



**LATE TESTIMONY**

**House Bill No. 1805  
RELATING TO LANDS CONTROLLED BY THE STATE**

**House Committee on Hawaiian Affairs**

February 4, 2009  
Room 329

9:00 a.m.

---

Aloha Chair Carroll, Vice Chair Shimabukuro, and Members.  
**OHA strongly supports House Bill No. 1805** Relating to Lands  
Controlled by the State.

This bill would enact public policy for a moratorium on the sale and exchange of ceded lands. The decision by OHA's Trustees to seek such legislation emerged following the state administration's appeal to the U.S. Supreme Court of a unanimous ruling by the Hawai'i Supreme Court that the State possesses a fiduciary duty to preserve the corpus of the public land trust, specifically the ceded lands, until such time as the "unrelinquished claims" of Native Hawaiians to these lands are resolved.

The bill is a means of maintaining the status quo and ensuring that the public land trust is preserved in order to ensure a fair and just settlement leading to reconciliation with the Native Hawaiian people. While the bill would prevent the sale of the lands, the bill would allow for transfer of lands between state agencies and allow for the State to lease the lands, for a true public purpose. The bill serves as a legislative vehicle to implement the policy of the State's highest court

We urge your Committee to respond favorably to this bill.

Mahalo for the opportunity to testify.



## KAMEHAMEHA SCHOOLS

**LATE TESTIMONY**

Tuesday, February 03, 2009

### WRITTEN TESTIMONY TO THE HOUSE COMMITTEE ON HAWAIIAN AFFAIRS

BY

Nainoa Thompson, Chair  
Diane J. Plotts, Vice Chair  
Corbett A.K. Kalama Secretary/Treasurer  
J. Douglas Keauhou Ing  
Robert K.U. Kihune  
Dee Jay A. Mailer, Chief Executive Officer

Re: HB 1667 – Relating to Ceded Land  
HB 1805 – Relating to Lands Controlled by the State.  
HB 1841 – Relating to the Public Lands Trust.

TO: Representative Mele Carroll, Chair  
Representative Maile S.L. Shimabukuro, Vice Chair  
Members of the Committee

Mahalo nui for the opportunity to testify regarding an issue of great importance to all of the people of Hawai`i and to our Native Hawaiian people in particular.

Kamehameha Schools supports this measure, which places a moratorium on the sale or transfer of ceded lands until the issues and claims surrounding these lands between Native Hawaiians and the state are resolved. Ceded lands tie directly to Native Hawaiian well being and identity, as former Crown and Government lands that were taken from the Kingdom of Hawaii after the overthrow of Queen Lili`uokalani in 1893 and later placed in trust to be used for five public purposes, including the benefit of Native Hawaiians, the indigenous people of these islands.

The Native Hawaiian people carry claims to those lands which have not yet been reconciled, and this is an obligation that must be resolved here at home. We stand with many others in our community in support of legislation that will keep intact Hawai`i's ceded lands trust until the claims can be resolved. As an Ali`i Trust founded to improve the capability and well-being of Native Hawaiians, we urge the state of Hawai`i to continue its long-standing support for Hawaiian rights and its commitment to the Hawaiian community by working with OHA, the Native Hawaiian people and the state Legislature to resolve the dispute over ceded lands without involvement by the U.S. Supreme Court.



## LATE TESTIMONY

# Mālama Kaua'i

M A L A M A K A U A I . O R G

RE: HB 1660 RELATING TO HAWAIIANS  
HB 1667 RELATING TO CEDED LANDS  
HB 1805 RELATING TO LANDS CONTROLLED BY THE STATE  
HB 1841 RELATING TO THE PUBLIC LANDS TRUST

To: Committee On Hawaiian Affairs: Rep. Mele Carroll, Chair, and Rep. Maile S.L. Shimabukuro,  
Vice Chair, Committee Members

From: Mālama Kaua'i

DATE: February 4, 2009

TIME: 9:00 a.m.

PLACE: Conference Room 329  
State Capitol, 415 South Beretania Street

### Testimony to support HB1660, HB1667, HB1805, HB1841

Dear Honorable Representatives,

The 1.8 million acres comprised of the Crown, Government and Public Lands, should continue to be held in trust and that the State of Hawai'i can not sell Hawaii's ceded lands until the unrelinquished rights of Native Hawaiians are resolved. Details of the rights of the Kānaka Maoli can be found in part or in whole in the 1898 Newlands Resolution, 1900 Organic Act, 1921 Hawaiian Homelands Act, 1959 Admissions Act and 1993 Apology Resolution.

Malama Kaua'i would like to state our support for House Bills 1660, 1667, 1805 and 1841. Each of these bills addresses an aspect of the Ceded Lands issue and we support the intent of each in order; HB1660, which recognizes Hawaiians as the indigenous people of Hawaii, HB 1667, which prohibits the board of land and natural resources from selling, exchanging, or otherwise alienating ceded lands in the public land trust, HB 1805, which prohibits the disposition in fee simple of ceded lands, HB 1841 prohibits the sale, exchange or other permanent transfer of lands in the public lands trust to a private entity; requires the Department of Land and Natural Resources to make an inventory of lands in the public lands trust; appropriates funds for the inventory, to be matched by the Office of Hawaiian Affairs.

We thank you for your support of these bills.

Mahalo nui loa,

Andrea Brower  
Project Manager

Keone Kealoha  
Executive Director

**LATE TESTIMONY**

February 4, 2009

To: Representative Mele Carroll, Chair  
Representative Maile Shimabukuro, Vice Chair  
House Hawaiian Affairs Committee

From: Malia Kaa'i Barrett

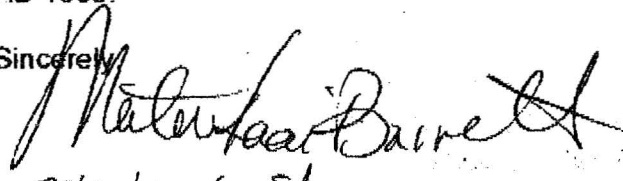
Re: **Testimony in support of HB 1805 Relating to Lands Controlled by the State**

Dear Chair Carroll, Vice Chair Shimabukuro and Members of the House Hawaiian Affairs Committee:

I write you to ask for your support of HB 1805 Relating to Lands Controlled by the State. This bill prohibits the disposition in fee simple of ceded lands.

I thank you in advance for your consideration. I urge you to please vote in support of HB 1805.

Sincerely,



241 Kaala St.  
Honolulu, HI 96813  
524-3078

**Rep. Maile Shimabukuro**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 4:45 PM  
**To:** HAWtestimony  
**Cc:** keoneakapu@hotmail.com  
**Subject:** Testimony for HB1805 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1805

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: JR Keoneakapu Williams  
Organization: Individual  
Address: 94-572 Kupuohi St. #17a Waipahu, HI 96797  
Phone: 8087448242  
E-mail: [keoneakapu@hotmail.com](mailto:keoneakapu@hotmail.com)  
Submitted on: 2/3/2009

**LATE TESTIMONY**

Comments:  
PLEASE SUPPORT HB 1805

**Rep. Maile Shimabukuro**

---

**From:** Alan Murakami [almurak67@gmail.com]  
**Sent:** Tuesday, February 03, 2009 4:48 PM  
**To:** HAWtestimony  
**Cc:** Mahealani Wendt  
**Subject:** HB 1677, 1805, 1841

**LATE TESTIMONY**

HOUSE OF REPRESENTATIVES  
REGULAR SESSION OF 2009

COMMITTEE ON HAWAIIAN AFFAIRS  
Room 329

February 4, 2009  
9:00 AM

RE: Testimony of Alan T. Murakami Related to HB 1677, 1805 1841

I testify in support of some form of interim moratorium on the dispositions of ceded lands pending the outcome of any resolution of Hawaiian land claims related to the illegal overthrow of the Hawaiian Kingdom in 1893.

If not an unqualified ban on the sale or exchange of ceded lands, the Legislature should impose strict limits on any disposition of this public trust resource to preserve the corpus of what was the most valuable asset base of the Kingdom. Besides imposing specific criteria for whatever limited form of sale or exchange is allowed, the law should require a reasonable period of consultation with the Office of Hawaiian Affairs and an opportunity for Hawaiian beneficiary input before any disposition. Finally, the Legislature should subject any such disposition to a 2/3 majority approval of both chambers of the Legislature.

The State government has yet to demonstrate why any such restriction would hobble the sovereign functioning of state government. As for providing affordable housing, I note that the state has for 50 years provided such housing to beneficiaries of the Hawaiian home lands trust program. I would be astonished if the State can justify the need for fee simple sales of affordable housing to members of the general public, when it never pleaded that case for Hawai'i's first citizens.

As a first step toward reconciling the land claims acknowledged by the Hawai'i Supreme Court in *OHA v HHFDC*, this branch of government should preserve the integrity of the ceded lands trust corpus. It is the prudent and pono thing to do, especially in light of the cultural value attached to land by Hawaiian culture. No prudent trustee, operating under like circumstances would do otherwise. Indeed, the Legislature has repeatedly been on record supporting the sovereignty of its indigenous people on several occasions during that 1993 Legislative Session. Act 340; Act 354; Act 359; 1993 Haw. H.R. Con. Res. No. 179 (1993 Haw. Sess. Laws). A measure to preserve the corpus of the land claims would be a natural extension of this record of support.

Thank you for this opportunity to testify.

Alan T. Murakami, Litigation Director  
Native Hawaiian Legal Corporation  
1164 Bishop Street, Suite 1205  
Ph: (808)-521-2302  
Email: [almurak@nhlchi.org](mailto:almurak@nhlchi.org)

# KO`OLAU FOUNDATION

LATE TESTIMONY

February 4, 2009

To: Rep. Mele Carroll, Chair  
And Members  
House Committee on Hawaiian Affairs

From: Leialoha "Rocky" Kaluhiwa

Subject: **Support for H.B. 1805, Relating to Lands Controlled by the State**

Aloha kakahiaka kakou!

My name is Leialoha "Rocky" Kaluhiwa, and I am a life-long resident and kupa`aina of the ahupua`a of He`eia, moku Ko`olaupoko, O`ahu. I wish to offer this testimony on behalf of myself, my family, and the Ko`olau Foundation.

We strongly support passage of this bill, and urge all members of the Legislature to pass it into law. We call upon Governor Lingle to sign it into law.

Our island people really believe in the concept of malama`aina and aloha `aina. We are connected to the land, we are `ohana to the land. When our Queen ceded the lands of the Hawaiian kingdom, entrusting them to the United States government so long ago, she did so in the belief that her people would be reunited with these lands when the truth was known about the illegal overthrow.

This bill offers some way to address the wrongs that were done over a century ago.

Mahalo for this opportunity to testify.

P. O. Box 4749  
Kane`ohe, HI 96744  
Ph. 286-7955  
Email: rockyfromheeia@aol.com

**LATE TESTIMONY**

# **Kako`o O`iwi**

**P. O. Box 4870**

**Kane`ohe, HI 96744**

**Ph. 754-4862**

**Email: [unclejerry77@aol.com](mailto:unclejerry77@aol.com)**

## Testimony on H.B. 1805

To Chair Mele Carroll and the members of the House Hawaiian Affairs Committee,  
Aloha from Kako`o O`iwi and the kupa`aina of Ko`olaupoko.

Kako`o O`iwi supports the passage of House Bill 1805, which would stop the state from selling off ceded lands under their control.

This is an important bill, and should be signed into law by Governor Lingle.

Mahalo for this bill, and for allowing me to offer my testimony.



