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STATE OF HAWAII | KA MOKUAĀINA 'Ō HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
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Testimony of  
RYAN K.P. KANAKA'OLE  
Acting Chairperson

Before the Senate Committee on  
WATER, LAND, CULTURE AND THE ARTS

Friday, February 6, 2026  
1:00 PM  
State Capitol, Conference Room 224

In consideration of  
SENATE BILL 3035  
RELATING TO REAL ESTATE TRANSACTIONS

Senate Bill 3035 proposes to require the seller and agent of real property adjacent to the shoreline to include information regarding all permitted and unpermitted erosion control structures on the parcel in advertisements in addition to disclosure documents at sale. **The Department of Land and Natural Resources (Department) supports this bill.**

Vulnerability of coastal properties due to erosion (i.e., shoreline recession and land loss) and flooding from seasonal waves and storms is increasing with sea level rise. The Department believes that it is critical that buyers of coastal property understand the hazards and risks they are assuming in purchasing oceanfront property, in the spirit of transparency and disclosure and to support informed decision-making by buyers.

Hawai'i Revised Statutes (HRS) Section 508D-15 was amended in 2023 to require mandatory disclosure of information related to all permitted and unpermitted erosion control structures for real property that lies adjacent to the shoreline after an offer is accepted. Senate Bill 3035 would further inform buyers of existing hazards on the property prior to sale at the beginning of real estate transactions rather than at the end to ensure an informed purchase.

Shoreline property owners maintain erosion control structures such as sandbags and burritos, and in some cases, seawalls as erosion control. A large number of these erosion control structures are unpermitted or remain under expired permits far beyond their allotted authorization. Unpermitted and illegal structures present an enforcement challenge for the Department when the shoreline property changes ownership.

Senate Bill 3035 will require the disclosure of all permitted and unpermitted erosion control structures, along with the expiration dates for permitted structures and notices of alleged violations and fines for unpermitted or expired permits during the advertisement phase for all shoreline properties. As such, Senate Bill 3035 will support informed consent and actual notice to all parties prior to a real estate transaction of actual coastal hazards associated with living on the shoreline and would result in the removal of harmful and dangerous unpermitted erosion control structures from state lands, thereby improving access to public trust resources.

Mahalo for the opportunity to comment on this measure.

February 6, 2026

**The Honorable Chris Lee, Chair**

Senate Committee on Water, Land, Culture and the Arts  
State Capitol, Conference Room 224 & Videoconference

**RE: Senate Bill 3035, Relating to Real Estate Transactions**

**HEARING: Friday, February 6, 2026, at 1:00 p.m.**

Aloha Chair Lee, Vice Chair Inouye, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR provides **comments** on Senate Bill 3035, which requires a seller of real property adjacent to the shoreline, and the seller's agent, to disclose and include in all advertisements certain shoreline erosion issues related to the parcel

Requiring all advertisements to include detailed information on permitted and unpermitted erosion control structures, permit expiration dates, violation notices, and fines for expired permits or unpermitted structure could be unworkable due to space constraints. Many real estate advertisements appear on platforms with character limits, such as online listings, newspaper, and social media posts. Ensuring full compliance in these settings may require significantly reducing or eliminating other key property details, potentially confusing buyers rather than informing them.

HAR has provisions regarding erosion control structures based on current law within the Seller's Real Property Disclosure Statement for the seller to disclose to the buyer if applicable.

14)     Does the property lie adjacent to the shoreline?  
14a)     If yes, does the property include any erosion control structure? If yes, disclose in section G every permitted and unpermitted erosion control structure on the property, expiration dates for each permitted erosion control structure on the property, and notices of alleged violations and fines for each expired permitted or unpermitted erosion control structure on the property.

Additionally, HAR worked with the Legislature and key stakeholders to proactively create a two-page Oceanfront Property Addendum to provide buyers with information specific to oceanfront properties. These documents help ensure buyers receive relevant details in the appropriate context. However, including this information in advertisements without context may make it even more difficult to interpret for consumers. Moreover, posting these types of disclosures, which is two pages, in advertisements would be difficult as well.

Mahalo for the opportunity to provide testimony on this measure.



February 5, 2026

Senate Committee on Water, Land, Culture and the Arts  
Hawai'i State Legislature  
Via Electronic Transmission

Re: Testimony in SUPPORT of SB3035, Relating to Real Estate Transactions  
Hearing: Friday, February 6, 2026, 1:00 PM CR 224 & Via Videoconference

To: The Honorable Chair Lee, Vice Chair Inouye, and Members of the Committee

**Surfrider Foundation Hawai'i Region strongly supports Senate Bill 3035**, which strengthens shoreline erosion disclosure requirements by ensuring that specific shoreline erosion-related issues are disclosed early at the advertising and marketing stage of a real estate transaction, rather than later in the process after buyers have already made significant financial and emotional commitments.

Surfrider Foundation is a grassroots environmental organization dedicated to protecting the ocean, waves, and beaches for all people. Through our Coast & Climate initiative, our chapters on Maui, Kaua'i, and O'ahu work directly on issues related to coastal erosion, shoreline armoring, and the loss of public beach access. From this work, we see firsthand how shoreline erosion risks are often poorly understood by buyers and too often minimized or omitted in early property marketing.

Beachfront property in Hawai'i is frequently purchased by out-of-state buyers who may lack familiarity with Hawai'i's unique coastal erosion dynamics, including long-term erosion trends, localized hotspots, sea level rise impacts, and the strict laws on shoreline protection. Buyers often underestimate erosion risks and overestimate what they can legally or practically do to protect shoreline-adjacent structures. In some cases, properties are purchased sight unseen, relying almost entirely on online advertisements and marketing materials that emphasize views and lifestyle while failing to clearly communicate shoreline erosion issues.

While sellers and real estate agents may argue that shoreline issues are already disclosed under existing law, those disclosures typically occur late in the transaction, after buyers have already invested substantial time and money in inspections, appraisals, and legal due diligence. By that point, buyers face tight deadlines and weakened negotiating power, creating a "sunk cost" dynamic that pressures them to proceed despite serious shoreline risks. SB3035 does not

impose new or speculative disclosure obligations, it simply ensures that specific shoreline erosion–related issues that are already known or documented are disclosed earlier, when that information can meaningfully inform buyer decisions. If disclosures are already occurring, this bill should not pose an undue burden; rather, it promotes consistency, transparency, and fairness.

SB3035 addresses this gap by requiring sellers and sellers' agents of shoreline-adjacent property to disclose specific, known shoreline erosion issues in all advertisements and marketing materials, including the presence of permitted and unpermitted erosion control structures, permit expiration dates, and any notices of alleged violations. These disclosures must be made when a property is first marketed, ensuring buyers receive critical information when it can meaningfully inform their decisions.

Early, transparent disclosure also serves the broader public interest. When shoreline risks and legal limitations are clear upfront, buyers can make risk-informed decisions, reducing the pressure to seek post-purchase emergency hardening or other last-ditch interventions. Coastal erosion issues facing oceanfront property owners must be brought into the open and addressed with urgency, rather than passed down the line to future homeowners, agencies, and the public.

Oceanfront living is a privilege that also carries real risks. SB3035 ensures those risks are clearly communicated from the outset, protecting consumers while helping safeguard Hawai'i's beaches and public trust resources.

Thank you for the opportunity to submit testimony in strong support of SB3035 on behalf of the Surfrider Foundation's three Hawai'i chapters and members statewide

Sincerely,

Hanna Lilley  
Hawai'i Regional Manager  
Surfrider Foundation

**SB-3035**

Submitted on: 2/4/2026 2:26:30 PM

Testimony for WLA on 2/6/2026 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Maureen Brock	Individual	Support	Written Testimony Only

Comments:

I support SB3035.

