

HB 331 HD2

RELATING TO PUBLIC LANDS.

Allows the Board of Land and Natural Resources to extend or modify the fixed rental period of certain leases; provided that the aggregate of the initial term and any extension granted does not exceed 65 years. (HB331 HD2)

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committee on
WATER, LAND, AND HOUSING**

**Tuesday, March 15, 2011
1:15 PM
State Capitol, Conference Room 225**

**In consideration of
HOUSE BILL 331, HOUSE DRAFT 2
RELATING TO PUBLIC LANDS**

House Bill 331, House Draft 2 proposes authorizing the Department of Land and Natural Resources (Department) to extend the term of certain public land leases to a maximum aggregate term of sixty-five (65) years. The Department supports this bill.

Leases of public lands are governed by Chapter 171, Hawaii Revised Statutes ("HRS"). In particular, Section 171-36(a)(2), HRS, imposes a maximum term of sixty-five (65) years for leases of public lands. Currently, Section 171-36(b)(3), HRS, allows the Department to extend the term of public land leases in certain situations and subject to certain requirements and restrictions. One of the restrictions is provided in Section 171-36(b)(3)(2), HRS, which provides that the aggregate of the initial term and any extension shall not exceed fifty-five (55) years. The Department does not know why the aggregate term of extended leases is limited to 55 years when the overall maximum term for public land leases is 65 years. The Department believes the intent of House Bill 331, House Draft 2 is to allow the Department to grant certain qualified lessees an extended term up to the overall maximum term for public land leases of 65 years.

The Department supports this bill as a housekeeping measure.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



HB 331, HD 2

RELATING TO PUBLIC LANDS

Senate Committee on Water, Land and Housing

March 15, 2011

1:15 p.m.

Room 225

The Office of Hawaiian Affairs (OHA) offers the following comments on HB 331, HD 2, which would allow the Department of Land and Natural Resources (DLNR) to extend lease terms for intensive agricultural, aquaculture, commercial, mariculture, special livestock, pasture, or industrial leases for a total of 65 years.

The bulk of the land managed by DLNR is former government and crown land that was ceded by the Republic of Hawai'i to the United States in 1898, "without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government[.]" P.L. 103-150 (1993).

Long-term leases that exceed the length of a generation are short-sighted and improvident. Encumbering public land with 65-year leases ties the hands of the community and future generations of land and resource managers and unduly restricts their ability to make sound decisions. Moreover, long-term leases often lead to a sense of entitlement on the part of the lessee that can and has resulted in alienation of leased land in Hawai'i.

Mahalo for the opportunity to testify on this measure.



THE HOUSE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON WATER, LAND, AND HOUSING
Senator Donovan M. Dela Cruz, Chair
Senator Malama Solomon, Vice Chair

DATE: Friday, March 15, 2011
TIME: 1:15pm
PLACE: Conference Room 225, State Capitol
415 South Beretania Street

RE: Testimony In **Support of HB331 HD2** Relating to Public Lands, with three suggested amendments

Aloha Chair Dela Cruz, Vice Chair Solomon, and Committee Members,

The Hawaii Aquaculture and Aquaponics Association (HAAA) supports the concept of HB331 HD2 which would allow the BLNR to extend or modify the fixed rental term of a lease under Section 171. However, the HAAA has three specific concerns with the present wording of this bill and respectfully asks your consideration of our concerns and our requested wording changes provided below.

The HAAA objects to the wording that places a finite term on the aggregate sum of the initial term and any extension whereby a longstanding good tenant and demonstrated steward of the land would be forced off their developed property in favor of a potentially unknown and problematic tenant, a non-resident land speculator, or potentially in favor of no tenant at all. Is this truly in the best interest of our current State goals of improving our economy, increasing our food security, and striving to meet our Constitutional mandate to become self sufficient in our food production?

