

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 House Committee on
JUDICIARY

Thursday, February 28, 2013
2:00PM
State Capitol, Room 325

In consideration of
HOUSE BILL 1268
RELATING TO PUBLIC LANDS

House Bill 1268 proposes to allow 999-year homestead leases to be assigned to land trusts that are created for managing and holding the homestead leasehold estate for the benefit of the lessee and lessee's family members. The Department of Land and Natural Resources supports allowing the leases to be held by a land trust instrument.

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

ESTHER KIA'AINA
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



HB1268
RELATING TO PUBLIC LANDS
House Committee on Judiciary

February 28, 2013

2:00p.m.

Room 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1268 which expands the potential assignees of a 999-year homestead lease to include trustees of land trusts created for this purpose.

The unique structure of the 999-year leases continues to pose challenges for lessees and causes significant conflict in successor families. Many homesteads have, under the previous statutory provisions, succeeded to many family members through several generations, diluting each successor's interest and complicating the maintenance of the property. Despite past legislative efforts, families continue to struggle with maintaining responsibility for these lands as, many times, only one or a few successors cares for the land while title and ownership interests are never entirely clear. Many of the families maintaining these lands live in substandard conditions and are unable to maintain their homes, pay their property taxes, and otherwise effectively use the land.

Moreover, many of these families have endured substantial costs and expended much energy in conflicts with other successors due to disagreements or even, in some cases, the inability for successors to quitclaim their responsibilities to the property when the statute formerly superseded the will of these family members and required a particular system of succession. In 2000, the Legislature amended section 171-99, Hawaii Revised Statutes, to allow rightful successors to select future successors, seemingly simplifying the transfer of these lands between generations. However, uncertainty regarding the rightful successorship under the previous statutory provisions has nevertheless hampered the orderly transfer of leases. This uncertainty has exacerbated the problems experienced by lessees and their families and added to the confusion.

As a result of these difficulties, many of these ancestral lands have been lost and the few that are left remain under constant threat unless the families are offered an alternative solution. Providing homestead lessees and their families an additional option of utilizing a land trust to collectively and cooperatively share in the responsibilities and benefits of these lands bears no cost to the state, but eases the burden upon the Department of Land and Natural Resources to manage these lands and mediate conflicts between successors and provides an appropriate mechanism to allow these families to hold onto these rare and important ancestral lands.

OHA urges the committee to **PASS** HB1268. Mahalo nui for the opportunity to testify.

Ho‘opae Pono Peace Project

(808)256-6637 nativpeace@gmail.com

LATE

Testimony of Laulani Teale, MPH in Support of HB 1268, Relating to Public Lands

Committee on Judiciary
Rep. Karl Rhoads, Chair
Rep. Sharon E. Har, Vice Chair
Thursday, February 27, 2013

2-27-2013

Aloha Kākou,

I am writing today in strong support of **HB 1268**, which would create an option for families to create ‘ohana land trusts for the purpose of holding 999-year leaseholds.

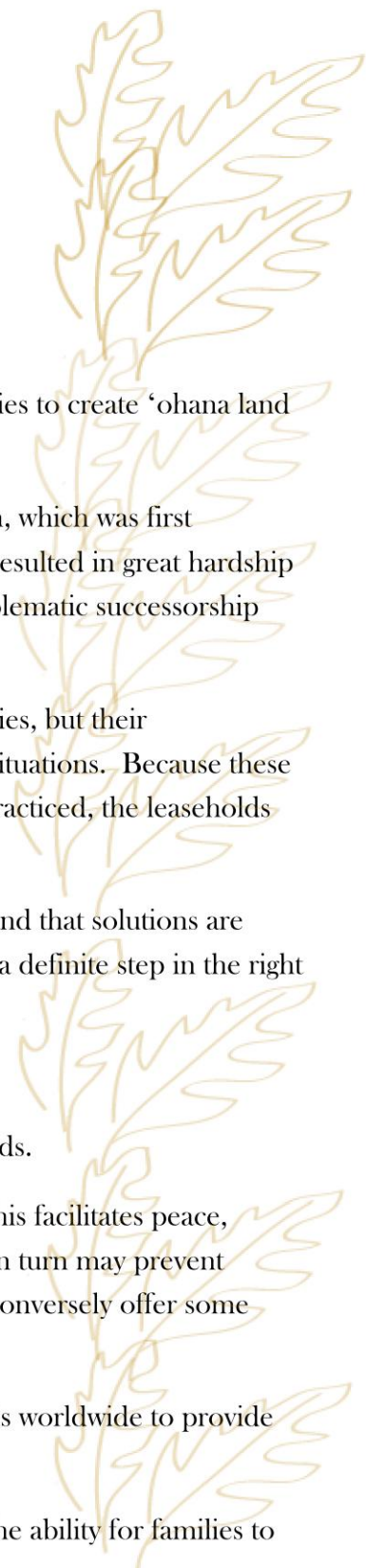
As you must know, there are many difficulties associated with the 999-year lease program, which was first implemented during the early years of the Territory of Hawai‘i. These difficulties have resulted in great hardship for many families, including many painful family battles arising from a complex and problematic successorship scheme.

