

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.**

**Before the House Committee on  
FINANCE**

**Friday, February 21, 2014  
12:00 PM  
State Capitol, Conference Room 308**

**In consideration of  
HOUSE BILL 1688, HOUSE DRAFT 1  
RELATING TO PUBLIC LANDS**

House Bill 1688, House Draft 1 proposes to amend Chapter 171, Hawaii Revised Statutes (HRS), to grant certain lessees of public land the right to extend a lease ten years prior to expiration based on financing for capital improvements on the land, establishes an appraisal process to assist in the determination of fair market value for rental purposes and provides for reimbursement to the lessee for depreciated value of improvements where the lease is not extended. **The Department of Land and Natural Resources (Department) strongly opposes this bill.**

This measure is an anathema to the public policy of chapter 171, HRS, as well as the Department and the Board of Land and Natural Resources' (Board) fiduciary obligation to manage public lands for the benefit of all the people of the State. The bill would provide a lessee of public land under a sixty-five year lease or a lease that is eligible for extension to a sixty-five year term under section 171-36, HRS, the right to extend the lease of the public land for a period not to exceed thirty years, with an aggregate term of no longer than eighty-five years. The bill provides that the calculation of the 85-year period is to be tolled when the original term of an eligible lease has expired, but the lessee is making good faith efforts to obtain financing. In the interim, the lessee is allowed to continue to pay the rent last determined under the original lease. This section of the bill potentially provides for lease extensions of indefinite duration.

The bill will in effect serve to privatize public lands for several generations, conveying a benefit to a privileged few at the expense of the public, who are effectively prohibited from obtaining a state lease. A sixty-five year lease term has shown to be more than sufficient in order to serve the life of a business, as the vast majority public land leases have been assigned at least once prior to the expiration of the lease. If a potential assignee decides to obtain a public land lease with a limited term remaining, they do so voluntarily assuming the risk. Chapter 171, HRS, is indicative of the public policy that public land leases shall be of a limited duration in order to provide the public fair and open opportunities to acquire a lease. Furthermore, allowing lease

**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

extensions prevents fair and open competition to acquire public land leases, resulting in long term dispositions that do not realize the economic potential of the land.

The bill also mandates that the fair market value of the rent for the renewed or extended lease be determined without consideration of the value of improvements made to the land by the lessee. Furthermore, it appears that the fair market value would not be determined by independent appraisal unless the lessee and the Board are unable to reach agreement on the rent. This restriction would lead to artificially discounted rent values and a reduction of public trust revenues. Requiring lease rents to be determined by appraisal helps to ensure a fair result for both the Department and the lessee. Appraisers possess the requisite experience and expertise to utilize all relevant data in their determination of fair market value, including consideration of the value of improvements. The restriction runs counter to policy of Chapter 171, HRS, that defers to the expertise of the appraiser.

Finally, the bill would require the Board to reimburse the lessee for the depreciated value of improvements made to the land by the lessee. This provision would mandate the use of public funds for a private benefit. Improvements by the lessee are undertaken for the benefit of their business, and do not provide a direct benefit for the general public. Upon the termination of the lease, the Board as lessor determines whether the lessee must remove the improvements and restore the land, or allow the improvements to remain and surrendered to the lessor. The lessee does not retain any interest in improvements beyond the term of the lease, except the aforesaid obligations. Such requirements are clearly specified in the lease terms, established prior to public auction or other disposition process and relied upon by all involved.



P.O. Box 253, Kunia, Hawai'i 96759  
Phone: (808) 848-2074; Fax: (808) 848-1921  
e-mail [info@hfbf.org](mailto:info@hfbf.org); [www.hfbf.org](http://www.hfbf.org)

February 21, 2014

HEARING BEFORE THE  
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 1688 HD1  
RELATING TO PUBLIC LANDS

Room 308  
12:00 PM

Aloha Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson, and Members of the Committee:

I am Christopher Manfredi, President of the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,832 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

The Hawaii Farm Bureau **supports the original intent of HB 1688**, "Relating to Public Lands," to allow the right of first refusal to holders of State leases whose terms are expiring.

