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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS

Tuesday, March 21, 2023

2:00 p.m.

State Capitol, Conference Room 325 & Videoconference

In consideration of
SENATE BILL 1391, SENATE DRAFT 1, HOUSE DRAFT 1
RELATING TO ADMINISTRATIVE PENALTIES ON PUBLIC LANDS

Senate Bill 1391, Senate Draft 1, House Draft 1 proposes to allow state boards and commissions to place liens on properties for noncompliance with administrative enforcement actions. **The Department of Land and Natural Resources (Department) strongly supports this bill.**

Coastal erosion and rising seas are threatening our iconic public trust beaches and threatening shoreline homes throughout the State. Private property owners whose property abuts public beaches are building erosion control structures on public beaches, and encroaching upon public trust land, to protect their private properties. Shoreline hardening protects private property but destroys the public beaches for which Hawaii is world-renowned. Moreover, debris from illegal structures such as rock, concrete, rebar, and textiles create public hazards along the shoreline and in the water.

Section 171-6.4, Hawai'i Revised Statutes (HRS), is proposed to be amended to address noncompliance of administrative enforcement actions for encroachments upon public lands.

Section 501-151, HRS, is proposed to be amended to define "action" to include administrative enforcement action for encroachments on public land.

Section 634-51, HRS, is proposed to be amended to include state or county agency, board, or commission as a party for notice of pendency of action and define "action" to include administrative enforcement action for encroachments on public land.

These amendments will aid the Department and the individual counties in resolving encroaching structures that are largely unpermitted or remain under expired permits far beyond their allotted authorization.

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
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CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Unpermitted and illegal structures present an enforcement challenge when the shoreline property changes ownership.

This bill will also help support compliance with Chapter 205A, HRS, by providing further remedies to ensure removal of expired temporary erosion control structures that have become de facto seawalls and encroachments on public lands.

Lien recordation will assist in the collection of civil penalties, abatement costs, administrative costs as directed by the board and commission. A lien on property to address noncompliance of administrative enforcement actions for encroachments upon public lands will deter future violations and maintain the integrity of laws to protect public lands.

Senate Bill 1391, Senate Draft 1, House Draft 1 will support the removal of harmful and dangerous unpermitted erosion control structures from state lands, thereby improving access to and helping to preserve public trust resources.

This bill is an effort to provide greater accountability for private property owners adjacent to state lands for the removal of unpermitted encroachments. As such, it will reduce the enforcement burden on the Department as well as the individual counties.

Mahalo for the opportunity to provide testimony in strong support of this measure.



3/21/2023

JHA Committee
Hawai'i State Capitol
Honolulu, Hawai'i 96813

Dear Chair Tarnas, Vice Chair Takayama, and Members of the Committee on Judiciary and Hawaiian Affairs,

Position: Support SB1391 SD1 HD1 - RELATING TO ADMINISTRATIVE PENALTIES ON PUBLIC LANDS

The Surfrider Foundation is a national nonprofit organization dedicated to the protection and enjoyment of our ocean, waves, and beaches. Surfrider maintains a network of over 150 chapters and academic clubs nationwide, including 4 chapters in the Hawaiian Islands. The Surfrider Foundation focuses on many aspects of the environment such as coastal protection, plastic pollution, and water quality. The Surfrider Foundation, Hawai'i region, is testifying in **strong support of SB1391 SD1 HD1** (hereafter "SB1391"), relating to administrative penalties for land use violations or unauthorized structures encroaching on public lands.

The coastlines of Hawai'i are facing severe chronic erosion that is being exacerbated by climate change and sea level rise. 70% of the sandy beaches on Maui, O'ahu, and Kaua'i are experiencing chronic erosion that is further being exacerbated by rising sea levels. Homes, businesses, and public infrastructure like roads are in highly vulnerable coastal areas.

In desperation, certain coastal homeowners have taken action on their own (or under expired permits) to protect their properties. Unfortunately, these actions most often result in harm and damage to the public shoreline. We have further seen where, despite expired permits or notice of violations issued directly to homeowners, these unauthorized structures remain on (or impacting the) public shoreline. In some cases, unauthorized structures have remained on the public shoreline for years.

SB1391 is an important step towards dissuading private property owners from taking illegal and unauthorized actions on the public shoreline, including the placement of illegal and/or unauthorized structures such as sandbags, tarps, concrete, rebar, etc. This bill also goes hand-in-hand with other bills currently moving through the legislature that support voluntary relocation of property owners away from vulnerable coastal areas.

Over the past year, the Surfrider Foundation, O'ahu Chapter and SeaGrant convened the North Shore Coastal Resilience Working Group (NSCRWG),¹ a group of stakeholders on the North Shore, to discuss the imminent threats of sea level rise and proposed solutions. One of the key findings was the need to improve guidelines and limitations for emergency shoreline erosion management and strengthen enforcement against unauthorized work and materials. SB1391 is an important step towards addressing the environmental impacts of unauthorized and expired materials on the shoreline.

Thank you for your consideration of this testimony in support of SB1391, submitted on the behalf of the Surfrider Foundation's 4 Chapters in Hawai'i and our 437 local community members.

Sincerely,

Camile Cleveland
Volunteer Policy Coordinator
Surfrider Foundation, O'ahu Chapter

¹ <https://hawaii.surfrider.org/northshoreworkinggroup/>