In many cases, loss of the land has been the result. This has impacted not only the families, but their communities and the government agencies and others who have been involved in these situations. Because these are often deeply historic properties on which place-based traditions of the area are still practiced, the leaseholds also represent historic and cultural resources that need protection.

As a Hawaiian peacemaker who has worked with many of these families, I can say firsthand that solutions are possible. While **HB 1268** does not purport to solve every problem the lessees face, it is a definite step in the right direction - and it does not cost the State anything.

Please consider the following:

- ◆ **HB 1268** simply gives an additional option to families living on 999-year leaseholds.
- ◆ Trusts can provide a means for family governance of the lands that they love. This facilitates peace, pooling of resources, long-term planning and organized decision-making, which in turn may prevent loss. Trusts also protect property from personal debts of family members, and conversely offer some protection to individual members from personal liability.
- ◆ Small land trusts are increasingly being used successfully in farms and family lands worldwide to provide long-term stability for collective land sharing.
- ◆ These are lands with rich community history; preventing loss and strengthening the ability for families to work together is important in perpetuating culture and place-based traditions.



- ◆ This simple legislation does not cost the State anything at all. It may save money that might otherwise be spent as a result of lease difficulties that well-organized land trusts can prevent.
- ◆ This legislation does not require anything from lessees, either. It is a voluntary option only, and a win-win scenario all around. The lessees may become trustees of the trusts that they create, or may choose another form of governance.
- ◆ While HB 1268 may not, in itself, resolve existing disputes over successorship, it has the power to prevent future disputes by giving lessees and their families the ability to determine the long-term caretakership of their family lands.

Mahalo nui loa for your time and consideration.

Please contact me at any time.

Me ke aloha 'oia'i'o nō,



Laulani Teale



HB1268

Submitted on: 2/25/2013

Testimony for JUD on Feb 28, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine Johnson	Individual	Oppose	No

Comments: My ancestors were lawai'a and kālai wa'a from Kapāililua since 1777. I strongly oppose HB1268 which allows 999-year homestead leases to be assigned to trustees of land trusts that are created for managing and holding the homestead leasehold estate for the benefit of the lessee and lessee's family members. In January, 1893, Sanford Ballard Dole was the leader of the Committee of Safety, a secret society acting for Americans sugar interests and their allies, that was formed to overthrow Queen Lili'uokalani and to seek annexation of Hawai'i by the United States. The Committee deposed the Queen and installed a provisional government with Dole as president but annexation was blocked when President Grover Cleveland withdrew an annexation treaty from the Senate and demanded the restoration of the Queen to the throne. Refusing to recognize Cleveland's authority in the matter, Dole and his colleagues established the Republic of Hawai'i in 1894 with Dole as president. Dole and the Republic of Hawai'i wanted to break up the Crown and Government Lands that belonged to Kanaka Maoli, so they enacted the Land Act of 1895, which formally merged the Crown Lands with the Government Lands, and declared that these "Public Lands" would now be alienable, and allowed them to be sold. The 999-Year Homestead Lease program was available to any citizen by birth or naturalization and any person who received letters of denization, and any person who had received special rights of citizenship, over 18 years of age. Qualified applicants received a Certificate of Occupation, which entitled them to enter the land, build a home, and plant crops. At the end of six years, a homesteader who had met all the requirements of the act received a 999-year lease, which entitled him or her to live on the land rent-free, and only pay real property taxes. It is now 2013, a little over a 100 years from when these 999 year leases were issued. The legislature finds that the 999 year old homestead program is increasingly difficult to manage, because conflicts often arise between family members who may have an interest in a 999 year old lease. The Department of Hawaiian Home Lands (DHHL) provides direct benefits to Native Hawaiians in the form of 99-year homestead leases at an annual rental of \$1. The 999 year leases are ceded lands from Kānaka Maoli and therefore should be returned to the DHHL's inventory. To assist non-Hawaiians in keeping ceded lands would be to perpetuate the injustices inflicted on Kanaka Maoli by Dole and the Republic of Hawai'i. If there are in fact lessees that are Native Hawaiian, their leases should be turned over to the DHHL to manage and comply with the same rules as every other Native Hawaiian lessee. I respectfully ask that you do what is pono and oppose HB1268.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

HB1268

Submitted on: 2/27/2013

Testimony for JUD on Feb 28, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
oswald k. stender	Individual	Support	Yes

Comments: Chair and Members: My name is oswald k. stender and I support HB 1268. My family is a Lessee of one of these 999 year leases and have been living on the property for well over a hundred years. Without this homestead our some of our family would be homeless. This property has provided our family with a oplace to farm and live. The intent of the bill will ensure that families such as ours will always have a place to live which was the intention of these leases. There is no cost to the state; it is a voluntary program and would ensure continuity of the original intention of these leases which is to provide a place for Hawaiians to survive since the overthrow. Mahalo for your favorable consideration of this bill. Mahalo and aloha. Oz

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov