
HOUSE CONCURRENT RESOLUTION

REQUESTING THAT THE BOARD OF LAND AND NATURAL RESOURCES MAKE A DETERMINATION ON THE APPLICATION OF ACT 166, SESSION LAWS OF HAWAII 2000, ON A REQUEST BEFORE IT TO CONSENT TO THE ASSIGNMENT OF A HOMESTEAD LEASE.

1 WHEREAS, prior to the effective date of Act 166, Session
2 Laws of Hawaii 2000, section 171-99(e), Hawaii Revised Statutes,
3 provided that in the case of any nine hundred and ninety-nine-
4 year homestead lease, if two or more persons succeed together to
5 the interest of a lessee, they shall hold that interest by joint
6 tenancy; and

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8 WHEREAS, on June 6, 2000, the effective date of Act 166,
9 section 171-99(e) was amended to give each person holding a
10 vested interest in a homestead lease the ability to transfer
11 that interest to any family member, as defined in Act 166, or to
12 be passed on by intestate succession; and

13
14 WHEREAS, at an April 25, 2008, meeting of the Board of Land
15 and Natural Resources, the Department of Land and Natural
16 Resources submitted item D-12, requesting that the Board approve
17 the transfer of only a one-third interest in a homestead lease
18 upon a request by a homestead lessee claiming a one hundred per
19 cent interest in the homestead lease through the vesting of the
20 lessee's joint tenancy right of survivorship prior to the
21 effective date of Act 166 (hereafter the "requesting lessee");
22 and

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24 WHEREAS, upon the advice of the Attorney General, the
25 Department stated to the Board in item D-12 that the requesting
26 lessee only had a one-third interest in the homestead lease,
27 based on Act 166, and recommended that the Board approve the
28 transfer of only a one-third interest in the lease; and
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1 WHEREAS, other persons present at the April 25, 2008, Board
 2 meeting claimed an interest in the subject homestead lease
 3 through succession from siblings of the requesting lessee, the
 4 siblings having died subsequent to the effective date of Act
 5 166; and
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7 WHEREAS, a representative of the Office of Hawaiian Affairs
 8 present at the Board meeting represented that the Office of
 9 Hawaiian Affairs was reviewing this issue as it was pervasive
 10 throughout all homestead leases, and hoped to establish a
 11 program to resolve the issue; and
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13 WHEREAS, based upon the disputed right of the requesting
 14 lessee and the representation of the Office of Hawaiian Affairs,
 15 the Board denied the recommendation of the Department to approve
 16 the assignment of the one-third interest to which the
 17 Department, based upon the advice of the Attorney General, had
 18 determined that the requesting lessee was entitled; and
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20 WHEREAS, this matter remains unresolved, without any
 21 determination by the Board as to the extent of the rights of the
 22 requesting lessee in the homestead lease; and
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24 WHEREAS, the requesting lessee needs to exhaust all
 25 administrative remedies prior to requesting any judicial
 26 adjudication of this matter; now, therefore,
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28 BE IT RESOLVED by the House of Representatives of the
 29 Twenty-fifth Legislature of the State of Hawaii, Regular Session
 30 of 2009, the Senate concurring, that the Board of Land and
 31 Natural Resources is requested to make a determination as to
 32 whether, in the case of two or more persons succeeding to the
 33 interest of a lessee in any homestead lease, the joint tenancy
 34 right of any surviving joint tenant in a homestead lease vested
 35 prior to the effective date of Act 166 or, instead, became a
 36 tenancy in common interest pursuant to Act 166; and
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38 BE IT FURTHER RESOLVED that if any final determination by
 39 the Board requires that a contested case proceeding is needed to
 40 resolve this issue, then the Board is requested to hold the
 41 contested case hearing upon its own motion or waive the time for
 42 making an oral or written request for a contested case hearing
 43 by the requesting lessee, pursuant to section 13-1-29(a), Hawaii



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1 Administrative Rules (Department of Land and Natural Resources);
2 and

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BE IT FURTHER RESOLVED that certified copies of this
Concurrent Resolution be transmitted to the Chairperson of the
Board of Land and Natural Resources and the Chairperson of the
Board of Trustees of the Office of Hawaiian Affairs.

OFFERED BY: Cabrera H. King

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