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GOVERNOR OF HAWAII



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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
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**TESTIMONY OF THE CHAIRPERSON  
OF THE BOARD OF LAND AND NATURAL RESOURCES**

**on House Bill 2966 – Relating To Public Lands**

**BEFORE THE HOUSE COMMITTEE ON  
FINANCE**

**February 22, 2008**

House Bill 2966 permits certain lessees of sites on public lands to sublet the whole or part of the demised premises without approval of the Board of Land and Natural Resources (Board), provided that the sublease term shall not exceed one week, the rent charged to the sublessee shall not exceed an amount necessary for the lessee to cover the lessee's operational costs, and the demised premises shall be used substantially for the purposes for which it was originally intended. While the Department of Land and Natural Resources (Department) recognizes the intent of this measure and appreciates its intended goal to lessen the administrative burden on the Board by removing approval of certain short term subleases from the Board's purview, the Department, however, does have serious concerns about the potential for abuse of leased property as an indirect result of this bill.

The Department believes that the proposed use of the property should be limited only to the purposes designated in the original lease and not be expanded by allowing mere substantial compliance. Use of a substantial compliance standard to determine appropriate use invites abuse by allowing questionable uses to occur without proper oversight. Such a subjective standard could be used by commercial ecotourism operations to circumvent the Department's authority and responsibility to regulate commercial activity on state lands. The Department recommends removal of the term "substantially" from the bill and limiting the allowable purposes to those originally intended and specified by the lease.

This measure contains no mechanism for ascertaining and ensuring that the leased premises will, in fact, be used under the sublease for the purposes designated in the lease. Moreover, there appears to be no limitation on the number of consecutive instances that a particular lessee and sublessee could invoke the provisions of this bill, thereby allowing a string of subleases that could be set end-to-end, and effectively circumvent the Board's purview over longer term use of the premises. As such, the Department further recommends that this measure be amended to prohibit issuance of consecutive short term subleases and that the prohibition extend to entities and persons related or affiliated to the sublessee.