

HB 1268

Measure Title: RELATING TO PUBLIC LANDS.
Report Title: Public Land Trust Lands; 999-Year Homestead Lease; Assignment
Description: 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. Effective January 1, 2100. (HB1268 HD1)
Companion:
Package: None
Current Referral: WTL/THA/JDL
Introducer(s): WOOLEY

<u>Sort by</u> <u>Date</u>		Status Text
3/7/2013	S	Received from House (Hse. Com. No. 346).
3/7/2013	S	Passed First Reading.
3/7/2013	S	Referred to WTL/THA, JDL.
3/25/2013	S	Re-Referred to WTL/THA/JDL.
3/27/2013	S	The committee(s) on WTL/THA/JDL has scheduled a public hearing on 04-02-13 1:20PM in conference room 225.

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 Committees on
WATER AND LAND
and
TOURISM AND HAWAIIAN AFFAIRS
and
JUDICIARY AND LABOR**

**Tuesday, April 2, 2013
1:20 PM
State Capitol, Room 225**

**In consideration of
HOUSE BILL 1268, HOUSE DRAFT 1
RELATING TO PUBLIC LANDS**

House Bill 1268, House Draft 1 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 HD1
RELATING TO PUBLIC LANDS
Senate Committee on Water & Land
Senate Committee on Tourism & Hawaiian Affairs
Senate Committee on Judiciary & Labor

April 2, 2013

1:20p.m.

Room 225

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1268 HD1 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 HD1. Mahalo nui for the opportunity to testify.

Piikea Tomczyk

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 28, 2013 2:14 PM
To: WTLTestimony
Cc: tabraham08@gmail.com
Subject: Submitted testimony for HB1268 on Apr 2, 2013 13:20PM

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HB1268

Submitted on: 3/28/2013

Testimony for WTL/THA/JDL on Apr 2, 2013 13:20PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Lopaka Abraham	Individual	Support	No

Comments: I support passage of bill effective immediately to keep hawaiian lands in hawaiian hands off any government entity again or give hawaiians rights to file lawsuit against government to sue them for taking land not belonging to them

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Piikea Tomczyk

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 27, 2013 7:31 PM
To: WTLTestimony
Cc: jeannine@hawaii.rr.com
Subject: Submitted testimony for HB1268 on Apr 2, 2013 13:20PM

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HB1268

Submitted on: 3/27/2013

Testimony for WTL/THA/JDL on Apr 2, 2013 13:20PM in Conference Room 225

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 HD1 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 HD1.

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convening of the public hearing.

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Piikea Tomczyk

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 27, 2013 2:59 PM
To: WTLTestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1268 on Apr 2, 2013 13:20PM*

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HB1268

Submitted on: 3/27/2013

Testimony for WTL/THA/JDL on Apr 2, 2013 13:20PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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