In the case of State agricultural leases, farmers or farm families who have worked hard, farmed or ranched successfully and paid their rent faithfully for many years should not lose their farms and their livelihoods simply because their leases expire. **We therefore strongly support the original intent of subsection (a), which as originally proposed would have granted an existing lessee the right of first refusal to extend or renew a 65-year lease rather than automatically putting the lease up for public auction.** In our original testimony on HB 1688, we expressed concern about the restriction of this privilege to 65-year leases, and also concern that the 65-year requirement may act as a disincentive for DLNR to grant leases of this length. We feel, instead, that the right of first refusal should be granted to all long-term lessees in good standing, perhaps those of 20 years or more.

In the bill's current version, HB 1688 HD1, subsection (a) has been changed to allow the extension of leases only when the lessee needs the extension to secure financing for a capital investment on the property, and limits the total length of the extended

lease to 85 years. While an improvement on existing law, this restriction eliminates most of the originally intended benefit of HB 1688: right of first refusal for lessees, regardless of their need for capital improvements. It also may encourage lessees to seek financing for unnecessary or even wasteful “improvements” in order to avoid having their leases put up for public auction.

Further, we note that the proposed subsection (d) – formerly subsection (b) – still specifies that rent on a renewed or extended lease shall be paid at the fair market value of the land. Unfortunately, “fair market value” is often determined by land sales in the general area of the parcel in question. In Hawaii, at least at present, land often sells for a price far higher than its value in crop production, even when the land is classified as agricultural. If this standard is used to determine the value of an agricultural leasehold, then the rent may increase beyond the ability of the lessee to pay. As an alternative, we suggest that the rent be based on the land’s actual productivity – say, 1% of the average income from the land during the final five years of the lease.

We support the change in subsection (e) – formerly subsection (c) – removing the wording that would have allowed the Board of Land and Natural Resources to require the lessee to restore the land to its original state, if the Board and the lessee failed to agree to lease terms. **Requiring a lessee to remove many years’ worth of improvements could be financially devastating, especially when the lessee’s source of income – the land and improvements – are simultaneously removed.** This clause could have been used to force a lessee to accept unfavorable lease terms rather than face the expense of demolition and removal of the improvements: a circumstance which contradicts the intent of this legislation to benefit long-term leaseholders.

In summary, we feel that HB 1688 HD1 removes most of the originally intended benefit of HB 1688: to allow long-term leaseholders to extend or renew their leases without requiring public auctions, we see problems in the proposed language that may confound the bill’s purpose. **We ask that HB 1688 HD1 be amended to achieve its intended benefit for long-term State lessees.**

Thank you for the opportunity to testify on this important matter.

**finance8-Danyl**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 19, 2014 10:55 AM  
**To:** FINTestimony  
**Cc:** office@hilobayprinting.com  
**Subject:** Submitted testimony for HB1688 on Feb 21, 2014 12:00PM

**HB1688**

Submitted on: 2/19/2014

Testimony for FIN on Feb 21, 2014 12:00PM in Conference Room 308

| <b>Submitted By</b> | <b>Organization</b>         | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|-----------------------------|---------------------------|---------------------------|
| Don O'Reilly        | Hilo Bay Printing Co., Ltd. | Comments Only             | No                        |

Comments: Aloha, Please support this bill. We obtained a DLNR lease in 2001, and invested significantly in rehabilitating the property. Time has passed, and the building could be freshened up. We can't do that unless we obtain funding, and we can't get the funding unless the lease is extended 10 years. Please kokua.

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](mailto:webmaster@capitol.hawaii.gov)

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 21, 2014 8:52 AM  
**To:** FINTestimony  
**Cc:** adam.bauer@hpmhawaii.com  
**Subject:** Submitted testimony for HB1688 on Feb 21, 2014 12:00PM

**HB1688**

Submitted on: 2/21/2014

Testimony for FIN on Feb 21, 2014 12:00PM in Conference Room 308

| Submitted By | Organization        | Testifier Position | Present at Hearing |
|--------------|---------------------|--------------------|--------------------|
| Adam Bauer   | HPM Building Supply | Support            | No                 |

Comments: HPM Building Supply has been a tenant of the state since 1961. Over the years we have heavily invested in our property and our community. It is imperative that we have a fair process that allows us to continue business operations on our state leased land. HPM Building Supply strongly supports this bill and feels it is necessary to ensure a fair and balanced process at the end of these long term leases. Without a fair process defined, the future of our business is at risk.

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](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 21, 2014 12:29 AM  
**To:** FINTestimony  
**Cc:** ash.kierkiewicz@gmail.com  
**Subject:** Submitted testimony for HB1688 on Feb 21, 2014 12:00PM



**HB1688**

Submitted on: 2/21/2014

Testimony for FIN on Feb 21, 2014 12:00PM in Conference Room 308

| Submitted By       | Organization | Testifier Position | Present at Hearing |
|--------------------|--------------|--------------------|--------------------|
| Ashley Kierkiewicz | Individual   | Support            | No                 |

Comments: Aloha, Chair Sylvia Luke and Members of the Finance Committee: I write to you in support of HB 1688. As a member of the East Hawaii business community and a Board of Director of the Hawaii Island Economic Development Board, I have a very good understanding of the need to foster public and private sector relationships for positive growth and development of Hawaii's land, resources and people. HB 1688 provides lessees of commercial and industrial state land the opportunity of first refusal to renew or extend their lease at the fair market value of the land. This would allow businesses to continue operating, and thus incentivize them to continue investing in the land, making improvements to on-site facilities as a result of knowing they have a secure, long-term partnership with the state. Passage of HB 1688 will create a virtuous cycle of growth and serve as a development catalyst for state lands. Hawaii's lands and resources are limited; make it easier for lessees to renew their relationship with the state so they can continue to invest in Hawaii. Thank you for this opportunity to submit testimony in support of HB 1688.

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](mailto:webmaster@capitol.hawaii.gov)

# Hilo Bay Printing Co., Ltd.

12 Po'okela Street Hilo, Hawai'i 96720

808-969-1077 hilobayprinting.com

**LATE**

Chair Sylvia Luke  
House Finance Committee  
27th Legislature, State of Hawai'i  
Honolulu, Hawai'i

February 19, 2014

Re: SB2967

Aloha Chair Luke and Finance Committee,

I am honored to submit my support of HB 1688. We obtained our DLNR Lease in 2001, and have invested over \$100,000 in renovating and maintaining a previously neglected property. All throughout one of the worst global recessions ever. It has not been easy.

I believe that our lease with the DLNR is a manini public/private partnership. Despite the great recession, we have paid a lot of money in rent, bond and insurance premiums, often before we pay ourselves. One would hope that the other half of our partnership would understand our sacrifice, and encourage us to move forward with the incentive of reform that this bill enables. Please do the right thing, and pass this bill. Mahalo!

Sincerely,



Don O'Reilly  
Hilo Bay Printing Co., Ltd.



**LATE**

February 20, 2014

House Finance Committee  
Chair Sylvia Luke

Testimony in Support – HB1688 HD1

Aloha Chair Luke  
Vice Chair Scott Nishimoto  
Vice Chair Aaron Ling Johanson  
Committee members

Mahalo for hearing this bill. The purpose of HB1688 HD1 is to resolve problems inherent in the leasehold tenure of state lands. A large amount of land is owned by the state and is leased to businesses for commercial, industrial, hotel, and resort purposes. This is especially true for East Hawaii. Recently the legislature has identified problems on Resort zoned property caused by leasehold tenancy. They passed, and the Governor signed, Act 219 2011 to correct these deficiencies by allowing existing lessee's to renew their leases. To date the Hilo Hawaiian Hotel has acted upon this reform, renewed it's lease with the BLNR, and has begun its renovations and improvements. When a lessee reinvests in the property they not only improve their employees workplace and the facilities used by their customers but their investment creates a ripple effect across the economy as a whole. It is the correct way to utilize scarce resources and in Hawaii there is nothing as scarce as land, properly zoned and situated for economic activity.

Besides eliminating the “wasting asset” nature of state leasehold property this will immediately allow for significant investment, helping the states economy. The one time extension provision makes for a more efficient use of these lands, which is in the best interests of our island state. The lessee can only qualify by having made the commitment to improve and mortgage the property. This is a fair requirement.

This legislation could also require the BLNR to reimburse for the value of the depreciated improvements made to the property by the lessee if they are unable to reach an agreement with the BLNR. The amending of HRS171 to include these provisions would allow the BLNR to better manage state lands while allowing lessees to better utilize these lands while under lease. If the lessee has properly improved and maintained the leasehold improvements then the state has a more valuable property to place at auction, and the payment for the depreciated improvements is reasonable. If the lessee has not practiced good management then the depreciated value would be at Zero at the end of the lease, protecting the state from having to pay for poor assets.

With these modifications to HRS171 the Lessee would be able to reinvest in their business activities on the state lands under lease. They would be able to remain competitive in their respective markets, as are existing users of fee simple lands, thus improving the states overall economy. An important factor from the states perspective is that not only would the state always receive “Fair Market Rent” for their property but

also the state lands would be operating without the economic inefficiencies inherent in the leasehold tenure. This would benefit the community by improving the economy.

This bill is a classic example of a “Win-Win” arrangement that has been long overdue. Mahalo again for your support.

James McCully  
McCully Works  
Hilo, Hawaii

**LATE**

February 20, 2014

House Finance Committee  
Chair Sylvia Luke

Testimony in Support – HB1688 HD1

Aloha Chair Luke  
Vice Chair Scott Nishimoto  
Vice Chair Aaron Ling Johanson  
Committee members

Mahalo for hearing this bill. The purpose of HB1688 HD1 is to resolve problems inherent in the leasehold tenure of state lands. A large amount of land is owned by the state and is leased to businesses for commercial, industrial, hotel, and resort purposes. This is especially true for East Hawaii. Recently the legislature has identified problems on Resort zoned property caused by leasehold tenancy. They passed, and the Governor signed, Act 219 2011 to correct these deficiencies by allowing existing lessee's to renew their leases. To date the Hilo Hawaiian Hotel has acted upon this reform, renewed it's lease with the BLNR, and has begun its renovations and improvements. When a lessee reinvests in the property they not only improve their employees workplace and the facilities used by their customers but their investment creates a ripple effect across the economy as a whole. It is the correct way to utilize scarce resources and in Hawaii there is nothing as scarce as land, properly zoned and situated for economic activity.

Besides eliminating the "wasting asset" nature of state leasehold property this will immediately allow for significant investment, helping the states economy. The one time extension provision makes for a more efficient use of these lands, which is in the best interests of our island state. The lessee can only qualify by having made the commitment to improve and mortgage the property. This is a fair requirement.

This legislation could also require the BLNR to reimburse for the value of the depreciated improvements made to the property by the lessee if they are unable to reach an agreement with the BLNR. The amending of HRS171 to include these provisions would allow the BLNR to better manage state lands while allowing lessees to better utilize these lands while under lease. If the lessee has properly improved and maintained the leasehold improvements then the state has a more valuable property to place at auction, and the payment for the depreciated improvements is reasonable. If the lessee has not practiced good management then the depreciated value would be at Zero at the end of the lease, protecting the state from having to pay for poor assets.

With these modifications to HRS171 the Lessee would be able to reinvest in their business activities on the state lands under lease. They would be able to remain competitive in their respective markets, as are existing users of fee simple lands, thus improving the states overall economy. An important factor from the states perspective is that not only would the state always receive "Fair Market Rent" for their property but

also the state lands would be operating without the economic inefficiencies inherent in the leasehold tenure. This would benefit the community by improving the economy.

This bill is a classic example of a “Win-Win” arrangement that has been long overdue. Mahalo again for your support.

James McCully  
McCully Works  
Hilo, Hawaii

**finance1**

---

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 20, 2014 5:56 PM  
**To:** FINTestimony  
**Cc:** cnrs@interpac.net  
**Subject:** Submitted testimony for HB1688 on Feb 21, 2014 12:00PM

**HB1688**

Submitted on: 2/20/2014

Testimony for FIN on Feb 21, 2014 12:00PM in Conference Room 308

| <b>Submitted By</b> | <b>Organization</b>      | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|--------------------------|---------------------------|---------------------------|
| brian nakano        | Chika Nakano Repair Shop | Support                   | No                        |

Comments: Please support this bill, it's very important for my business.

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](mailto:webmaster@capitol.hawaii.gov)



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 20, 2014 8:27 PM  
**To:** FINTestimony  
**Cc:** msteiner@steinerassoc.com  
**Subject:** Submitted testimony for HB1688 on Feb 21, 2014 12:00PM

**HB1688**

Submitted on: 2/20/2014

Testimony for FIN on Feb 21, 2014 12:00PM in Conference Room 308

| Submitted By    | Organization                | Testifier Position | Present at Hearing |
|-----------------|-----------------------------|--------------------|--------------------|
| Michael Steiner | Citizens for Fair Valuation | Support            | No                 |

Comments: Aloha Chair Luke, Vice- Chairs Nishimoto and Johanson, and Members of the Committee. My name is Michael Steiner and I am the Executive Director of Citizens for Fair Valuation, a 501(c)(6) tenant organization. I write in support of HB 1688 HD 1 which would grant certain lessees of public land the right of first refusal to extend or renew a lease prior to a public auction of the land. Please pass this bill forward. Mahalo

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](mailto:webmaster@capitol.hawaii.gov)

finance1

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 20, 2014 6:07 PM  
**To:** FINTestimony  
**Cc:** garthyama@gmail.com  
**Subject:** \*Submitted testimony for HB1688 on Feb 21, 2014 12:00PM\*

**HB1688**

Submitted on: 2/20/2014

Testimony for FIN on Feb 21, 2014 12:00PM in Conference Room 308

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Garth Yamanaka      | Individual          | Support                   | No                        |

Comments:

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](mailto:webmaster@capitol.hawaii.gov)

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 21, 2014 7:32 AM  
**To:** FINTestimony  
**Cc:** craig@takamineconstruction.com  
**Subject:** \*Submitted testimony for HB1688 on Feb 21, 2014 12:00PM\*

**HB1688**

Submitted on: 2/21/2014

Testimony for FIN on Feb 21, 2014 12:00PM in Conference Room 308

| Submitted By   | Organization                | Testifier Position | Present at Hearing |
|----------------|-----------------------------|--------------------|--------------------|
| Craig Takamine | Takamine Construction, Inc. | Support            | No                 |

Comments:

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](mailto:webmaster@capitol.hawaii.gov)



finance1

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 20, 2014 9:05 PM  
**To:** FINTestimony  
**Cc:** cvancamp3@hawaii.rr.com  
**Subject:** Submitted testimony for HB1688 on Feb 21, 2014 12:00PM

**LATE**

**HB1688**

Submitted on: 2/20/2014

Testimony for FIN on Feb 21, 2014 12:00PM in Conference Room 308

| Submitted By     | Organization                            | Testifier Position | Present at Hearing |
|------------------|---|--------------------|--------------------|
| Carol A. VanCamp | Japanese Chamber of Commerce & Industry | Support            | No                 |

Comments: This bill is critical to the retention of a strong industrial/commercial area in the heart of Hilo and surrounding areas. It is also important that a process for fair appraisals be established. Please support this measure.

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](mailto:webmaster@capitol.hawaii.gov)