
HOUSE 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
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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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30 WHEREAS, other persons present at the April 25, 2008, Board
31 meeting claimed an interest in the subject homestead lease
32 through succession from siblings of the requesting lessee, the



1 siblings having died subsequent to the effective date of Act
2 166; and

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4 WHEREAS, a representative of the Office of Hawaiian Affairs
5 present at the Board meeting represented that the Office of
6 Hawaiian Affairs was reviewing this issue as it was pervasive
7 throughout all homestead leases, and hoped to establish a
8 program to resolve the issue; and

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10 WHEREAS, based upon the disputed right of the requesting
11 lessee and the representation of the Office of Hawaiian Affairs,
12 the Board denied the recommendation of the Department to approve
13 the assignment of the one-third interest to which the
14 Department, based upon the advice of the Attorney General, had
15 determined that the requesting lessee was entitled; and

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17 WHEREAS, this matter remains unresolved, without any
18 determination by the Board as to the extent of the rights of the
19 requesting lessee in the homestead lease; and

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21 WHEREAS, the requesting lessee needs to exhaust all
22 administrative remedies prior to requesting any judicial
23 adjudication of this matter; now, therefore,

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25 BE IT RESOLVED by the House of Representatives of the
26 Twenty-fifth Legislature of the State of Hawaii, Regular Session
27 of 2009, that the Board of Land and Natural Resources is
28 requested to make a determination as to whether, in the case of
29 two or more persons succeeding to the interest of a lessee in
30 any homestead lease, the joint tenancy right of any surviving
31 joint tenant in a homestead lease vested prior to the effective
32 date of Act 166 or, instead, became a tenancy in common interest
33 pursuant to Act 166; and

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35 BE IT FURTHER RESOLVED that if any final determination by
36 the Board requires that a contested case proceeding is needed to
37 resolve this issue, then the Board is requested to hold the
38 contested case hearing upon its own motion or waive the time for
39 making an oral or written request for a contested case hearing
40 by the requesting lessee, pursuant to section 13-1-29(a), Hawaii
41 Administrative Rules (Department of Land and Natural Resources);
42 and

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1 BE IT FURTHER RESOLVED that certified copies of this
2 Resolution be transmitted to the Chairperson of the Board of
3 Land and Natural Resources and the Chairperson of the Board of
4 Trustees of the Office of Hawaiian Affairs.
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OFFERED BY:

Calvin M. Ay

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