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# A BILL FOR AN ACT

RELATING TO CLEAN ENERGY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

**PART I**

SECTION 1. The legislature finds that the initial capital investment required by property owners to install renewable energy systems and energy efficiency improvements on residential and commercial properties is a significant barrier to reaching the State's clean energy target of generating all of Hawaii's electricity through renewable energy sources by the end of 2045.

The legislature further finds that during the 2010 regular session, House Bill No. 2634, H.D. 2, S.D. 2, proposed a type of property assessed clean energy program, titled the Hawaii clean energy bond loan program. This program proposed allowing commercial and residential property owners to take loans to fund energy efficiency improvements with repayments on the loans made through an increased property tax assessment on the property.

The measure raised concerns by the Federal Housing Finance Agency which questioned whether the loan lien would have priority over a mortgage lien. While House Resolution No. 47,



1 H.D. 1, Regular Session of 2010, and a subsequent report by the  
2 department of business, economic development, and tourism  
3 addressed some of the concerns with the bill, no property  
4 assessed clean energy program has been enacted in Hawaii.

5 On August 24, 2015, President Barack Obama announced new  
6 actions to bring renewable energy and energy efficiency to  
7 households across the country. Through subsequent actions by  
8 the Federal Housing Administration and the United States  
9 Department of Housing and Urban Development, the federal  
10 government set forth guidelines to address the Federal Housing  
11 Finance Agency's lien priority concerns regarding property  
12 assessed clean energy programs.

13 Accordingly, the legislature finds that now is the  
14 appropriate time for Hawaii to join the twenty-nine other states  
15 that have enacted property assessed clean energy legislation.

16 The purpose of this Act is to establish an additional form  
17 of financing for commercial and residential property owners to  
18 implement energy efficiency improvements and install renewable  
19 energy systems.



## PART II

SECTION 2. Chapter 196, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . HAWAII PROPERTY ASSESSED CLEAN ENERGY PROGRAM

§196-A Definitions. As used in this part:

"Department" means the department of business, economic development, and tourism.

"Director" means the director of business, economic development, and tourism.

"Energy efficiency improvements":

(1) Means installation or physical modifications to property designed to reduce energy consumption;

(2) For the purposes of this part, do not include fixtures specific to a certain trade or appliances such as washing machines, dryers, dishwashers, non-centralized air-conditioning units, and all similar appliances; and

(3) Shall include the following:

(A) Air sealing and ventilation;

(B) Insulation;



- 1 (C) Space heating and cooling;
- 2 (D) Solar hot water systems;
- 3 (E) Hardwired lighting;
- 4 (F) Daylighting;
- 5 (G) Windows;
- 6 (H) Doors and skylights;
- 7 (I) Reflective roofs; and
- 8 (J) Energy efficiency improvements to pool equipment
- 9 and landscaping.

10 "Loan program" means the Hawaii property assessed clean  
11 energy program.

12 "Property owner" means the person who holds title to or is  
13 in possession of the subject real property, or the person's  
14 lessee or agent.

15 "Renewable energy system":

16 (1) Means a system that produces thermal or electrical  
17 energy from renewable sources, including units with an  
18 electrical back-up or storage component, intended for  
19 use within the residential or commercial property on  
20 which it is located; and

21 (2) Shall include the following systems:



1 (A) Solar photovoltaic systems;

2 (B) Wind systems with capacity to generate no more  
3 than fifty kilowatts of electricity; and

4 (C) Biogas systems.

5 **§196-B Hawaii property assessed clean energy program.**

6 Notwithstanding section 39-112, there is established the Hawaii  
7 property assessed clean energy program, which shall be  
8 administered by the director.

9 **§196-C Hawaii property assessed clean energy revolving**

10 fund. (a) There is established the Hawaii property assessed  
11 clean energy revolving fund, into which shall be deposited:

12 (1) Proceeds from the issuance of revenue bonds that are  
13 deposited into the revolving fund;

14 (2) Repayments of moneys loaned from the revolving fund  
15 and interest earned on those moneys;

16 (3) Moneys received from the operation of the loan  
17 program;

18 (4) Appropriations made by the legislature to the  
19 revolving fund;

20 (5) Interest earned from the investment of moneys in the  
21 revolving fund; and



1 (6) Any moneys received from grants.

2 (b) Moneys in the Hawaii property assessed clean energy  
3 revolving fund shall be used for the following purposes:

4 (1) To make loans to residential and commercial property  
5 owners for energy efficiency improvements and  
6 renewable energy systems;

7 (2) To repay any debt service on the revenue bonds, the  
8 proceeds of which are deposited into the revolving  
9 fund; and

10 (3) For administrative expenses relating to the operation  
11 of the fund and the loan program.

12 §196-D Powers. The director may:

13 (1) Enter into contracts relating to the operation of the  
14 loan program including administering the loan program;  
15 and

16 (2) Perform all functions necessary to effectuate the  
17 purposes of this part.

18 §196-E Rules. The department shall adopt rules pursuant  
19 to chapter 91 to carry out the purposes of this part, including  
20 the following:



- 1 (1) Prescribing the qualifications for eligibility of
- 2 applicants for loans;
- 3 (2) Establishing preferences and priorities in determining
- 4 eligibility for loans;
- 5 (3) Establishing the conditions, consistent with the
- 6 purposes of this part, for the granting of or for the
- 7 continuance of a grant of a loan;
- 8 (4) Providing for inspection at reasonable hours of the
- 9 structures, equipment, books, and records of the
- 10 entity that has applied for or has been granted a
- 11 loan, and requiring the submission of reports as may
- 12 be requested by the department;
- 13 (5) Establishing rates and charges for the operation of
- 14 the loan program; and
- 15 (6) Establishing requirements for single-family properties
- 16 subject to this part to comply with property assessed
- 17 clean energy loan guidelines established by the
- 18 Federal Housing Administration.

19 **§196-F Loans.** (a) The department may make loans to  
20 qualifying commercial and residential property owners for energy  
21 efficiency improvements and renewable energy systems in a



1 participating county. A participating county is a county that  
2 has agreed to take part in the loan program by taking the legal  
3 action as is necessary under its real property tax system to  
4 levy upon a property benefited by the loan a special assessment  
5 of an amount necessary to repay each loan financed under the  
6 loan program. The participating county shall remit the moneys  
7 to the Hawaii property assessed clean energy revolving fund and  
8 shall receive reasonable compensation for its services.

9 (b) The loan repayment charge may include the amount of  
10 the loan, interest on the loan, and the costs incurred by the  
11 department to implement and administer the loan program.

12 (c) The loans shall be subject to the terms and conditions  
13 specified in rules adopted by the department.

14 (d) The department shall record a lien on the property  
15 benefited by the loan. The lien shall attach to the property on  
16 which the installation or improvements pursuant to this part  
17 were made.

18 (e) Notwithstanding any law to the contrary, if the  
19 director determines that the department is unable to issue a  
20 sufficient number of loans to offset the reasonable cost to the  
21 department of operating the loan program, the director may delay





1 or suspend the loan program in one or more participating  
2 counties or may delay or suspend any feature of the loan  
3 program.

4 §196-G Liens. The lien recorded pursuant to  
5 section 196-F(d) shall relate to and take effect from the date  
6 of completion of all contracted improvements, installations, and  
7 operations undertaken by the property owner in accordance with  
8 this part."

9 PART III

10 SECTION 3. Purpose. This part shall govern, with respect  
11 to the Hawaii property assessed clean energy program, the  
12 practice and procedure before the State, program administrator,  
13 department of business, economic development, and tourism, and  
14 the department of budget and finance and shall be construed to  
15 promote increased activity in residential and commercial  
16 renewable energy projects, stimulate the State's clean energy  
17 sector, reach energy efficiency and clean energy goals, increase  
18 energy security, encourage economic diversification, provide  
19 increased career opportunities for Hawaii residents, and attract  
20 funding and investment into the State. The Hawaii property  
21 assessed clean energy program shall begin on July 1, 2016, and



1 no loans shall be issued after December 31, 2040. The purpose  
2 of this part is to clarify the role of the program administrator  
3 and the program application processes for counties and  
4 applicants.

