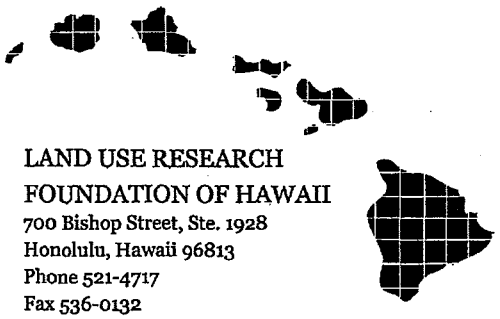

LAND USE RESEARCH
FOUNDATION OF HAWAII
700 Bishop Street, Ste. 1928
Honolulu, Hawaii 96813
Phone 521-4717
Fax 536-0132

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Via Capitol Website

February 3, 2009

Senate Committee on Energy and Environment
Hearing Date: Tuesday, February 3, 2009, 2:45 p.m. in CR 225

Testimony in Opposition to SB 148 – Relating to Renewable Energy
(Mandating Installation of Solar Thermal Energy Systems for Residential Developments of six or more units.)

The Honorable Chair Mike Gabbard, Vice-Chair J. Kalani English &
Energy and Environment Committee Members:

Dear Chair Gabbard, Vice-Chair English and Members:

My name is David Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

While LURF and its members support and employ solar energy or comparable renewable energy devices and support the general intent of this bill, we must testify **in strong opposition to the current version of SB 148,** based on, among other things, the following grounds: "If it ain't broke, don't try to fix it." The present system of rebates and incentives are working, there is no need for any additional regulation or increased costs to new homeowners; individual homeowner choices such as installing a costly solar energy device should be left to each individual homeowner, rather than mandated by the government; a very serious impact of this bill is that it would increase the sales price and up front costs of new housing for homebuyers of projects of six units or more; the higher sales prices will detrimentally affect the ability to qualify for a mortgage loan; it will also cause the loss of tax credits for homeowners; it will cause the loss of HECO rebates for homeowners in developments with six or more units; and the regulatory process established by this bill is subjective, confusing, unenforceable and of questionable legality.

Instead of mandatory legislation, the legislature should encourage making solar thermal energy devices or comparable renewable energy devices cost-neutral to new homebuyers and developers, by providing up front credits and incentives to developers to counteract the increased costs of such devices and the resulting increased prices of new homes.

SB 148. The purpose of this bill is to direct each county to require the installation of solar thermal energy systems in new residential developments, which would consist of developments with six or more units consisting of single-family dwellings or multi-unit dwellings.

The proposed bill requires the Counties by January 1, 2010 to incorporate into its building code a requirement that solar thermal energy systems be installed in any new development with six or more units. Additionally, the bill requires that all plans submitted for a building permit bear the certification of a registered architect or engineer. The bill defines solar thermal energy as any identifiable facility, including photovoltaic cell application . . . for heating, cooling or reducing the use of other energy dependent upon fossil fuel. The bill excludes the skylights or windows from being considered a solar thermal energy system.

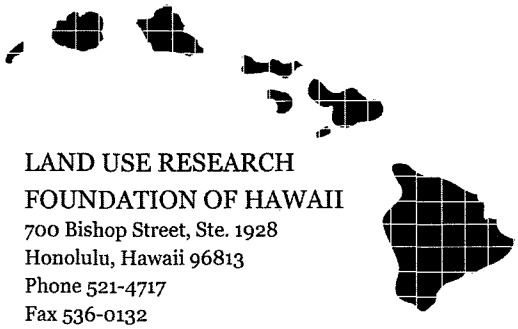
LURF's Position. While we agree that we, as a community, should work to conserve more energy, we believe that the choice of energy conservation devices should be governed by market forces and government incentives, rather than by government regulations. The grounds for our objections include, among other things, the following:

- The present system of rebates and incentives are working, there is no need for any additional regulation or increased costs to new homeowners in projects with six or more residential units;
- We believe the choice to install a solar thermal energy system should be left to each individual homeowner's in projects with six or more residential units.
- This mandatory legislation will increase the sales prices of homes in Hawaii since the cost of a solar thermal energy system and installation will be "passed-on" to the new homebuyer's in projects with six or more residential units.
- The increased sales prices caused by this bill will adversely impact the ability of new homebuyers in projects with six or more residential units, to qualify for mortgage loans.
- Philosophically, this is the classic "Carrot versus the Stick" approach to influence peoples' behavior. We prefer the "carrot" approach and would recommend that incentives be increased for developers of new residential projects who install energy conservation devices, rather than require compliance through legislation. If the legislature grants sufficient incentives and tax credits to developers of new residential development projects, then the impact of this legislation could be cost-neutral for new homebuyers in projects of six or more residential units.
- The purported purpose of the bill is to significantly reduce the State's dependence on imported oil over time, however, it is curious that this bill does not require solar thermal energy systems to be installed on all state buildings, commercial, industrial, or resort properties. Instead, it only focuses on government requirements which would increase the costs of new residential developments with six or more single-family dwellings or multi-family dwellings. If the stated purpose of the bill is true, one wonders why government does not impose the same requirements upon itself.

Other Concerns. The bill's requirements are subjective, confusing and impractible:

- **Unfunded Mandate?** Bill 148 would require all Counties by January 1, 2010 to "incorporate into its building code a requirement that solar thermal energy systems be installed in any new development with six or more units." Such a state law that requires the counties to establish and enforce rules, based on a state initiative or policy, could be an "unfunded mandate," which the counties could refuse to implement.
- **Effective Date.** The bill, which would go into effect on January 1, 2010, is impractible and not feasible especially in these hard economic times for developers and even small lot owners who want to develop multi-family residential units.

Thank you for the opportunity to express our concerns on this matter.



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