

DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII



JOBIE M. K. MASAGATANI  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

SHAN S. TSUTSUI  
LT. GOVERNOR  
STATE OF HAWAII

WILLIAM J. AILA, JR.  
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE HOUSE COMMITTEE ON FINANCE

IN OPPOSITION TO

**HB 2750 HD 1 Relating to Native Hawaiians**

March 1, 2016

Aloha Chair Luke and members of the Committee:

Mahalo for the opportunity to submit testimony relating to HB 2750 HD 1. The Department of Hawaiian Home Lands **respectfully opposes HB 2750 HD 1**. The proposed measure would establish a task force to identify duplicative housing-related services among state agencies that serve Native Hawaiians.

Pursuant to the Hawaiian Homes Commission Act, 1921, the DHHL provides homesteading opportunities to native Hawaiian beneficiaries of the HHCA. Homestead leases are awarded to qualified native Hawaiians of at least 50% blood quantum and can be residential, agricultural, and pastoral in purpose for a term of ninety nine years. Respectfully, we provide the following to correct a finding in the bill on page 2 at line 16. The plaintiffs in *Nelson v. Hawaiian Homes Commission*, 127 Hawai'i 185 (2012), did not claim that the DHHL has not made homestead awards in a timely manner. Rather, they claimed that "the State violated its constitutional duty to sufficiently fund the Department of Hawaiian Home Lands in order to rehabilitate native Hawaiian beneficiaries, under the Hawai'i State Constitution."<sup>1</sup> It is this claim that resulted in the recent \$28 million ruling.<sup>2</sup>

The work envisioned for the task force has already been initiated on both a State and Federal level. At the request of legislators, the DHHL has reached out to other housing agencies in the State to find out how we can collaborate and what types of information can be shared so that we may better coordinate in utilizing our limited resources in addressing this critical need. Federally, the U.S. Department of Housing and Urban Development is preparing a report on Native Hawaiian housing. The report

---

<sup>1</sup> *Nelson v. Hawaiian Homes Commission*, SCWC-30110 at 8 (2012) (emphasis in original).

<sup>2</sup> See *Nelson v. Hawaiian Homes Commission*, CIVIL NO. 07-1-1663-08, Findings of Fact, Conclusions of Law, and Order (2015).

Department of Hawaiian Home Lands  
HB 2750 HD1  
FIN 03-01-2016  
Page 2

is expected to provide detailed information assessing the housing needs of the Native Hawaiian population and will go a long way in supporting the development of coordinated programs to address outstanding and possible future issues.

Thank you, again, for the opportunity to submit testimony about HB 2750 HD 1.



**HB2750 HD1**  
**RELATING TO NATIVE HAWAIIANS**  
House Committee on Finance

March 1, 2016

3:00 p.m.

Room 308

---

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB2750 HD1. This measure would establish a Native Hawaiian housing task force, attached to OHA for administrative purposes, to review the efficiency of housing-related services provided by state agencies that serve Native Hawaiians.

While we appreciate the measure's intent to ensure that state agencies efficiently and collaboratively address the needs of our beneficiaries, the OHA Board of Trustees has a policy of opposing any legislative measure that places an entity into OHA without prior consultation with, and approval by, the Board.

Our opposition should not be interpreted as a lack of recognition of the current housing and homelessness crisis facing Native Hawaiians, an issue of great concern to OHA. We are open and interested in meeting and discussing with the agencies named to the task force on how our programs can better serve the needs of Native Hawaiians. We already collaborate on many levels with the agencies named in the bill. OHA is an active member of the Hawai'i Interagency Council on Homelessness (HICH), which includes representatives from those agencies named in the bill. OHA currently serves as a chair for one of the HICH workgroups. In addition to our responsibilities with HICH, OHA participates monthly in Housing Directors meetings, which include representation from every county housing agency as well as the Hawai'i Housing Finance Development Corporation (HHFDC), the Department of Human Services, and the Department of Hawaiian Home Lands (DHHL).

Recently, OHA, along with most of the members of the Housing Directors group, initiated a cooperative purchase agreement to complete the large-scale 2015 Hawai'i Housing Planning Study. OHA's funding contribution allowed us to assist with survey design, to ensure that specific data on the housing needs of our beneficiaries would be collected. The contractor for the study is currently analyzing data and should have results available later this year.