5 SECTION 4. Definitions. In addition to the definitions  
6 contained in the new part in chapter 196, Hawaii Revised  
7 Statutes, established by this Act, the following definitions  
8 shall apply to this part:

9 "Commercial properties" and "residential properties" mean  
10 those properties as defined by the county code for the  
11 particular county in which the property is located and do not  
12 fall under the category of facilities.

13 SECTION 5. Program administrator. The powers and duties  
14 of the program administrator or "administrator" are as contained  
15 in this part. The administrator shall be selected through a  
16 competitive bidding process pursuant to chapter 103D, Hawaii  
17 Revised Statutes. The administrator shall have the authority to  
18 hire private subcontractors for the purposes of energy  
19 inspections and audits. The administrator shall:

20 (1) Establish criteria and procedures for the  
21 qualification of technologies and systems, perform



1 energy inspections and audits, including identifying  
2 the energy efficiency improvements and renewable  
3 energy systems that qualify for the loan program  
4 financing, and develop appropriate procedures for the  
5 qualification of these improvements and systems;

6 (2) Calculate a property's current energy consumption and  
7 energy costs when an application is submitted by the  
8 property owner, and estimate the potential cost  
9 benefits that could be realized through energy  
10 efficiency improvements or installation of renewable  
11 energy systems on the subject property;

12 (3) Provide education and training on energy efficiency  
13 improvements to applicants, including education and  
14 training on the selection and use of improvements to  
15 maximize energy efficiency;

16 (4) Prescribe loan repayment periods and provide projected  
17 property tax assessment estimates when the applicant  
18 opts to take advantage of the financing made available  
19 under this Act, including establishing deadlines for  
20 loan repayments and providing applicant property  
21 owners the projected property tax assessment estimates



1 that will be due and collected along with the ad  
2 valorem property tax bill; provided that the length of  
3 time allowed for the property owner to repay the  
4 assessment shall not exceed the life expectancy of the  
5 systems or improvements; provided further that where  
6 multiple systems or improvements have been installed,  
7 the length of time shall not exceed the average  
8 lifetime of all projects, weighted by cost;

9 (5) Assist the counties with administrative duties related  
10 to the execution of this part, including:

11 (A) Initiation and authorship of any and all written  
12 agreements between participating property owners  
13 and the counties or funding institutions;

14 (B) Public outreach and program promotion within the  
15 counties, including community informational  
16 briefings and making available information  
17 related to the program; and

18 (C) Any revision to existing county documents and  
19 systems needed to efficiently collect property  
20 tax assessment payments from property owners;



(6) Distribute state bond proceeds appropriated for this program to participating property owners, private contractors, or funding institutions, including responsibility for ensuring loan repayment to the State from revenues generated by participating county property tax assessments under this part; and

(7) Collect, compile, and report all data and information relating to the loan program to the State, department, and the department of budget and finance; provided that the criteria, qualifications and procedures, and lifetimes of projects described in paragraphs (1) and (3) shall be determined with approval from the department.

SECTION 6. Program application requirements for counties.

(a) Local ordinance requirement. For a county to access funding generated by the sale of bonds issued by the State, the county shall voluntarily agree to participate in the State's loan program by ordaining an ordinance or other legally binding action. Subsequently, county officials shall submit a report to the department for approval.

(b) County report. County reports shall include:



- 1 (1) A draft contract agreement between participating
- 2 property owners and the county government;
- 3 (2) A list of eligible distributed renewable energy
- 4 systems;
- 5 (3) A list of eligible energy-efficiency improvements;
- 6 (4) A designated county official who is authorized to
- 7 enter into contractual assessments on behalf of the
- 8 county;
- 9 (5) A maximum aggregate dollar amount for any contractual
- 10 assessments;
- 11 (6) A method for prioritizing applications or requests if
- 12 applications exceed the authorization amount;
- 13 (7) A plan for dispersing the capital amount required to
- 14 pay for work performed pursuant to contractual
- 15 assessments; and
- 16 (8) An accounting of any costs incidental to the
- 17 financing, administration, and collection of the
- 18 contractual assessment for the county.
- 19 (c) Real property assessments and payments to the State.
- 20 The applicable portion of property assessment payments from the
- 21 affected properties within the participating county or counties,



1 upon agreement between the State and the county or counties,  
2 shall be applied to service the State debt on the bonds issued  
3 pursuant to this Act.

4 SECTION 7. Program application process for property  
5 owners. (a) Properties with existing public liens, including  
6 liens resulting from delinquent green infrastructure loans made  
7 pursuant to part IV of chapter 196, Hawaii Revised Statutes,  
8 shall not be eligible for the loan program. The department may  
9 grant exemptions to this restriction on a case-by-case basis  
10 upon request from the applicant. Properties that are valued at  
11 less than the total amount owed to the mortgage lender are not  
12 eligible for the loan program. All subsequent liens placed on  
13 the subject property after loan funds have been dispersed  
14 pursuant to this Act shall be subordinate. The loan applicant  
15 shall possess title for the subject property as well as  
16 documentation to prove timely mortgage payments if applicable.

17 (b) Loan application prerequisites. The department, in  
18 consultation with the administrator, shall establish eligibility  
19 criteria for site inspections and individuals or entities  
20 wishing to conduct site inspections. An onsite energy  
21 inspection to determine total monthly energy consumption and



1 estimated potential energy savings is required for projects  
2 valued at more than five per cent of the total value of the  
3 subject property in order to participate in the program. Onsite  
4 energy inspections or audits may be performed by private  
5 contractors subcontracted by the administrator or by persons  
6 employed by the administrator; provided that they meet the  
7 criteria established by the department. The department shall  
8 retain the authority to conduct onsite energy inspections for  
9 any and all applications if deemed necessary by the director.

10 (c) Loan application review process. The administrator,  
11 or in the case of projects valued at \$100,000 or more, the  
12 department, shall accept the loan application so long as it is  
13 complete and complies with the loan application prerequisites  
14 and application process of this part. If the loan application  
15 is accepted, the loan application reviewer shall notify the  
16 applicant of acceptance in writing within thirty days. If the  
17 loan application does not meet the requirements of this part,  
18 the loan application reviewer, not more than thirty days from  
19 the submission of the loan application, shall provide the  
20 applicant with a written report of the reasons why the loan  
21 application is incomplete. The loan application shall be





1 approved or denied not more than ninety days from the date of  
2 acceptance, and the loan applicant shall be informed of the  
3 action in writing not more than thirty days from the day the  
4 action is taken on the loan application.

5 (d) Loan disbursement. Once a loan is approved, the loan  
6 applicant shall have thirty days upon receipt of the acceptance  
7 to either agree or reject the terms of the loan. If the loan  
8 applicant agrees to the terms of the loan, then the financial  
9 institution handling the applicable loan program funds shall  
10 disburse the appropriate amount to the businesses hired to  
11 perform the contractually agreed upon services.

12 (e) Loan repayment. Loans shall be repaid through  
13 revenues generated by a special assessment on real property tax  
14 bills. The liability to repay the loan shall be attached to the  
15 property as an assessment on real property. The participating  
16 county in which the assessed property is located shall be  
17 responsible for repayment to the State, but shall not be held  
18 liable if a default occurs on the loan. Loans for amounts over  
19 \$5,000 may be repaid over a period of ten to twenty years, at  
20 the program administrator's discretion. The length of time  
21 allowed for the property owner to repay the assessment shall not



1 exceed the life expectancy of the system or improvement. Where  
2 multiple systems or improvements have been installed, the length  
3 of time for the property owner to repay the loan shall not  
4 exceed the average lifetime of all projects, weighted by cost.  
5 Projects valued at \$100,000 or more shall require approval by  
6 the department. A loan pursuant to this Act shall not exceed  
7 \$250,000.

8 (f) Loan re-application. If a loan application is denied,  
9 the applicant may re-apply for the denied loan only if the  
10 problems that were grounds for denial under the preceding loan  
11 application have been remedied.

12 **PART IV**

13 **SECTION 8.** The director of finance is authorized to issue  
14 revenue bonds in the sum of \$ or so much thereof as may  
15 be necessary and the same sum or so much thereof as may be  
16 necessary is appropriated for fiscal year 2016-2017 for deposit  
17 into the Hawaii property assessed clean energy program revolving  
18 fund.

19 **SECTION 9.** There is appropriated out of the Hawaii  
20 property assessed clean energy program revolving fund the sum of



1       \$           or so much thereof as may be necessary for fiscal year  
2   2016-2017 for the purposes of this Act.

3       The sum appropriated shall be expended by the department of  
4   business, economic development, and tourism for the purposes of  
5   this Act.

6       SECTION 10. This Act does not in any way prohibit or limit  
7   the counties' authority to institute a similar financing program  
8   for and within their respective county, independent of State  
9   partnership or involvement.

10      SECTION 11. If any provision of this Act, or the  
11   application thereof to any person or circumstance is held  
12   invalid, the invalidity does not affect other provisions or  
13   applications of the Act, which can be given effect without the  
14   invalid provision or application, and to this end the provisions  
15   of this Act are severable.

16      SECTION 12. In codifying the new sections added by section  
17   2 of this Act, the revisor of statutes shall substitute  
18   appropriate section numbers for the letters used in designating  
19   the new sections in this Act.

20      SECTION 13. This Act shall take effect on January 1, 2075;  
21   provided that part III shall be repealed upon the adoption of



1 administrative rules in accordance with chapter 91, Hawaii  
2 Revised Statutes, by the department of business, economic  
3 development, and tourism to effectuate part II of this Act.



**Report Title:**

Bond Loan; Property Assessed Clean Energy Program; PACE;  
Renewable Energy; Revenue Bond Authorization; Special Fund  
Appropriation

**Description:**

Establishes a property assessed clean energy program to promote  
renewable energy systems and energy efficiency improvements.  
Increases a property's tax assessment to make loan payments.  
Authorizes the issuance of revenue bonds and appropriates bond  
revenues to finance the program. (HB1524 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is  
not legislation or evidence of legislative intent.*





DAVID Y. IGE  
GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

## DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of  
**LUIS P. SALAVERIA**  
**Director**  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS**

February 12, 2016  
10:30 A.M.  
State Capitol, Conference Room 312

in consideration of  
**HB 1524, HD1**  
**RELATING TO CLEAN ENERGY.**

Chair Kawakami, Vice Chair Kong, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) offers comments on HB 1524, HD1, which establishes an additional form of financing for commercial and residential property owners to implement energy efficiency improvements and install renewable energy systems.

DBEDT supports the promotion of increased access to capital for residential and commercial renewable energy projects to reach the State's clean energy goals. In this regard, DBEDT has participated in the legislature's statutory development of the green infrastructure financing program (Act 211 Session Laws of Hawaii (SLH) 2013) and the PUC's on-bill financing program (Act 204 SLH 2011 as amended by Act 201 SLH 2015).

DBEDT has concerns that:

1. There are no resources appropriated if it is to implement the activities required to establish, manage and administer the Property Assessed Clean Energy (PACE) program envisioned by HB 1524, HD1.

2. This legislation is duplicative in its objective of lowering the barrier of access of capital for property owners to install energy improvements. The Hawaii Green Infrastructure Authority's green infrastructure loan program, which has the potential to use on-bill repayment, also offers this same benefit.

Due to the special assessments on qualified real property to be undertaken by counties under this measure, DBEDT respectfully defers to the Counties on the feasibility and implementation of a PACE program.

DBEDT also defers to the Department of Budget & Finance on the bond financing and fiscal impacts of the bill, especially those proposed under Chapter 39 "State Bonds."

Thank you for the opportunity to offer these comments on HB 1524, HD1.

DAVID Y. IGE  
GOVERNOR



WRITTEN ONLY

WESLEY K. MACHIDA  
DIRECTOR

RODERICK K. BECKER  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE**

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ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS  
ON  
HOUSE BILL NO. 1524, H.D.1**

February 12, 2016  
10:30 A.M.

**LATE**

**RELATING TO CLEAN ENERGY**

House Bill No. 1524, H.D. 1, establishes a property assessment clean energy program to promote renewable energy systems and energy efficiency improvements, increases a property's tax assessment to make loan payments, and authorizes the issuance of revenue bonds and appropriates bond revenues to finance the program.

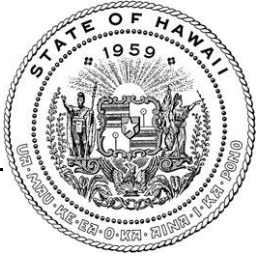
The Department has a comment on the bill. The Department believes it would be more appropriate for the Department of Business, Economic Development, and Tourism (DBEDT) to be the issuer of the revenue bonds. DBEDT, as the proposed administrator of the Hawaii Property Assessed Clean Energy Program, will be responsible for overseeing the program and ensuring the program generates sufficient revenues to pay debt service on the bonds. Such revenues include, but are not limited to, property tax assessments which are the sole responsibility of the counties.

In addition, any proposed financing mechanism would need to be thoroughly analyzed through the credit process, and any future issuance subject to financing feasibility. The formation of credit and management of the financing structure will be critically important to ensure that investors and the market are interested in putting up



money for this program at a reasonable cost to the state, taxpayer, and/or property owner.

Thank you for the opportunity to provide testimony on this measure.



DAVID Y. IGE  
GOVERNOR

TARA M. YOUNG  
EXECUTIVE DIRECTOR

## HAWAII GREEN INFRASTRUCTURE AUTHORITY

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Statement of  
**TARA M. YOUNG**  
**Executive Director**  
Hawaii Green Infrastructure Authority  
before the  
**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS**

February 12, 2016  
10:30 A.M.  
State Capitol, Conference Room 312

in consideration of  
**HB 1524, HD1**  
**RELATING TO CLEAN ENERGY.**

Chair Kawakami, Vice Chair Kong, and Members of the Committee.

The Hawaii Green Infrastructure Authority (HGIA) offers comments on HB 1524, HD1, which establishes an additional form of financing for commercial and residential property owners to implement energy efficiency improvements and install renewable energy systems.

The HGIA supports the intent of this measure to promote increased access to capital for residential and commercial renewable energy projects to reach the State's clean energy goals. However, this legislation is duplicative in its objective of lowering the barrier of access to capital for property owners to install energy improvements as the HGIA's Green Energy Market Securitization (GEMS) loan program was statutorily created in 2013 and capitalized with a \$150 million bond issuance in 2014 to allow underserved customers (those who do not meet traditional underwriting requirements) access to financing options so that they, too, can be afforded the benefits of cost-effective renewable energy and energy efficiency.

The HGIA defers to the Department of Business, Economic Development, and Tourism, the Counties, and the Department of Budget & Finance on the feasibility, implementation and administration of this measure.

Thank you for the opportunity to offer these comments on HB 1524, HD1.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

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SUBJECT: REAL PROPERTY, Property Assessed Clean Energy Program

BILL NUMBER: HB 1524 HD1

INTRODUCED BY: Committee on Energy & Environmental Protection

EXECUTIVE SUMMARY: The proposed program, though touted as an innovative mechanism for financing energy efficiency and renewable energy improvements on property, is complex and will require county participation. In addition, the State now has a similar program called GEMS that is financed by ratepayers; consideration should be given to fixing this program before moving forward with the proposed one.

BRIEF SUMMARY: Establishes a property assessed clean energy program to promote renewable energy systems and energy efficiency improvements by making available financing for such improvements that would be secured by the real property on which the improvements are built. Increases a property's tax assessment to make loan payments. Authorizes the issuance of revenue bonds and appropriates bond revenues to finance the program.

EFFECTIVE DATE: January 1, 2075

STAFF COMMENTS: This measure would create a property-assessed clean energy program, which can be described as follows, according to the U.S. Department of Energy Office of Energy Efficiency and Renewable Energy:

The property-assessed clean energy (PACE) model is an innovative mechanism for financing energy efficiency and renewable energy improvements on private property. PACE programs allow local governments, state governments, or other inter-jurisdictional authorities, when authorized by state law, to fund the up-front cost of energy improvements on commercial and residential properties, which are paid back over time by the property owners.

PACE financing for clean energy projects is generally based on an existing structure known as a "land- secured financing district," often referred to as an assessment district, a local improvement district, or other similar phrase. In a typical assessment district, the local government issues bonds to fund projects with a public purpose such as streetlights, sewer systems, or underground utility lines.

