



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
KA 'OIHANA HO'ONA'AUAO  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 03/20/2025

**Time:** 01:00 PM

**Location:** CR 224 & Videoconference

**Committee:** Senate Education

Senate Hawaiian Affairs

Senate Housing

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Superintendent of Education

**Bill Title:** HB 1088, HD1 RELATING TO SCHOOL IMPACT FEES.

**Purpose of Bill:** Exempts housing developed by the Department of Hawaiian Home Lands from school impact fees. Effective 7/1/3000. (HD1)

**Department's Position:**

The Hawaii State Department of Education (Department) appreciates the opportunity to offer comments on HB 1088, HD 1.

Hawaii's school impact fee law plays a vital role in the development of new school facilities in designated areas where the construction of new housing directly increases student enrollment. Other than direct appropriations from the Legislature, school impact fees are the only other source of funding to support the development of new school facilities. Hawaii Revised Statutes Section 302A-1603 (a)(3) specifies that anyone who develops new residences in a school impact fee district must pay impact fees and, in some cases, dedicate lands, "including all government housing projects". The practice of requiring developers of new residential units to dedicate land to mitigate impacts on student enrollment caused by new residential developments is consistent with state and county land use requirements for purposes of essential public facilities such as parks, fire and police stations.

Although the Department recognizes the importance and need for affordable, workforce, and housing for use by Department of Hawaiian Home Lands beneficiaries, the exemption proposed by this bill would limit funding resources and the dedication of land intended to address the impacts on school facilities generated by new residential developments. The Department would be open to support the elimination of the construction impact fee for the Department of Hawaiian Home Lands provided the agency provides necessary land for future public schools should their development produce more

students that will exceed the capacity of the existing schools in the area.

Thank you for this opportunity to provide comments on this measure.

JOSH GREEN, M.D.  
GOVERNOR

RIKI FUJITANI  
EXECUTIVE DIRECTOR



STATE OF HAWAII  
SCHOOL FACILITIES AUTHORITY  
2759 S. KING STREET, ROOM H201  
HONOLULU, HAWAII 96826

**Senate Committee on Education  
Senate Committee on Hawaiian Affairs  
Senate Committee on Housing**

Monday, March 20, 2025  
1:00 p.m.  
Hawai'i State Capitol, Room 224

**House Bill 1088, House Draft 1, Relating to School Impact Fees**

Dear Chairs Kidani, Richards, and Chang, Vice Chairs Mercado Kim, San Buenaventura, and Hashimoto, and Members of the Committee:

The School Facilities Authority (SFA) **supports** House Bill 1088, House Draft 1, which would exempt housing developed by the Department of Hawaiian Home Lands (DHHL) from school impact fees.

Act 197, Session Laws of Hawai'i 2021, provided DHHL housing projects an exemption from school impact fees until July 1, 2024. Now that the exemption has expired, the SFA is exploring ways to work with DHHL to comply with the school impact fee law without detriment to DHHL's program.

We do not believe requiring another state program to contribute land and/or money is the intent of the school impact fee program. In essence, the State is still contributing to any new school capacity necessary from new housing developments resulting from DHHL's program but in a less straightforward and more administratively burdensome manner than a direct appropriation.

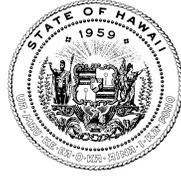
Thank you for this opportunity to testify.

Sincerely,

Riki Fujitani  
Executive Director

JOSH GREEN, M.D.  
GOVERNOR  
STATE OF HAWAII  
*Ke Kia'āina o ka Moku'āina 'o  
Hawai'i*

SYLVIA J. LUKE  
LT. GOVERNOR  
STATE OF HAWAII  
*Ka Hope Kia'āina o ka Moku'āina  
'o Hawai'i*



KALI WATSON  
CHAIRPERSON, HHC  
*Ka Luna Ho'okele*

KATIE L. LAMBERT  
DEPUTY TO THE CHAIR  
*Ka Hope Luna Ho'okele*

**STATE OF HAWAII**  
**DEPARTMENT OF HAWAIIAN HOME LANDS**  
*Ka 'Oihana 'Āina Ho'opulapula Hawai'i*

P. O. BOX 1879  
HONOLULU, HAWAII 96805

**TESTIMONY OF KALI WATSON, CHAIR**  
**HAWAIIAN HOMES COMMISSION**  
**BEFORE THE SENATE COMMITTEES ON EDUCATION**  
**AND HAWAIIAN AFFAIRS**  
**AND HOUSING**  
**HEARING ON MARCH 20, 2025 AT 1:00PM IN CR 224**

**HB 1088, HD 1, RELATING TO SCHOOL IMPACT FEES**

March 20, 2025

Aloha Chairs Kidani, Richards, and Chang; Vice Chairs Kim, San Buenaventura, and Hashimoto; and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) **strongly supports** this bill which would exempt housing developed by DHHL from school impact fees. This legislative proposal was approved by the Hawaiian Homes Commission and included in the Governor's Administrative Package. DHHL currently leases educational facilities for public schools, public charter schools, early learning facilities, and other similar facilities at minimal to no cost as reflected in the table below.

Type	Island	Location	Use	Name	Term	Dates	Acre	Annual Lease Rent
GL 251	Hawaii	Waimea	Education	Kamehameha Schools	65 yrs	12/28/2000 – 6/30/2065	2	\$0.00
GL 250	Maui	Paukukalo	Education	Kamehameha Schools	63.5 yrs	1/1/2002 – 6/30/2065	2	\$0.00
GL 249	Oahu	Waimanalo	Education	Kamehameha Schools	65 yrs	1/7/2000 – 12/31/2064	1.683	\$0.00
GL 296	Oahu	Mali	Education	Kamehameha Schools	65 yrs	7/1/2014 – 6/30/2079	40.00	\$73,720
GL 300	Oahu	Nanakuli	Education	Kamehameha Schools	65 yrs	12/1/2018 – 11/30/2083	2.651	\$41,600
LI 848	Hawaii	Waimea	Education	Aha Punana Leo	10 yrs	6/1/2021 – 5/30/2031	0.42	\$0.00
LI 849	Hawaii	Keaukaha	Education	Kamehameha Schools	5 yrs + 5	6/1/2021 – 6/30/2026	0.16	\$35,568

Department of Hawaiian Home Lands  
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LI 833	Hawaii	Keaukaha	Education	Ke Ana La'ahana PCS	5 yrs	4/1/2018 – 3/31/2023 Pending Extension	0.024	\$1,200
LI 854	Kauai	Anahola	Education	Kanuikapono Charter Sch	30 yrs	4/23/2002-4/22/2037	10.5	\$1,560
LI 554	Kauai	Anahola	Education	Anahola Ancient Culture Exch	25 yrs	2/1/2003 – 1/31/2028	9.222	\$600
LI 744	Molokai	Kamiloloa	Education	Ka Honua Momona Intl	35 yrs	6/30/2010 – 6/29/2045	56.99	\$0.00
LI 780	Molokai	Hoolehua	Education	Aha Punana Leo	10 yrs	2/28/2017 – 2/28/2027	0.071	\$10,560
LI 373	Oahu	Nanakuli	Education	Kamehameha Schools	65 yrs	5/25/1995 – 5/24/2060	1.217	\$0.00
LI 611	Oahu	Nanakuli	Education	Ka Waihona O Ka Naauao	35 yrs	9/1/2004 – 8/31/2039	0.342	\$0.00
LI 619	Oahu	Nanakuli	Education	Kamehameha Schools	35 yrs	10/1/2004 – 9/30/2039	0.586	\$27,552
LI 730	Oahu	Haiku Valley	Education	Kai Loa, Inc.	52 yrs	6/1/2009 – 8/31/2060	20.00	\$0.00
LI 795	Oahu	Nanakuli	Education	Aha Punana Leo	20 yrs	8/31/2024 – 8/31/2044	0.05	\$0.00
LI 808	Oahu	Nanakuli	Education	HCAP	20 yrs	8/31/2019 – 8/31/2044		\$0.00

Pursuant to Act 197, Session Laws of Hawaii 2021, DHHL was previously exempt from school impact fees. However, section 1 of Act 197, SLH 2021, sunset in 2024. DHHL currently benefits from the Governor's Tenth Proclamation Relating to Affordable Housing (see page 8 of attachment) and humbly requests to be reinstated in statute. The exemption of housing developed by DHHL from school impact fees allows for more homes to be developed for beneficiaries. Below and attached is a summary of key statistics:

**DHHL Honolulu Projects: 1,220 units** with estimated school impact fees totaling **\$4.94 million**.

**DHHL Maui County Projects: 1,421 units** with estimated school impact fees totaling **\$2.89 million**.

It is important to note that Hawai'i County and Kaua'i County do not have designated School Impact Fee Districts. The designated School Impact Fee Districts in Hawai'i, along with their respective fees, are as follows:

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- 1. Kalihi-Ala Moana (O'ahu) – \$3,864 per unit**
- 2. Leeward O'ahu – \$4,334 per unit**
- 3. Makawao, Maui – \$2,451 per unit**
- 4. Lahaina, Maui – \$2,055 per unit**
- 5. Wailuku, Maui – \$2,371 per unit**

Thank you for your consideration of our testimony.

Location	R/A/P	Status	Developer	Total Cost	Lots/Dwelling Units	Lots with housing	School Impact Fees
<b>Hawaii County</b>						<b>1684</b>	<b>\$ -</b>
Laiopua Villages 1 and 2, 4 Residential Subdivision (Includes offsite Water Development Project)	R	Dev Agreement	Kalaniana'ole Development	\$67,000,000.00	580	580	\$-
Honomu Subsistence Agricultural Lots, Phase 2	A	Site Construction	n/a	\$6,000,000.00	40	0	\$-
Kaunama Residential Subdivision	R	Acquisition	n/a	\$2,000,000.00	168	168	\$-
Honokaa Land Acquisition	R	Dev Agreement	n/a	\$8,750,000.00	n/a	n/a	\$-
Honokaa Residential Subdivision (Includes offsite Water Development Project)	R	Dev Agreement	n/a	\$60,371,200.00	296	296	\$-
Palamanui Mixed Use Subdivision	R	Dev Agreement	ole Development	\$22,750,000.00	40	40	\$-
Panaewa Residential Lots - Elama Road	R	n/a	n/a	\$148,000,000.00	600	600	\$-

Location	R/A/P	Status	Developer	Total Cost	Lots/Dwelling Units	Lots with housing	School Impact Fees
<b>Maui County</b>						<b>1421</b>	<b>\$ 2,888,763</b>
Lanai Residence Lots	R	Dev Agreement	Ikaika Oha	\$2,000,000.00	75	75	\$ -
Hoolehua Scattered Agricultural Lots (Molokai)	A	Site Construction	n/a	\$3,500,000.00	20	0	\$ -
Naiwa Ag Agricultural Lots	A	Site Construction	n/a	\$6,000,000.00	16	0	\$ -
Pu'uuhona Acquisition (Includes offsite Water Development Project)	R	Acquisition / Off Site Construction	Dowling Development	\$5,509,000.00	161	n/a	\$ -
Pu'uuhona Residential Subdivision	R	Site Construction	Development	\$17,171,944.00		161	\$ 381,731.00
Honokowai Subsistence Agricultural Lots, Phase 1	A	Site Construction	n/a	\$5,000,000.00	50	0	\$ -
Leialii 1B Offsite Water Development	R	Site Construction	Dowling Development	\$15,000,000.00	181	n/a	
Leialii 1B - Residential Subdivision	R	Dev Agreement	Dowling Development	\$6,800,000.00		181	\$ 371,955.00
Wailuku Residential Subdivision (DDC2 LLC)	R	Acquisition/ Dev Agrmt	Development	\$45,038,800.00	207	176	\$ 417,296.00
Waiehu Mauka (DDC3 LLC)	R	Acquisition/ Dev Agrmt	Development	\$93,868,417.00	311	311	\$ 737,381.00
Kamalani Land Acquisition	R	Acquisition	Development	\$10,500,000.00	400	n/a	\$ -
Kamalani Residential Subdivision		Dev Agreement	Gentry Development	\$69,094,825.10		400	\$ 980,400.00

Makawao \$ 2,451  
Lahaina \$ 2,055  
Wailuku \$ 2,371

Location	R/A/P	Status	Dev	Total Cost	Lots/Dwelling Units	Lots with housing	School Impact Fees
<b>City and County of Honolulu</b>						<b>1220</b>	<b>\$ 4,940,760</b>
Kaupea Acquisition	R	Acquisition	Development	\$8,250,000.00			
Kaupea Residential Subdivision, Phase 2		Dev Agreement	Development	\$15,691,321.00	60	60	\$ 260,040
East Kapolei IIA Mixed-Use	R	Dev Agreement	n/a	\$1,000,000.00	n/a	n/a	\$ -
East Kapolei II Residential Subdivision IIC, IID, IIE, IIF	R	Dev Agreement	Gentry Development	\$204,546,080.00	700	700	\$ 3,033,800
Ewa Beach (former NOAA site)	R	Dev Agreement	n/a	\$53,000,000.00	380	380	\$ 1,646,920
Maunalua Land Acquisition & Multifamily Units	R	n/a	n/a	\$8,000,000.00	80	80	\$ -

\$4,334 Per Unit

Location	R/A/P	Status	Developer	Total Cost	Lots/Dwelling Units	Lots with housing	School Impact Fees
<b>Kauai County</b>						<b>1297</b>	<b>\$ -</b>
Hanapepe Residential Subdivision, Phase 2	R	Site Construction	Mark Development	\$17,800,126.00	82	82	\$-

Anahola Agricultural Lots, Phase 1	A	Site Construction	n/a	\$5,000,000.00	115	0	\$-
Lihue Land Acquisition	R	Acquisition	n/a	\$22,684,160.00	1100	n/a	\$-
Lihue Residential Subdivision	R	Dev Agrmt	n/a	\$71,042,400.00		800	\$-

OFFICE OF THE GOVERNOR

STATE OF HAWAII

**TENTH PROCLAMATION RELATING TO AFFORDABLE HOUSING**

By the authority vested in me by the Constitution and laws of the State of Hawaii, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, JOSH GREEN, M.D., Governor of the State of Hawaii, hereby determine, designate, and proclaim as follows:

**WHEREAS**, pursuant to Chapter 127A, Hawaii Revised Statutes (HRS), emergency powers are conferred on the Governor of the State of Hawaii to respond to disasters or emergencies, to maintain the strength, resources, and economic life of the community, and to protect the public health, safety, and welfare; and

**WHEREAS**, the need for an immediate and profound solution to Hawaii's affordable housing shortage necessitates the advancement of affordable housing projects in a way that will ensure the production of affordable housing units immediately and going forward; and

**WHEREAS**, the increasing costs of construction material, labor, and regulatory compliance has significantly impacted the financial viability of affordable housing projects, compelling a reevaluation of funding strategies and resource allocation to ensure these projects continue to develop in the face of escalating expenses; and

**WHEREAS**, the Hawaii Housing Finance and Development Corporation ("HHFDC") is statutorily authorized to grant exemptions to statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon; and

**WHEREAS**, due to the automatic adoption of the unamended state building codes pursuant to section 107-24 Hawaii Revised Statutes (HRS), the counties are now required to adopt unamended state building codes as interim building codes; and

**WHEREAS**, the counties may not be prepared to amend the unamended state building codes or to make necessary amendments to the unamended building codes prior to the deadline established in statute; and

**WHEREAS**, it is necessary for the counties to retain the authority to update their respective building codes and to provide them with sufficient time to amend their building codes to address local conditions; and

**WHEREAS**, it would slow down ongoing affordable housing projects if, in the middle of the projects, they have to conform to the unamended state building codes without prior notice and without amendments to the state building codes that reflect changes needed to adjust the codes to local conditions; and

**WHEREAS**, on July 17, 2023, I issued a Proclamation relating to housing that declared an emergency created by the lack of housing for the people of Hawai'i; and

**WHEREAS**, on September 15, 2023, I issued the Proclamation relating to affordable housing that clarified that the emergency related to the lack of affordable housing for the people of Hawai'i; and

**WHEREAS**, on October 24, 2023, I issued the Second Proclamation relating to affordable housing that clarified the terms of the Proclamation and that included Rules Relating to the Implementation of the Second Proclamation Relating to Affordable Housing; and

**WHEREAS**, on December 22, 2023, I issued the Third Proclamation relating to affordable housing that clarified the terms of the Proclamation and that included Rules Relating to the Implementation of the Third Proclamation Relating to Affordable Housing; and

**WHEREAS**, on January 18, 2024, I issued the Fourth Proclamation relating to affordable housing that clarified the terms of the Proclamation and that included Rules Relating to the Implementation of the Fourth Proclamation Relating to Affordable Housing; and

**WHEREAS**, on February 20, 2024, I issued the Fifth Proclamation relating to affordable housing that clarified the terms of the Proclamation and that included Rules Relating to the Implementation of the Fifth Proclamation Relating to Affordable Housing; and

**WHEREAS**, on April 19, 2024, I issued the Sixth Proclamation relating to affordable housing that clarified the terms of the Proclamation and that included Rules Relating to the Implementation of the Sixth Proclamation Relating to Affordable Housing; and

**WHEREAS**, on June 18, 2024, I issued the Seventh Proclamation relating to affordable housing that clarified the terms of the Proclamation and that included Rules Relating to the Implementation of the Seventh Proclamation Relating to Affordable Housing; and