**SB-3035**

Submitted on: 2/4/2026 6:25:40 PM

Testimony for WLA on 2/6/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Denise E Antolini	Individual	Support	Remotely Via Zoom

Comments:

Aloha WLA Chair Lee, Vice Chair Inouye, and members,

**I strongly support SB3035.** As a resident of the North Shore of O‘ahu in the Pūpūkea-Paunalū-Sunset area, I have been engaged in monitoring and voicing community concerns about the "erosion hot spot" on the North Shore in an area called Kammies (between Sunset Beach and Rocky Point), in the ahupua‘a of Paunalū.

This is the same area where two houses (owned by the same investor, Joshua VanEmmerik) were demolished in 2024 by order of the City and County of Honolulu Department of Planning and Permitting (DPP) when one house started to collapse into the beach after months of beach erosion and undermining of the house.

The house that collapsed was notorious because Mr. VanEmmerik, who is not from the North Shore, had poured tons of concrete illegally on the beach when erosion began to accelerate in front of the house after he bought the home and the one next door to use as illegal vacation rentals.

Let me tell you a story about why this bill is **SUPER important**: the landowner of those two homes (Mr. VanEmmerik) had put them up for sale on Zillow AFTER he had been caught by the Department of Land and Natural Resources (DLNR) for the illegal concrete pour and AFTER he put in an illegal burrito system. He was trying to dump these distressed houses - for millions each.

The real estate agent who represented him did NOT disclose to prospective buyers the severe erosion issues, the pending fines from DLNR, or the unpermitted "erosion control devices."

I know this first hand because I went to an Open House when the first home was on the market - the seller’s agent NEVER mentioned the facts of the erosion history or violations or the *two* BLNR enforcement actions (the ad, as I recall, simply said the buyer had to do "due diligence" on their own), and the buyer’s agent (supposedly representing me as the potential buyer) only vaguely mentioned the erosion issue (about which I had extensive knowledge from attending several BLNR meetings on the matter).

"My" (buyer) agent handed me "engineered drawings" that supposedly would "secure" the house from falling into the ocean - again without disclosing the key history or facts. I later showed the

drawings to experts who just laughed at the fool's errand and misrepresentation of putting an "anchor system" under the house that was sitting on an rapidly eroding sand dune.

*This is the same house that later COLLAPSED onto the beach and spread debris all over the beach and into the ocean!* Mr. VanEmmerik ultimately had to demolish both houses, and defaulted on his mortgages to two banks.

Remember, these houses were being marketed for months on Zillow to buyers worldwide without disclosure of key erosion info in the advertising. Outrageous.

Some real estate agents, particularly those with roots in the community, are honest with buyers. Many are not. I can say that with some confidence after speaking to an agent up here on the North Shore who was "appalled" to hear a seller's agent (for a different home, on Waialua shoreline) fail to disclose the home's illegal seawall. She was so outraged she insisted on walking her client out of the home on the spot - and she told me that **many shoreline homes are being sold without full disclosure of the erosion risks to prospective buyers in advertising.**

This bill is a big step forward for "truth in advertising" and also will protect buyers who should be able to rely on agents to tell them the truth. In turn, agents would be required to get accurate information from the seller. Most importantly, it provides key information to the market as a whole for shoreline property about the true risk and value. It makes no sense and is inconsistent with the state shoreline policies in Act 16 (2020) to wait until an offer is made for this critical information to be shared with potential buyers.

Please move this bill forward as a complement to the prior "transaction" disclosure bill passed by the Legislature three years ago to protect our beaches held in public trust.

Mahalo.

Denise Antolini, Pūpūkea resident

Member, Protect Paumalū

**SB-3035**

Submitted on: 2/5/2026 8:59:56 AM

Testimony for WLA on 2/6/2026 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
arleen velasco	Individual	Support	Written Testimony Only

Comments:

Oahu's coastlines are rapidly eroding and many properties are at risk of damage caused by ocean wave energy. Anyone buying coastal property should be made aware of the risk before they enter into any legally binding contract. This law should apply to all types of coastal property, individual houses, condominiums and commercial properties. This is a very common sense law. Please imlement this law.