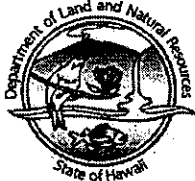


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

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

**Before the House Committee on
WATER, LAND, & OCEAN RESOURCES**

**Monday, February 7, 2011
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 996
RELATING TO STATE LAND LEASES**

House Bill 996 would allow leases of public lands issued to victims of natural disaster to be extended for an unstated number years beyond the existing term. The Department of Land and Natural Resources (Department) opposes this bill.

House Bill 996 amends existing Section 171-87, Hawaii Revised Statutes (HRS), to add a new subsection requiring the Board of Land and Natural Resources (Board) to extend leases issued to victims of natural disaster where the Board finds the extension is in the public interest, there is less than five years remaining on the lease term, and the lessee makes "substantial improvements" to the premises.

Leases of public lands are governed by Chapter 171, HRS, which imposes a maximum lease term of 65 years. This limit is generally beyond the life of an individual business owner, and allows a sufficient time for the lessee/owner to occupy the property and recoup its investment, while allowing other members of the general public an opportunity to acquire a State lease of lands through an open public auction or other public process, at the end of the maximum 55- or 65-year term. House Bill 996 ignores these public policies and grants leases issued to victims of natural disaster and their assignees special status over all public land leases by allowing these favored lessees to have exclusive use of public lands for up to 120 years.

The Department believes that the purpose of Section 171-87, HRS, as originally enacted was to assist those persons affected by natural disasters such as the effect of the 1960 tsunami in Hilo. Only a handful (between two and five) of the 55-year leases issued as a result of the 1960 tsunami remain in the hands of the original lessees, or entities they or their families own. Most of the leases have been assigned and quite a few have been assigned several times. It would

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LAND
STATE PARKS

defeat the policy and purpose of the disaster assistance law for a person who was not a victim of natural disaster and who acquired the lease by assignment to now reap the windfall of a lease extension under House Bill 996 as drafted. At the very least, language should be added to the bill making lease extensions available only in those few cases where the lease continues to be held by the original lessee impacted by natural disaster or an entity wholly owned by an original lessee.

In those cases where the lessees are not the original lessees, they acquired their lease by assignment with substantially less than 55 years remaining on the lease term and at a purchase price that appropriately reflected the limited remaining lease term. Granting lease extensions to those lessees would provide them with an undeserved and unearned windfall gain.

For the reasons stated above, the Department opposes House Bill 996.