LATE TESTIMONY



KO'OLAUPOKO HAWAIIAN CIVIC CLUB

February 4, 2009

TO: REP. MELE CARROLL, Chair  
& Members  
Committees on Hawaiian Affairs

FROM: MAHEALANI CYPHER, President  
Ko'olaupoko Hawaiian Civic Club

SUBJECT: TESTIMONY IN SUPPORT OF H.B. 1805,  
RELATING TO LANDS CONTROLLED BY THE STATE

Aloha mai kakou. The Ko'olaupoko Hawaiian Civic Club works with the people of nine ahupua'a surrounding Kane'ohe bay. Our membership is open to native Hawaiians and others who are "Hawaiian at heart". By this, we mean those who came to the islands because they have aloha for our people, our island culture, and our 'aina.

We support this bill because it sends a clear signal to the United States Supreme Court and all others who covet the Hawaiian islands that our state is "not for sale". Through this bill, we make it clear that it is the kuleana of all of us – all of you, all of the residents of Hawai'i, Hawaiian and non-Hawaiian, and yes, even Governor Lingle – it is the kuleana of all of us to safeguard these lands in trust until there has been just reconciliation of the failure to restore the Hawaiian kingdom, taken illegally over a century ago.

Those who advocate for the sale and transfer of Hawaiian ceded lands have lost their way in the halls of justice. It might help them to take a refresher course in civics 101 to revisit the vigorous efforts taken by the founding fathers of the United States government who, in establishing the U.S. Constitution and Bill of Rights, wanted to ensure that honor and justice were accorded to all people.

In the complicity of U.S. military forces during the illegal overthrow of the Hawaiian kingdom a century ago, America was dishonored by the actions of those who

Page 2

Ko`olaupoko HCC – H.B. 1085

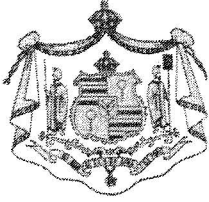
represented her here in the islands. Her Congress further dishonored the U.S. Constitution by agreeing to annex the islands over the protest of native Hawaiians.

If the proponents of these land sales and transfers truly believe in the American dream of justice and human rights, they would recognize the mistaken course they have pursued and support the continued trust management of these lands.

The Ko`olaupoko Hawaiian Civic Club urges you to pass this bill.

E mahalo nui loa for this opportunity to share our mana`o.

P. O. Box 664  
Kaneohe, HI 96744  
Ph. (808) 235-8111  
[koolaupokohcc.org](http://koolaupokohcc.org)



Association of Hawaiian Civic Clubs  
P. O. Box 1135  
Honolulu, Hawai'i 96807

**LATE TESTIMONY**

TESTIMONY OF LEIMOMI KHAN, PRESIDENT  
IN SUPPORT, WITH AMENDMENTS, OF

**HB 1805 - Relating to Lands Controlled by the State**

**Hearing date and time: February 04, 2009 9:00 a.m.**

Aloha Chairperson Carroll, Vice-Chair Shimabukuro and Members of the House Committee on Hawaiian Affairs.

Thank you for this opportunity to testify in support, with amendments, of House Bill 1805. We recommend that Section 5, appearing at page 15, which provides, in part, that the moratorium will end when, "...the legislature finds that the state no longer supports reconciliation between the State and the native Hawaiian people", be deleted.

The overriding purpose of House Bill 1805 is to build upon the momentum created by 1978 amendments to the State's Constitution and subsequent legislation which acknowledge historic injustices and seek reconciliation between the state and indigenous Hawaiians through further legislative and executive action in conjunction with the people of Hawai'i toward a comprehensive, just and lasting resolution.

House Bill 1805 amends HRS section 171-A to prohibit the fee simple sale, exchange, or alienation of lands ceded to the United States by the Republic of Hawai'i or acquired in exchange for lands so ceded and granted to the State of Hawai'i by virtue of the Admissions Act or retained by the United States and later conveyed to the State.

Since 1992, the Association of Hawaiian Civic Clubs (AHCC) has adopted 13 resolutions opposing actions which would erode the Public Land Trust, the most recent adopted on October 14, 2008, at its annual convention, titled, "Urging the AHCC to Support Legislation for a Moratorium on the Sale of Ceded Lands."

Other expressions of support for a moratorium on the sale, exchange, transfer, or other alienation of the public lands trust by the community include:

- (1) The 1988 five-point action plan drawn up by attendees at a three-day Native Hawaiian Rights Conference which called for the state and federal governments to protect and preserve the ceded lands as the future land base for the sovereign Hawaiian government;
- (2) The 1989 Office of Hawaiian Affairs' Blueprint for Native Hawaiian entitlements, which states, "The United States must recognize the claims of Native Hawaiians to ceded lands that have been transferred to the State of Hawai'i. Because

of the illegal action of its agents . . . and because of the enormous benefits it has obtained from the uncompensated use of illegally obtained lands, the United States is obligated to restore to Native Hawaiians a substantial portion of the lands it received in 1898. Further, the United States must recognize the claims of Native Hawaiians to ceded lands that have been transferred to the State of Hawai'i. Legislation must be adopted by the Congress and the state transferring control of a substantial portion of the ceded lands now controlled by the state to a Native Hawaiian entity developed pursuant to a process for Self-Determination and Self-Governance.

(3) Native Hawaiians who attended 50 community gatherings throughout the state convened by the Hawaiian Sovereignty Elections Council also called for a moratorium on ceded lands sales, exchanges, or any other disposition which would amount to permanent alienation from the public lands trust. HSEC member attorney William Meheula filed a lawsuit challenging the state's attempt to sell ceded lands.

(4) Amicus Curiae briefs filed by those listed on the attachment this past week with the U.S. Supreme Court in support of the Office of Hawaiian Affairs and four others, upholding the Hawai'i State Supreme Court's decision to prohibit the State of Hawai'i from selling or otherwise transferring the ceded lands from the public lands trust. Note that these briefs included both Hawaiian and non-Hawaiian organizations.

(5) Over 1200 signatures gathered on an AHCC petition calling on the Governor to withdraw the state's appeal of the Hawai'i Supreme Court's decision.

There are numerous other examples wherein the Native Hawaiian people and others have reaffirmed their support for a moratorium on the sale, exchange, transfer, or other permanent alienation of ceded lands, which they seek as a land base for a restored Native Hawaiian government.

Thank you for this opportunity to testify on House Bill 1805.

**Rep. Maile Shimabukuro**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 6:21 PM  
**To:** HAWtestimony  
**Cc:** ailaw001@hawaii.rr.com  
**Subject:** Testimony for HB1805 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1805

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: William J. Aila Jr. & Melva Aila  
Organization: Individual  
Address:  
Phone:  
E-mail: [ailaw001@hawaii.rr.com](mailto:ailaw001@hawaii.rr.com)  
Submitted on: 2/3/2009

**LATE TESTIMONY**

**Comments:**

We support passage of this bill because we believe that the State Supreme Court made the corect decision and that the Legislature should confirm that decision by adopting legislation preventing the sale of ceded lands until reconcillation occurs between Hawaiians and the State of Hawaii.

LATE TESTIMONY

February 4, 2009

To: Representative Mele Carroll, Chair  
Representative Maile Shimabukuro, Vice Chair  
House Hawaiian Affairs Committee

From: GERALD NISHIYAMA

Re: Testimony in support of HB 1805 Relating to Lands Controlled by the State

Dear Chair Carroll, Vice Chair Shimabukuro and Members of the House Hawaiian Affairs Committee:

I write you to ask for your support of HB 1805 Relating to Lands Controlled by the State. This bill prohibits the disposition in fee simple of ceded lands.

I thank you in advance for your consideration. I urge you to please vote in support of HB 1805.

Sincerely,

Gerald Nishiyama