) 565-3000 • Fax (808) 565-3312

*Harry A. Saunders*  
President

April 3, 2009

**Via: [WTLTestimony@Capitol.Hawaii.gov](mailto:WTLTestimony@Capitol.Hawaii.gov)**

The Honorable Clayton Hee, Chair,  
and Members of the Water, Land,  
Agriculture and Hawaiian Affairs Committee  
Hawai'i State Senate  
Hawai'i State Capitol Room 228  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Chair Hee and Members of the Committee:

**Subject: *HB 589, HD 1, SD 1 Relating to Renewable Energy Facilities; Subdivision  
Hearing 2:45 p.m., April 6, 2009  
Capitol Conference Room 229***

**Castle & Cooke supports HB 589, HD 1, SD 1.** The purpose of this bill is to recognize as legal and legitimate, those leases and easements for renewable energy projects which cover less than an entire legal lot. This will facilitate financing and development of renewable energy projects.

HB 589, HD 1, SD 1 has been narrowed and clarified substantially, and explicit limitations have been added to effect the very narrow intent to recognize leases for renewable energy projects as valid (and therefore allow for title insurance and financing), even though they are leases for less than an entire legal lot.

We respectfully provide the following comments in support of the positive and narrow purpose and effect of this bill:

- HB 589, HD 1, SD 1 does not create a new and separate subdivision process and records, as no subdivision of land is authorized. Its sole and narrow purpose is to give legal recognition to a renewable energy lease (where the lease is for less than an entire legal lot) so that the lease can be supported by title insurance and project financing. This recognition of the lease will facilitate financing for the renewable energy project.

The Honorable Clayton Hee and Members  
of the Water, Land, Agricultural and Hawaiian Affairs Committee  
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Landowners can already create leases for these purposes, but financing on leases can be problematic. Leases for less than the entire legal lot may not be enforceable under Hawai'i law, and for this reason, a lessee will have difficulty obtaining title insurance and financing on its leasehold interest and project. Where the legal lot is larger than the project area and has other uses or liens on it, then placing a mortgage on the entire lot can be problematic for the owner. This bill is patterned after an existing agricultural lease exemption from subdivision requirements (see HRS Section 205-4.5(f))

- HB 589 HD 1 SD 1 does not exempt any project from normal and existing Environmental Impact Statement and permitting requirements, mitigation conditions or infrastructure requirements imposed at permitting. It does not allow any additional uses and does not affect existing permitting requirements or agency discretion to disallow a project or to impose mitigation conditions under existing permit requirements and processes.

On behalf of Castle & Cooke, I respectfully request your support of HB 589, HD 1, SD 1. This legislation will facilitate development and financing of renewable energy projects and help reduce Hawai'i's reliance on fossil fuels. Mahalo for your consideration of our testimony. If you have any questions, please feel free to contact us:


Harry Saunders, President  
Castle & Cooke Hawai'i  
[aktsukamoto@castlecooke.com](mailto:aktsukamoto@castlecooke.com)  
Phone: 548-4884

Richard Mirikitani, Senior Vice President and Counsel  
Castle & Cooke Hawai'i  
[rmirikitani@castlecooke.com](mailto:rmirikitani@castlecooke.com)  
Phone: 548-4890

Carleton Ching, Vice President – Community and Government Relations  
Castle & Cooke Hawai'i  
[cching@castlecooke.com](mailto:cching@castlecooke.com)  
Phone: 548-3793

Sincerely,

CASTLE & COOKE HAWAI'I



Harry A. Saunders  
President



# Title Guaranty of Hawaii, Inc.

235 QUEEN STREET, HONOLULU, HI 96813 • P.O. BOX 3084, HONOLULU, HI 96802

Phone: (808) 533-4251 Fax: (808) 521-0217

April 4, 2009

Via Email: [WTLTestimony@Capitol.hawaii.gov](mailto:WTLTestimony@Capitol.hawaii.gov)

The Honorable Clayton Hee, Chair  
The Honorable Jill N. Tokuda, Vice Chair  
Members of the Senate Committee on Water, Land, Agriculture and Hawaiian Affairs  
Conference Room 229, State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: House Bill 589, HD1, SD1 Relating To Renewable Energy Facilities  
Hearing Date: Monday, April 6, 2009  
Hearing Time: 2:45 p.m.

Dear Senators Hee and Tokuda, and Members of the Senate Committee on Water, Land, Agriculture and Hawaiian Affairs:

Thank you for the opportunity to submit testimony in support of House Bill 589, HD1, SD1 Relating To Renewable Energy Facilities.

Encouraging the development of renewable energy resources is critical for the future of Hawaii. Creating an exemption from the subdivision laws to allow a lease and easement of an area which is a portion of a subdivided lot will facilitate the issuance of title insurance to the developers of the resources and their lenders, which in turn will advance the development of renewable energy facilities. In our view, this is a useful addition to existing law and does not have any significant negative consequences.

We respectfully urge you to favorably consider House Bill 589 and to recommend its passage. If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

Lorrin Hirano  
Sr. Vice President and Legal Counsel

**TESTIMONY**  
**HB 589, HD1, SD1**  
**(END)**