The HAAA would therefore request your consideration of the following wording change on p1, lines 10-12: "Extend or modify the fixed rental term of the lease provided that the (aggregate sum of the) initial term and any extension granted shall not exceed 65 years:"

The HAAA is also confused by the apparent discrepancy in maximum lease terms provided between p1, lines 10-12, which states 65 years, and p.2, lines 9 and 10; which states 55 years.

The HAAA would therefore request that statement (2) be deleted on p.2, lines 9 and 10.

Finally, the HAAA worries about future staff interpretation of the intent of p2., lines 11-13, which requires a reopening to be based on "fair market rental". Is this highest and best use whereby future rental rates will be set according to what the highest agricultural or other activity of the future could pay rather than a potentially lower rate that may be more appropriate for what an aquaculture, row crop, or livestock tenant could afford to pay and which would be necessary to ensure or enable a diversity of future food crop production for increased self sufficiency?

As such, the HAAA requests that this statement be clarified to state "fair market rental for the originally leased purpose"?

Thank you for the opportunity to comment on and provide three requested changes to this bill.

Ronald P. Weidenbach

A handwritten signature in black ink that reads "Ronald P. Weidenbach". The signature is written in a cursive style with a large, prominent initial "R".

HAAA President

McCully Works
40 Kamehameha Ave.
Hilo, Hi. 96720

March 13, 2011

In **SUPPORT of HB 331**- Allows the Board of Land and Natural Resources to extend or modify the fixed rental period of certain leases; provided that the aggregate of the initial term and any extension granted does not exceed 65 years. (HB331 HD2)

Committee on Water, Land, & Housing
Chairman Donovan Dela Cruz , Dist.22
Vice Chair Malama Solomon, Dist. 1
Members of Committee

Aloha,

As a farmer and small businessman in Hilo for more than 35 years I have invested and done business in the Hilo Industrial Area all my professional life. I have made use of state lands, through Revocable Permits (for farming) , and longer term leases for industrial use's, since 1978. The Hilo Industrial Area has been in decline for the past 20 years, to the detriment of both the citizens of Hilo, and the lessee's who originally invested in the area. The underlying problem, which has led to a lack of continued investment by the Lessee's, is the current interpretation of statutory restrictions on the lease term. While it is certainly in the public interest for the State to not have perpetual leases, it is incumbent on the state to provide reasonable tenancy for those lessee's who wish to invest in, and improve, state lands. This is in fact a state wide problem.

The statutory basis under HRS 171-36(a) (2) is to have the maximum term of a State lease be 65 years. However, secondary provisions within the statute provide for a term of only 55 years, without explanation or basis. With fewer than 5 years remaining on the original 55 year terms of the leases in the Hilo Industrial Area, with an economy in dire straits, with many of the Lessee's being unable to cope with recent Ground Rent increases from the D.L.N.R. of more than 100% there is a need for immediate action, the clarification and correlation of statutory language that would enable these 55 year leases terms to be 65 years.

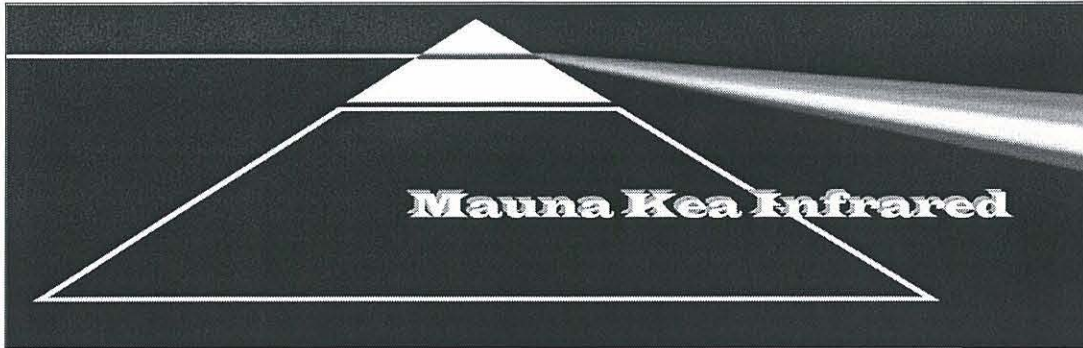
Please support this bill, it is the result of direct discussions between D.L.N.R. staff and administration, with the lessee's of state lands, and is in the mutual interest of both.

Aloha,

«GreetingLine»

McCully Works
40 Kamehameha Ave.

Hilo, Hi. 96720 808-933-7000



Mauna Kea Infrared, LLC

21 Pookela St.
Hilo, HI 96720
808-933-1814
808-933-1841

Dear Legislators,

This letter is in support of the bill HB No. 331 H.D. 2

I am the owner of a business that designs and builds optical equipment primarily for use in astronomy on large telescopes. We are a DLNR lessor in the industrial area in Hilo where we maintain a 3500 sq foot office and lab. In 2001 we purchased the lease and did around \$325K in renovations.

With only four years remaining of the present lease it makes little sense to put any more money into this property. It is evident from the state of the properties in this neighborhood that most owners feel the same.

An easy and cost free economic stimulus for this neighborhood is to pass this bill. I believe that with another ten years added to the leases that businesses would be willing to maintain and improve these properties. This will create work for local businesses and likely improve the income generated by this area. The uncertainty of the present situation makes business owners hold back. The ability to extend the leases will reduce this uncertainty and allow businesses to move forward and give time for a more permanent solution to be developed.

Stimulus and support for small business at no cost to the State! That should be an easy decision. Please vote to pass this bill.

Thank you,
Douglas Toomey
Owner - Mauna Kea Infrared, LLC

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: 74r@hawaiiantel.net
Subject: Testimony for HB331 on 3/15/2011 1:15:00 PM
Date: Monday, March 14, 2011 11:37:02 AM

Testimony for WLH 3/15/2011 1:15:00 PM HB331

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: Richard Fuller
Organization: Pacific Air Supply, Inc
Address:
Phone:
E-mail: 74r@hawaiiantel.net
Submitted on: 3/14/2011

Comments:

To do what is proposed is at this time in our economical situation is the worst thing that this state can do. If anything the state should lower the rate at which they are now charging for these people. Small businesses are what is keeping Hawaii alive. State of Hawaii don't shoot yourself in the foot.

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: chiquitajohn@aol.com
Subject: Testimony for HB331 on 3/15/2011 1:15:00 PM
Date: Monday, March 14, 2011 11:23:29 AM

Testimony for WLH 3/15/2011 1:15:00 PM HB331

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: John Chiquita JR
Organization: Individual
Address:
Phone:
E-mail: chiquitajohn@aol.com
Submitted on: 3/14/2011

Comments:

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: antoniosautorepair808@yahoo.com
Subject: Testimony for HB331 on 3/15/2011 1:15:00 PM
Date: Monday, March 14, 2011 11:17:33 AM

Testimony for WLH 3/15/2011 1:15:00 PM HB331

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: Roger Antonio
Organization: Individual
Address:
Phone:
E-mail: antoniosautorepair808@yahoo.com
Submitted on: 3/14/2011

Comments:

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: djmw@hawaiiintel.net
Subject: Testimony for HB331 on 3/15/2011 1:15:00 PM
Date: Monday, March 14, 2011 10:10:26 AM

Testimony for WLH 3/15/2011 1:15:00 PM HB331

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: Dayton Jackson
Organization: Individual
Address:
Phone:
E-mail: djmw@hawaiiintel.net
Submitted on: 3/14/2011

Comments:

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: tru57@hawaiiantel.net
Subject: Testimony for HB331 on 3/15/2011 1:15:00 PM
Date: Monday, March 14, 2011 7:35:44 PM

Testimony for WLH 3/15/2011 1:15:00 PM HB331

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: trudee siemann
Organization: Individual
Address:
Phone:
E-mail: tru57@hawaiiantel.net
Submitted on: 3/14/2011

Comments: