



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 3025, S.D. 2, H.D. 1, RELATING TO AFFORDABLE HOUSING CREDITS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Monday, April 2, 2012 **TIME:** 4:00 p.m.
LOCATION: State Capitol, Room 308
TESTIFIER(S): David M. Louie, Attorney General, or
Craig Y. Iha, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General (the "Department") offers the following comments on this bill.

Page 1, line 3, of the bill provides that counties "shall issue affordable housing credits to the department of Hawaiian home lands" under certain conditions set forth in the bill. However, the bill then provides on page 1, line 8, that credits "may" be issued according to certain criteria. The use of the word "may" could be interpreted to make adherence to the criteria optional by the counties, and is inconsistent with the use of the mandatory, "shall," in line 3.

Page 1, lines 13-15 of the bill provide that "[a]ll units or lots developed by the department shall be treated as for-sale units or lots; provided that the land shall be leased in perpetuity." Section 208(2) of the Hawaiian Homes Commission Act, 1920, restricts homestead leases to a total term of one hundred ninety nine years. The department could therefore never lease property "in perpetuity" as the bill requires and this phrase should be deleted.

We respectfully recommend that the Committee address these comments if it passes the bill.