**WHEREAS**, on August 15, 2024, I issued the Eighth Proclamation relating to affordable housing that clarified the terms of the Proclamation and that included Rules Relating to the Implementation of the Eighth Proclamation Relating to Affordable Housing ; and

**WHEREAS**, on October 10, 2024, I issued the Ninth Proclamation relating to affordable housing that clarified the terms of the Proclamation and that included Rules Relating to the Implementation of the Ninth Proclamation Relating to Affordable Housing ("Emergency Rules"); and

**WHEREAS**, the current threat to the health, safety, and welfare of the people of the State of Hawai'i caused by the lack of affordable housing continues to constitute an

emergency under section 127A-14, HRS, and warrants preemptive and protective actions; and

**NOW, THEREFORE**, I, JOSH GREEN, M.D., Governor of the State of Hawai'i, hereby determine and proclaim that an emergency or disaster contemplated by section 127A-14, HRS, has occurred in the State of Hawai'i, and in order to promote and protect the public health, safety, and welfare of the people of the State of Hawai'i, and to prepare for and maintain the flexibility to take proactive, preventative, and mitigative measures to minimize the adverse impact that the present emergency may cause on the State and to promote the speedy and safe construction of housing and infrastructure which will minimize the adverse impact that the present emergency may cause on the State, and to work cooperatively and in conjunction with federal and county agencies, do hereby invoke the following measures under the Hawaii Revised Statutes:

**I. Emergency Proclamation Execution**

Pursuant to sections 127A-12(b)(9) and 127A-12(b)(19), HRS, in order to provide emergency relief consistent with the intent of this Proclamation, I hereby direct HHFDC to take appropriate action to support and carry out the intent and purposes of this Proclamation. Without limiting the generality of the foregoing, they may coordinate with and convene stakeholders, including but not limited to applicable state and county agencies, legislators, non-profit and for-profit developers, non-profit housing advocates, the labor and trade industries, and community members, boards, and commissions in order to accelerate permitting processes; eliminate duplication; explore innovative approaches to increase the development of affordable housing, while maintaining health and safety; share best practices; create working groups to advise on the development of affordable housing; coordinate priority housing projects; encourage housing development; and encourage transit-oriented development, among other things.

This Proclamation shall not apply to the area affected by the Lahaina wildfire as shown in the attached map.

**II. Affordable Housing Projects**

**A. Definitions**

1. "Housing," for purposes of this Proclamation, shall include:
  - a. Conversion of existing residential units to affordable or subsidized units;
  - b. Development, redevelopment, or adaptive reuse that results in new residential units offered for sale as owner-occupied units;
  - c. Development, redevelopment, or adaptive reuse that results in new residential units offered for rental to Hawai'i residents for which the unit will be the renter's principal residence;
  - d. Development, redevelopment, or adaptive reuse that results in new income restricted residential units;

- e. Renovations, rehabilitation, or repair of existing affordable or subsidized units;
  - f. Renovations, rehabilitation, or repair of existing units that will be offered for sale as owner-occupied units;
  - g. Renovations, rehabilitation, or repair of existing units that will be offered for rental to Hawai'i residents for which the unit will be the renter's principal residence;
  - h. Housing projects may include mixed-use/mixed income projects; or
  - i. Infrastructure that will primarily provide services to housing.
2. "Owner-occupied" means a residential unit that, simultaneous to such ownership, serves as the owner's principal residence for a period of not less than five years; provided that the individual shall retain complete possessory control of the premises of the residential unit during this period unless the possessory control is broken as a result of (1) serious illness of any of the owner-occupants; (2) unforeseeable job or military transfer; (3) unforeseeable change in marital status, or change in parental status; or (4) any other unforeseeable occurrence. An individual shall not be deemed to have complete possessory control of the premises if the individual rents, leases, or assigns the premises for any period of time to any other person in whose name legal title is not held; except that an owner shall be deemed to have complete possessory control even when the owner conveys or transfers the unit into a trust for estate planning purposes and continues in the use of the premises as the owner's principal residence during this period.
  3. "Principal residence" is used as defined by the State of Hawai'i Department of Taxation.
  4. An "affordable housing project" is:
    - a. A housing project that has entered into an agreement with HHFDC pursuant to chapter 201H, HRS;
    - b. A housing project that has executed a declaration of restrictive covenants under Revised Ordinances of Honolulu chapter 32 ("Bill 7 projects");
    - c. A housing project that involves the county pursuant to section 46-15.1, HRS, or which is subject to any county ordinance or funding appropriation that has an income restriction requirement otherwise applicable by law; or
    - d. A housing project which desires to utilize the exemption from Section 46-4, HRS, County Zoning, and which intends to apply to

HHFDC for Low Income Housing Tax Credits (LIHTC) and enters into an agreement with HHFDC under the LIHTC program at a later date. Certification under this Proclamation shall be subject to the receipt of a LIHTC award from HHFDC.

5. "Certified affordable housing project" is a housing project that HHFDC has certified is:
  - a. An affordable housing project;
  - b. At least 60% of the total units will be offered for sale or rent to applicants who earn 0% to 140% of the area median income ("AMI") as determined by the United States Department of Housing and Urban Development; and
  - c. Has entered into an agreement to pay all mechanics and laborers employed on the project minimum prevailing wages for the corresponding work classifications as determined by the Director of the Department of Labor and Industrial Relations pursuant to Chapter 104, HRS, subject to the project labor agreement in place, or otherwise required to pay prevailing wages for the duration of the project until it is completed.
6. "State affordable housing project" or a "county affordable housing project" is an affordable housing project in which the land is owned by the state or county and either the project is subject to an affordability restriction whether through a development agreement or funding appropriation, or the housing units are owned or have the potential to be owned by right of first refusal by one of the following state housing agencies: Hawaii Public Housing Authority, Hawaii Housing Finance and Development Corporation, or Hawaii Community Development Authority, or any county or county agency.

B. Application of this Proclamation

1. State affordable housing projects or county affordable housing projects may proceed under this Proclamation.
2. State or county agencies with responsibility for the administration, regulation, production, or infrastructure to support housing may proceed under this Proclamation for purposes of recruitment of personnel and procurement.
3. All other affordable housing projects may apply for consideration to proceed under this Proclamation through certification by HHFDC.
4. Certification as an affordable housing project will be valid from the date of certification until the earlier of three years or substantial commencement of the project.

### III. Path Forward

Pursuant to sections 127A-12(b)(1) and (4), HRS, I call on the state and county agencies to cooperate and to forge paths forward to address the affordable housing crisis. The State and the counties should be engaging in discussions regarding mutual aid agreements and what assistance can be provided to speed up the processes that impede the creation of housing across the state.

Pursuant to sections 127A-12(b)(4), (9), (11), (16), and (19), HRS, I direct all state agencies to make the review, planning, approval, and processing of permits related to affordable housing a priority.

### IV. Suspension of Laws

Section 127A-13(a)(3), HRS, **Additional Powers in an Emergency Period**, to the extent necessary to expedite the construction, repair, renovation, and occupancy of affordable housing and infrastructure projects intended to provide emergency relief under this Proclamation, I hereby suspend the following statutes and regulations:

Section 26-35(a)(4), HRS, **Administrative supervision of boards and commissions**.

Section 37-41, HRS, **Appropriations to Revert to State Treasury; Exceptions**.

Section 37-74(d), HRS, **Program Execution**, except for sections 37-74(d)(2) and 37-74(d)(3), and any such transfers or changes considered to be authorized transfers or changes for purposes of section 34-74(d)(1) for legislative reporting requirements.

Section 40-66, HRS, **Appropriations Lapse**.

Section 46-1.5, HRS, **General Powers and Limitation of the Counties**, and related county code(s), as it applies to the authority to impose impact fees relating to wastewater connection and park dedication for certified affordable housing projects or state or county affordable housing projects, subject to the approval of the county planning director; to the authority to issue agreements, contracts, and leases related to state or county affordable housing projects; and, to the extent necessary to allow for the development of adaptive reuse projects without natural light or natural ventilation that are inconsistent with current building codes, subject to the approval of the county building official.

Section 46-4, HRS, **County Zoning**, and related county code(s), to the extent necessary to allow the construction of multi-family residential affordable housing units on any lot that is zoned for commercial or mixed commercial use, subject to the approval of the county planning director.

Section 46-142.5, HRS, **School Impact Districts; New Building Permit Requirements**, as it applies to certified affordable housing projects or state or county affordable housing projects.

Section 46-143, HRS, **Impact Fee Calculation**, as it applies to the imposition of impact fees relating to wastewater connection and park dedication for certified affordable housing projects or state or county affordable housing projects.

Section 46-146, HRS, **Time of Assessment and Collection of Impact Fees**, as it applies to impact fees relating to wastewater connection and park dedication for certified affordable housing projects or state or county affordable housing projects.

Chapter 76, HRS, **Civil Service Law**, to the extent necessary to allow for qualified personnel or contractors to be hired that would be directly involved in the construction, development, or redevelopment of housing, the filling of public housing vacancies, the processing of housing vouchers, or the processing of development related permits, licenses, or approvals, pursuant to the attached emergency rules.

Chapter 89, HRS, **Collective Bargaining in Public Employment**, to the extent necessary to allow for personnel or contractors to be hired that would be directly involved in the construction, development, or redevelopment of housing, the filling of public housing vacancies, the processing of housing vouchers, or the processing of development related permits, licenses, or approvals.

Chapter 89C, HRS, **Public Officers and Employees Excluded from Collective Bargaining**, to the extent necessary to allow for personnel or contractors to be hired that would be directly involved in the construction, development, or redevelopment of housing, the filling of public housing vacancies, the processing of housing vouchers, or the processing of development related permits, licenses, or approvals.

Section 103-2, HRS, **General Fund**.

Chapter 103D, HRS, **Hawaii Public Procurement Code**, to the extent that the department or agency has determined that it is not practicable or advantageous to procure the services required via traditional procurement methods and the procurement promotes the construction, development, redevelopment, repair, renovation, and occupancy of housing. The suspension is for the solicitation process only and is subject to the attached emergency rules.

Section 104-2(i)(3), HRS, **Applicability; wages, hours, and other requirements**.

Section 107-24(c), HRS, **Authority and duties of the council**, to the extent necessary to suspend the ability of the State Building Code Council to amend or update the Hawai'i state building codes to allow for consistency and stability in the construction of housing. Counties may still update county building codes.

Section 107-27(a), HRS, **Design of state buildings**, to the extent necessary to suspend the requirement for state building designs to comply with the Hawai'i state building codes.

Section 107-28, HRS, **County authority to amend and adopt the Hawai'i state building codes without council approval**, to the extent necessary to suspend the

two-year default deadline for counties to adopt state building codes. Counties may still update county building codes.

Section 107-31, HRS, **State building code; compliance.**

Section 127A-30, HRS, **Rental or sale of essential commodities during a state of emergency; prohibition against price increases**, because the automatic, statewide invocation of this provision is not needed for this emergency. The invocation and suspension of section 127A-30, HRS, contained in any other proclamation are not affected by this Proclamation.

Section 201H-36(a)(5)(A), HRS, **Exemption from general excise taxes.**

Section 201H-38(a)(3), HRS, **Housing development; Exemption from statutes, ordinances, charter provisions, and rules**, that require approval of the legislative body of the county in which the housing project is situated. This exemption shall be applicable to only state or county affordable housing projects that receive approval of HHFDC.

Chapter 237, HRS, **General Excise Tax Law**, for Department of Hawaiian Home Lands (DHHL) projects for newly constructed, or moderately or substantially rehabilitated, housing for beneficiaries.

Sections 302A-1601 to 1612, HRS, **School Impact Fees** for DHHL or its contracted developers on DHHL owned land and new affordable housing developments within a designated school impact district undertaken by certified affordable housing projects or state or county affordable housing projects.

Sections 601-1.5, 708-817, 708-818, 708-820(1)(c), 708-830.5(1)(d), 708-840(1)(c) and (d), HRS, to the extent these sections contain provisions for the suspension, tolling, extension, or granting of relief from deadlines, time schedules, or filing requirements in civil, criminal, or administrative matters before the courts of the state or to the extent that these sections contain provisions for criminal penalties that are automatically heightened by reasons of any declared disaster or emergency.

Pursuant to section 127A-25, HRS, I hereby adopt the Rules Implementing the Tenth Proclamation Relating to Affordable Housing attached hereto. These rules shall have the force and effect of law.

#### **V. State Cooperation**

Pursuant to section 127A-12(b), HRS, I hereby direct all state agencies and officers to cooperate with and extend services, materials, and facilities as may be required to assist in all efforts to address the objectives of this Proclamation.

#### **VI. Severability**

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such provision to other

persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

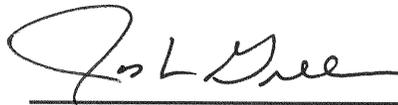
**VII. Enforcement**

No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any requirement of this Proclamation, or of any rule or regulation. Unless the Governor, Director of Emergency Management, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the emergency or interfere with the officer's authority to utilize his or her discretion.

**I FURTHER DECLARE** that this Proclamation is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawai'i, the counties of this State, or any State or County agencies, departments, entities, officers, employees, or any other person.

**I FURTHER DECLARE** that the disaster emergency relief period shall commence immediately and continue through February 4, 2025, unless terminated or superseded by a separate proclamation, whichever shall occur first.

Done at the State Capitol, this 6th day of  
December, 2024



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Josh Green, M.D.  
Governor of Hawai'i

APPROVED:

*Anne E. Lopez*

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Anne E. Lopez  
Attorney General  
State of Hawai'i

**Map of the Area Affected by the Lahaina Wildfire Excluded Under the Tenth Proclamation Relating to Affordable Housing**



**Rules Relating to the Implementation of the  
Tenth Proclamation Relating to Affordable Housing**

§ 1 Purpose and Authority

§ 2 Definitions

§ 3 Applicability of Proclamation and Rules

§ 4 Application of Suspended Laws

A. Chapter 76, HRS, Officers and Employees

B. Chapter 103D, HRS, Hawaii Public Procurement Code

C. Section 201H-38(a)(3), HRS, Housing development; exemption from statutes, ordinances, charter provisions, and rules.

§ 1 Purpose and Authority

These rules are intended to expedite the construction, development, and redevelopment of affordable housing under the Tenth Proclamation Relating to Affordable Housing (“Proclamation”).

These rules are adopted pursuant to sections 127A-11, 12, 13, and 25, Hawaii Revised Statutes (HRS), to respond to the affordable housing emergency declared by the Governor and have the force and effect of law.

§ 2 Definitions

“Agency” means any department, office, board, or commission of the state or county government that is part of the executive branch of that government.

§ 3 Applicability of Proclamation and Rules

Certified affordable housing projects not subject to the state or county regulations suspended under the Proclamation shall still meet minimum requirements for health and safety, including applicable floodplain management powers and duties necessary for National Flood Insurance Program participation.

§ 4 Application of Suspended Laws

A. Chapter 76, HRS, Officers and Employees

1. Recruitment and hiring of employees under the Proclamation shall follow, to the extent possible, the principles set forth in section 76-1, HRS.

No person shall be discriminated against in examination, appointment, reinstatement, reemployment, promotion, transfer, demotion, or removal, with respect to any position when the work may be efficiently performed by the person without hazard or danger to the health and safety of the person or others;

2. All positions established under the Proclamation may be exempt from civil service and may be converted to civil service positions at the discretion of the appointing authority. Exempt positions and appointments converted to civil service shall comply with Department of Human Resources Development Policy and Procedure 1000.002 except that all employees converted shall be treated as if they had occupied the position for a minimum of one (1) year. It is the appointing authority's discretion to use an existing established civil service or exempt position or to establish a new position to hire under the Proclamation.
3. Prior to hiring any employee under the Proclamation, the appointing agency shall determine that:
  - a. The employee would be directly involved in the construction, development, or redevelopment of housing, the filling of public housing vacancies, the processing of housing vouchers, or in the processing of development-related permits, licenses, or approvals; and
  - b. It would be impractical or untimely to hire the employee under the civil service system under chapter 76, HRS.
4. The appointing agency shall ensure that all employees hired under the Proclamation meet the following:
  - a. Persons seeking employment meet the requirements necessary for the safe and efficient performance of the duties of the position for which they are being hired;
  - b. Each employee is able to perform their duties satisfactorily; and
  - c. Each employee is qualified to perform the duties and functions of the position that they are being hired into.

B. Chapter 103D, HRS, Hawaii Public Procurement Code

Prior to utilizing the suspension of chapter 103D, HRS, the department has determined that it is not practicable or advantageous to procure the services required via traditional procurement methods. This suspension is for the solicitation process only. Pursuant to section 103D-310(c), HRS, and section 3-122-112, Hawaii

Administrative Rules, the procuring officer shall verify compliance (i.e., vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the award posting are required to be documented in the procurement/contract file.

The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05 within seven days after award.

- C. Section 201H-38(a)(3), HRS, Housing development; exemption from statutes, ordinances, charter provisions, and rules.

Section 201H-38(a)(3), HRS, is suspended to allow the county in which a state affordable housing project or county affordable housing project is to be situated to approve the project, with or without modifications, without requiring the county council to approve, approve with modification, or disapprove the project by resolution. Instead, the county may approve, approve with modification, or disapprove the project through action of the county planning director within forty-five days of the receipt of HHFDC approval. If on the forty-sixth day a project is not disapproved, it shall be deemed approved by the county planning director.

# TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS; Exempt DHHL Development from School Impact Fees

BILL NUMBER: HB 1088 HD 1

INTRODUCED BY: House Committee on Judiciary and Hawaiian Affairs

EXECUTIVE SUMMARY: Exempts housing developed by the Department of Hawaiian Home Lands from school impact fees.

SYNOPSIS: Amends section 302A-1603(b)(6) to exempt any form of housing developed by the department of Hawaiian home lands for use by beneficiaries of the Hawaiian Homes Commission Act, 1920, amended.

EFFECTIVE DATE: July 1, 3000.

STAFF COMMENTS: This is an Administration bill sponsored by the Department of Hawaiian Home Lands and designated HHL-05 (25).

The Hawaii Revised Statutes contains twelve sections relating to “school impact fees,” starting with section 302A-1601. The law states, in part, “New residential developments within identified school impact districts create additional demand for public school facilities. As such, once school impact districts are identified, new residential developments shall be required to contribute toward the construction of new or expansion of existing public school facilities.”

Builders of large projects within school impact districts are required to provide land for school facilities depending on the numbers of students expected in their projects and the amount of available classroom space in existing area schools. Smaller developers and individual home owner-builders are required to pay a fee instead of land, when their project is too small to entertain a school site. All home builders or buyers must pay a construction cost fee.

Once an impact fee district is established, the DOE is authorized to collect 10% of estimated school construction costs and 100% of estimated land acquisition costs from each residential development planned within the district.

The Board of Education (BOE) used this authority to establish impact fee districts in Central Maui and West Maui in 2010, and in Leeward Oahu in 2012. It approved another district in West Hawaii in 2009, but apparently the Big Island county government didn’t want to cooperate and that district remains an open issue.

The theory behind this law is that high growth will mean more children, and more schools are required to educate them. The formulas in sections 302A-1606 and -1607 for calculating the fee come up with a land value and dollar value for each new single-family unit and each multi-family unit. It makes sense to exempt construction where no new unit is being created, for it

would be rational to presume that no additional living unit means that there would not be additional children to educate. By the same token, exempting additional living units even though they can house families and children does not seem to be in line with the philosophy of the tax and will, at a minimum, cause others to pay for the schools needed for the additional children in those units.

We also note that the State Auditor, in Report No. 19-13, has called attention to several problems relating to administration of the school impact fee program as it now exists and also raises constitutional concerns.

Digested: 3/18/2025



HAWAIIAN HOMESTEADERS ASSOCIATION INC.

P.O. Box 698 Kula, Hawai'i 96790-0698

March 18, 2025

TO: Chair Michelle N. Kidani, Vice-Chair Donna Mercado Kim and Members of the Senate Committee on Education

Chair Herbert M. "Tim" Richards, III, Vice-Chair Joy A. San Buenaventura and Members of the Senate Committee on Hawaiian Affairs

Chair Stanley Chang, Vice-Chair Troy N. Hashimoto and Members of the Senate Committee on Housing

MEASURE: HB 1088, HD1  
Thursday, March 20, 2025  
1:00 PM  
Conference Room 224 & Videoconference

SUBJECT: Testimony in Support of HB 1088, HDI with Amendment

Aloha Chairs, Vice-Chairs and Members of the Senate Committees on Education, Hawaiian Affairs and Housing. My name is Perry Artates, President of the Waiohuli Hawaiian Homesteaders Association, Inc. (WHHA) and I submit the following testimony in support of HB 1088, HD1 and would like to humbly suggest an amendment.

WHHA was established in 1999 and received its 501c3 designation in 2005 to support its homestead community. With a 65-year General Lease to 150 acres in Waiohuli from the Department of Hawaiian Home Lands, WHHA has begun its economic development initiative called Waiohuli Economic Development Opportunities or WE DO. Through WE DO, WHHA will create community-based employment opportunities derived from the development of a master planned community. Included with this initiative is the possibility to collaborate with DHHL to develop infrastructure that can support residential homestead awards.

In its support of HB 1088, HDI and its WE DO initiative, WHHA seeks consideration for the following underlined amendment:

- (6) Any form of housing developed by (or for) the department of Hawaiian home lands for use by beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended."

Mahalo for your consideration.

Aloha,

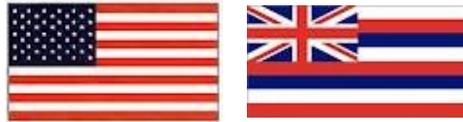
Perry O. Artates

President

Waiohuli Hawaiian Homesteaders Association, Inc.

Center for Hawaiian Sovereignty Studies  
46-255 Kahuhipa St. Suite 1205  
Kane'ohe, HI 96744  
(808) 247-7942

Kenneth R. Conklin, Ph.D. Executive Director  
e-mail [Ken\\_Conklin@yahoo.com](mailto:Ken_Conklin@yahoo.com)  
Unity, Equality, Aloha for all



To: SENATE COMMITTEES ON EDUCATION, HAWAIIAN AFFAIRS, and  
HOUSING

For hearing Thursday March 20, 2025

Re: HB 1088, HD1 RELATING TO SCHOOL IMPACT FEES.  
Exempts housing developed by the Department of Hawaiian Home  
Lands from school impact fees. Effective 7/1/3000. (HD1)

#### TESTIMONY IN OPPOSITION

This bill is written in a way that, perhaps intentionally, disguises its true purpose. But the previous committee reports explained it in plain English: "The purpose of this measure is to exempt housing developed by the Department of Hawaiian Home Lands from school impact fees." Doing that "... will allow more affordable housing for native Hawaiian beneficiaries to be developed by the Department of Hawaiian Home Lands without facing additional fees that come from school impact fees."

But what was NOT mentioned is that the result would be to reduce the amount of money being sent to the Department of Education to pay for the teachers, buildings, and supplies necessary to educate the children, even though the number of residents on DHHL lands will continue to increase and they will continue to produce even more children who will force an increase in the number of teachers, administrators, support staff, and supplies; and perhaps also an increase in the number of school buildings.

The report from the House Committee on Judiciary & Hawaiian Affairs, HSCR728, noted that there were 5 testimonies: 2 of them supported this bill, 1 opposed it. The remaining 2 testimonies from the Department of Education and the Tax Foundation of Hawaii were classified as comments only, as though they were neutral; BUT IN FACT THE POINTS THEY EXPRESSED WERE ENTIRELY NEGATIVE BECAUSE OF THE FINANCIAL IMPACTS ON THE DEPARTMENT OF EDUCATION.

THAT COMMITTEE ON FINANCE WAS OBLIGATED TO GIVE PRIMARY CONSIDERATION TO THESE FINANCIAL IMPACTS RATHER THAN TO ALLEGED ISSUES OF "SOCIAL JUSTICE" OR "EQUITY" FOR A FAVORED RACIAL GROUP.

LIKEWISE THIS SENATE COMMITTEE ON EDUCATION MUST GIVE PRIMACY TO THE FINANCIAL ASPECTS OF THIS BILL, CONSIDERING LOOMING IMPACTS OF FEDERAL CUTS TO THE DEPARTMENT OF EDUCATION.

Keith T. Hayashi, Superintendent of Education testified politely but firmly "The practice of requiring developers of new residential units to dedicate land to mitigate impacts on student enrollment caused by new residential developments is consistent with state and county land use requirements for purposes of essential public facilities such as parks, fire and police stations. Although the Department recognizes the importance and need of affordable, workforce, and housing for use by Department of Hawaiian Home Lands beneficiaries, the exemption proposed by this bill would limit funding resources and the dedication of land intended to address the impacts on school facilities generated by new residential developments.

The Tax Foundation of Hawaii testified that "Builders of large projects within school impact districts are required to provide land for school facilities depending on the numbers of students expected in their projects and the amount of available classroom space in existing area schools. Smaller developers and individual home owner-builders are required to pay a fee instead of land, when their project is too small to entertain a school site. All home builders or buyers must pay a construction cost fee. ... The theory behind this law is that high growth will mean more children, and more schools are required to educate them. The formulas in sections 302A-1606 and -1607 for calculating the fee come up with a land value and dollar value for each new single family unit and each multi-family unit. It makes sense to exempt construction where no new unit is being created, for it would be rational to presume that no additional living unit means that there would not be additional children to educate. By the same token, EXEMPTING ADDITIONAL LIVING UNITS EVEN THOUGH THEY CAN HOUSE FAMILIES AND CHILDREN DOES NOT SEEM TO BE IN LINE WITH THE PHILOSOPHY OF THE TAX AND WILL, AT A MINIMUM, CAUSE OTHERS TO PAY FOR THE SCHOOLS NEEDED FOR THE ADDITIONAL CHILDREN IN THOSE UNITS." [emphasis added]

Exempting housing developed by the Department of Hawaiian Home Lands from school impact fees while allowing the residents of DHHL lands to flood the schools with more children would reduce the number of dollars per pupil overall, thereby presumably lowering the quality of education and the productivity and earnings of the adults who emerge from our public schools. It would also be logically correct, although politically incorrect, to note that the children residing on DHHL lands are Native Hawaiian while most of the children in our public schools are not Native Hawaiian; therefore this bill could be viewed as racist because it forces non-Native Hawaiians to suffer reduction in quality of education for the purpose of paying for the education of Native Hawaiian children.

It would be reasonable to exempt assessments of school impact fees for housing developments where there will be no school-age children living there, such as any form of housing permanently excluding school-aged children, with the necessary covenants or declarations of

restrictions recorded on the property. It would be reasonable to exempt assessments of school impact fees for housing developments where the developers actually build schools on their own land with sufficient capacity to handle the children who will be living there, such as any development with an executed education contribution agreement or other like document with the authority or the department for the contribution of school sites or payment of fees for school land or school construction. But the reasonable exemptions described in this paragraph do not seem applicable to DHHL lands intended for residential use and not set aside for leasing for factories, shopping centers, pastures, or crop production.

Wouldn't it be a wonderful idea to exempt all housing development from general excise tax? That would provide a real incentive to help solve the housing shortage blamed for homelessness and high prices.

But this bill singles out one racial group to enjoy such an exemption, while everyone else must pay the tax. That is an example of what is known as "systemic racism" -- setting up an entire system in a way that benefits or harms people because of their race. Whatever happened to diversity, equity, and inclusiveness?

Should DHHL developments be exempted from school impact fees? Do ethnic Hawaiians not make babies and have children? If DHHL builds its own schools to educate children who live in their own redlined racially-gated ghettos, and if the children on DHHL lands are not allowed to attend public schools outside DHHL's gates, then of course they should not have to pay school impact fees to the general public schools that serve both ethnic Hawaiians and non-ethnic-Hawaiians. Read my book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State."

<http://tinyurl.com/2a9fqa>

The attitude projected in this sort of legislation exemplifies what I wrote about.

**HB-1088-HD-1**

Submitted on: 3/18/2025 12:34:04 PM

Testimony for EDU on 3/20/2025 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Seth Kamemoto	Individual	Comments	Written Testimony Only

Comments:

HRS 302A-1603 (b) has an existing exemption clause: “(4) Any development with an executed education contribution agreement or other like document” and the House Committee on Education found “that the Department of Hawaiian Home Lands leases some of its lands for educational facilities at minimal to no cost. Additionally, the Department of Hawaiian Home Lands does consider the need for educational facilities when developing its affordable housing plan.”

Instead of adding an explicit exemption for DHHL in HRS302A, since DHHL is already considering educational facilities and providing education-supporting leases, they could work with DOE to define a valid “education contribution agreement or other like document” that would fit with their developments. This would alleviate DHHL of the fee burden, while also providing some assurances that families in these new developments would be adequately served by our public education system.