In addition to these activities and consistent with our strategic plan, OHA has distributed approximately \$22.7 million from FY11 to FY15 to programs that help meet the housing needs of Native Hawaiians. Examples of such funding include:

- From FY11 to FY15, OHA distributed more than \$6.2 million in grant funding to partner organizations that provided emergency financial assistance; built affordable homes; administered transitional shelters; and helped build the economic self-sufficiency of homeless and at-risk individuals and families.
- In 2008, OHA entered into an agreement with DHHL to provide \$90 million over 30 years (\$3 million per year) to support DHHL housing development program activities.<sup>1</sup> As a result of this agreement, OHA provided a total of \$15 million to DHHL from FY11 to FY15. DHHL identified 47 residential projects that are being funded with OHA's annual commitments. DHHL's April 2014 annual report indicated that 10 projects were completed and four others are at least 50 percent complete.
- OHA has also allowed Kaka'ako's Next Step Shelter to lease its space on OHA lands for a nominal \$1 annual rent, foregoing \$500,000 annually in fair market rent, or approximately \$1.5 million in revenue, since acquiring our Kaka'ako Makai lands in 2012.

In light of the above, OHA urges the Committee to **HOLD** HB 2750 HD1. Mahalo nui loa for the opportunity to testify.

---

<sup>1</sup> These funds cover the debt service on bonds issued by DHHL for infrastructure for new homesteads.

**LATE**

From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 29, 2016 11:34 PM  
To: FINTestimony  
Cc: hawaiiifishingfanatic@gmail.com  
Subject: \*Submitted testimony for HB2750 on Mar 1, 2016 15:00PM\*

**HB2750**

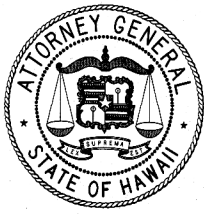
Submitted on: 2/29/2016  
Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Don Aweau	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)



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2016**

**LATE**

**ON THE FOLLOWING MEASURE:**

H.B. NO. 2750, H.D. 1, RELATING TO NATIVE HAWAIIANS.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Tuesday, March 1, 2016

**TIME:** 3:00 p.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Craig Y. Iha, Deputy Attorney General

---

Chair Luke and Members of the Committee:

The Department of the Attorney General offers comments on this bill.

The stated purpose of this bill is to “establish a Native Hawaiian housing task force to identify duplicative housing-related services among state agencies that serve Native Hawaiians to improve efficiency in the delivery of those services.”

The first paragraph of section 1 on page 1, lines 1-5, of the bill inaccurately states that the Admission Act and article XII of the Hawaii Constitution “establish *certain fiduciary duties* regarding the use of state funds for the benefit of native Hawaiians . . . .” (emphasis added). Article XII, section 1, of the Hawaii Constitution requires the Legislature to “make sufficient sums available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands . . . .” While the obligation to “make sufficient sums available” is a constitutional funding obligation, it is not accurate to characterize the Constitution as establishing fiduciary, trust obligations as to state funds.

The discussion of *Nelson v. Hawaiian Homes Commission* on page 2, lines 11-19, no longer reflects the court’s ruling in that case. On February 29, 2016, the circuit judge revised the ordering section of her decision to refer to the State – as opposed to the Legislature – as constitutionally obligated to provide sufficient sums for the Department of Hawaiian Home

Lands. An amended findings of fact, conclusions of law, and order is expected to be entered in the case.

We recommend that this Committee revise the inaccurate wording discussed above from the bill.

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, March 01, 2016 9:37 AM  
To: FINTestimony  
Cc: kamakane73@gmail.com  
Subject: \*Submitted testimony for HB2750 on Mar 1, 2016 15:00PM\*

**LATE**

**HB2750**

Submitted on: 3/1/2016

Testimony for FIN on Mar 1, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Kama Hopkins	Individual	Oppose	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)



DAVID Y. IGE  
GOVERNOR



RACHAEL WONG, DrPH  
DIRECTOR

PANKAJ BHANOT  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

**LATE**

March 1, 2016

TO: The Honorable Representative Sylvia Luke, Chair  
House Committee on Finance

FROM: Rachael Wong, DrPH, Director

SUBJECT: **HB 2750 RELATING TO NATIVE HAWAIIANS**

Hearing: Tuesday, March 1, 2016; 3:00 p.m.  
Conference Room 308, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of this measure and provides the following comments about duplication and government efficiency.

**PURPOSE:** Establishes the Native Hawaiian Housing Task Force, administratively attached to the Office of Hawaiian Affairs (OHA), to identify duplicative services and improve efficiency in providing housing-related services to Native Hawaiians. Requires a report. Makes an appropriation.

The Department appreciates the intent and the legislature's support of addressing homelessness for all communities. However, this legislation proposes a task force that is duplicative in composition and nature. The named task force members are already working to coordinate homelessness efforts within the state and the community with others who serve as members on the Hawaii Interagency Council on Homelessness (HICH), which the Governor's Coordinator on Homelessness chairs. Cabinet-level members are active participants on the HICH, and OHA chairs one of its four work groups.

Thank you for the opportunity to testify on this bill.