The recent extension of this financing model to energy efficiency (EE) and renewable energy (RE) allows a property owner to implement improvements without a large up-front cash payment. Property owners voluntarily choose to participate in a PACE program repay their improvement costs over a set time period—typically 10 to 20 years—through property assessments, which are secured by the property itself and paid

as an addition to the owners' property tax bills. Nonpayment generally results in the same set of repercussions as the failure to pay any other portion of a property tax bill.

A PACE assessment is a *debt of property*, meaning the debt is tied to the property as opposed to the property owner(s), so the repayment obligation may transfer[] with property ownership depending upon state legislation. This eliminates a key disincentive to investing in energy improvements, since many property owners are hesitant to make property improvements if they think they may not stay in the property long enough for the resulting savings to cover the upfront costs.

Under the bill, the administration of this program is proposed to be within DBEDT, but the financing mechanism, the real property tax, is exclusively within control of the counties. Thus, lots of coordination will be required. Counties may object to what promises to be high legal and administrative costs, and would need to make provisions for county staff who can help support the program.

The State already has in place a recently created GEMS (Green Energy Market Securitization) program that is supposed to accomplish the same or similar objectives. GEMS, however, has faced significant operational delays and has been unable through Sept. 30 of last year to deploy *any* of the \$150 million it raised on the bond market in November 2014. Consideration therefore should be giving to propping this program up or folding the proposed program into it if it works; or, if it doesn't work, finding out what the problems are and fixing or scrapping the GEMS program before enacting a program that promises to be more complex than GEMS.

Digested 2/10/16

kong2 - Christie

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From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, February 10, 2016 8:13 PM  
To: edbtestimony  
Cc: davidsher@juno.com  
Subject: \*Submitted testimony for HB1524 on Feb 12, 2016 10:30AM\*

**HB1524**

Submitted on: 2/10/2016

Testimony for EDB on Feb 12, 2016 10:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Pollack	Individual	Support	No

Comments:

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**LATE**

February 12, 2016

**The Honorable Derek S.K. Kawakami, Chair**  
House Committee on Economic Development & Business  
State Capitol, Room 312  
Honolulu, Hawaii 96813

**RE: H.B. 1524, H.D.1, Relating to Clean Energy**

**HEARING: Friday, February 12, 2016 at 10:30 a.m.**

Aloha Chair Kawakami, Vice Chair Kong, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,800 members. HAR **offers comments** on H.B. 1524, H.D.1 which establishes a Property Assessed Clean Energy (PACE) program to promote renewable energy systems and energy efficiency improvements and increases a property's tax assessment to make loan payments. It also authorizes the issuance of revenue bonds and appropriates bond revenues to finance the program.

The PACE guidance issued by HUD's Federal Housing Administration (FHA) is a welcome development and we are pleased that they took steps to recommend that PACE loans remain in a subordinate position to the primary mortgage loan. HUD's FHA announced that properties with PACE loans that are subordinate to the primary mortgage loan can be purchased and refinanced with an FHA insured mortgage. While this is an important step, this program is separate and apart from a conventional mortgage loan of which most Fannie Mae and Freddie Mac fall into.

Programs must be structured to ensure protection of the core financing for the home and, therefore, cannot undermine the first-lien status of Fannie Mae and Freddie Mac mortgages which majority of Hawaii's mortgages fall into. Additionally, both these entities and Federal Housing Finance Agency (FHFA) under which they operate does not allow the purchase or refinance of properties if the property has a first-lien PACE loan attached to it.

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A homeowner with a first-lien PACE loan cannot refinance their existing mortgage with a Fannie Mae or Freddie Mac mortgage. Second, anyone wanting to buy a home that already has a first-lien PACE loan cannot use a Fannie Mae or Freddie Mac loan for the purchase.

HAR would also note that access to install energy improvements is already available via the on-bill financing plan. Access and availability to the on-bill financing program may be a preferred option as it does not contain any provisions for a lien.

HAR strongly believes in the need to maintain and strengthen mortgage markets while supporting energy efficiency through the PACE program. We look forward to continuing the dialogue on this issue.

Mahalo for the opportunity to testify.