



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2017**

---

**ON THE FOLLOWING MEASURE:**

H.B. NO. 575, H.D. 1, RELATING TO PUBLIC LANDS.

**BEFORE THE:**

SENATE COMMITTEE ON WATER AND LAND

**DATE:** Monday, March 20, 2017

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

**LOCATION:** State Capitol, Room 414

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Linda L.W. Chow, Deputy Attorney General

---

Chair Rhoads and Members of the Committee:

The Department of the Attorney General opposes the bill as drafted in H.D. 1 and as proposed in S.D. 1. Both versions of the bill could subject the bill to challenge as being unconstitutional. We have suggested an amendment at the end of this testimony that we believe would help protect the bill from possible constitutional challenge.

House Bill No. 575, as it was originally introduced, authorized the Board of Land and Natural Resources (Board) to extend leases for commercial zoned public lands provided that the lessees make substantial improvements to the demised premises. This bill is substantially similar to Act 219, Session Laws of Hawaii 2011, which was repealed in 2015. The amendment made to the bill by H.D. 1 limits the applicability of the bill to the Banyan Drive and Kanoelehua industrial areas in Hilo, Hawai'i.

House Bill No. 575, H.D. 1, S.D. 1 (proposed) substantially amends H.D. 1 by removing the wording regarding extension of leases to instead allow lessees of certain public land in the Banyan Drive and Kanoelehua industrial areas of Hilo, Hawaii, to relinquish a lease during the last ten years of the term of the lease, subject to certain conditions, and allows the lessee to bid on the new lease at public auction.

We believe that the classification contained in section 2 of H.D. 1 and S.D. 1 that limits the application of the bill to only the Banyan Drive and Kanoelehua industrial areas of Hilo, Hawai'i, could be challenged as unconstitutional as violating article XI,

section 5, of the Hawai'i Constitution. Article XI, section 5, of the Hawai'i Constitution provides:

The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

The most recent case on this issue is *Sierra Club v. Dept. of Transportation of State of Hawai'i*, 120 Hawai'i 181, 202 P.3d 1226 (2009), as amended (May 13, 2009) ("*Sierra Club*"). In that decision, the court adopted a two-step analysis to determine if a law was special legislation.

The first step is to determine "whether the classification adopted by the legislature is a real or potential class, or whether it is logically and factually limited to a class of one and thus illusory." *Sierra Club*, 120 Hawai'i at 203-04, 202 P.3d at 1248-49. A class is not illusory if it could include other members in the future. The actual probability of other members joining the class must be considered in determining whether a class is illusory. *Id.*, 120 Hawai'i at 214.

The second step of the analysis requires determination of whether the class was reasonable. *Id.* To be reasonable, the classification must be based on some distinguishing peculiarity and must reasonably relate to the purpose of the statute. *In re Interrogatory Propounded by Governor Roy Romer on House Bill 91S-1005*, 814 P.2d 875, 887 (Colo. 1991).

The classification contained in section 2 of H.D. 1 and S.D. 1 (proposed) applies to leases of public lands for commercial, hotel, resort, or industrial use only in the Banyan Drive and Kanoelehua industrial areas of Hilo, Hawai'i. The classification seeks to distinguish commercial leases of public lands in the Banyan Drive and Kanoelehua industrial areas of Hilo, Hawai'i, from all other commercial leases for public land. The class is currently made up of all current lessees in the specified area. The class is not limited to these current members. Through attrition or termination of current leases, the Board could enter into new leases. The new lessees would become members of the class created in H.D. 1 and S.D. 1 (proposed). As long as there is no

repeal date it is likely that new members would join the class over time. The class is not illusory and H.D. 1 and S.D. 1 (proposed) is not special legislation under the first test.

The second test requires that the classification be reasonable, i.e. that it is based on a distinguishing peculiarity and that it achieve the bill's purpose. We do not believe H.D. 1 or S.D. 1 (proposed) provides sufficient information to support the determination that the classification is reasonable.

The purpose of H.D. 1 is to allow for the extension of expiring leases to incentivize lessees to invest in infrastructure improvements that would promote the State's economy and the most efficient use of commercial zoned state lands. The bill is intended to allow state property sited or zoned for commercial purposes to continue to be economically productive. Section 1 of H.D. 1 cites to Banyan Drive and Kanoelehua industrial areas as examples of areas where the uncertainty of future tenure has had a catastrophic effect on Hawaii's tourism industry.

Section 1 of S.D. 1 (proposed) identifies the problem being addressed by the bill as leases are statutorily limited to sixty-five years, without the possibility of renewal, leaving businesses that have existed in the community for decades with limited options. The concern is that the state's public land lease law provides little incentive for existing lessees to make, or the ability to finance, major repairs or improvements to the leasehold properties during the last five to fifteen years of the lease. Section 1 of S.D. 1 (proposed) concludes that by allowing lessees of state lands in the Banyan Drive and Kanoeluhua industrial areas of Hilo, Hawaii, who are within the last ten years of their lease to voluntarily request that the lease be put up to bid at a public auction and allowing the lessee to bid on a new lease will serve the public use and public purpose of state lands being used for commercial purposes.

As drafted, there is no explanation as to why the Banyan Drive and Kanoelehua industrial areas are distinguishable from all other commercial leased areas in the state where the leases are reaching the end of their terms and the State would benefit from lessees investing in infrastructure improvements. There is also no apparent explanation as to how limiting the effect of the bill to the Banyan Drive and Kanoelehua industrial areas achieves the stated purpose of the bill or the problem that the bill is meant to

address. The bill does not appear to sufficiently support distinguishing the Banyan Drive and Kanoelehua industrial areas from other commercial state lands under lease while still accomplishing the bill's purpose. H.D. 1 and S.D. 1 (proposed) could be interpreted as special legislation and challenged as unconstitutional if passed into law.

We suggest removing the wording in H.D. 1 and S.D. 1 (proposed) that limits the application of this bill to the Banyan Drive and Kanoelehua industrial areas. If the limitation is deleted and the bill is allowed to apply to all commercial leases of public land, we believe the classification would meet constitutional review. The lessees in the Banyan Drive and Kanoelehua industrial areas would still be eligible to take advantage of the substantive provisions in the bill.

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committee on  
WATER AND LAND**

**Monday, March 20, 2017  
3:30 P.M.  
State Capitol, Conference Room 224**

**In consideration of  
HOUSE BILL 575, HOUSE DRAFT 1, PROPOSED SENATE DRAFT 1  
RELATING TO PUBLIC LANDS**

House Bill 575, House Draft 1, proposed Senate Draft 1, proposes to allow lessees of certain public land in the Banyan Drive and Kanoelehua industrial area of Hilo, Hawaii, to relinquish a lease during the last ten years of the term of the lease, subject to certain conditions, and allows the lessee to bid on the new lease at public auction under conditions favorable to the continuing lessee. **The Department of Land and Natural Resources (Department) offers the following comments on this bill.**

Under Chapter 171, Hawaii Revised Statutes (HRS), the Board of Land and Natural Resources (Board) is authorized to issue leases up to a maximum term of 65 years. Section 171-32, HRS, provides that it is the policy of the State to issue leases by public auction. As the preamble to this measure indicates, at the end of their lease terms, lessees have little incentive to make, or the ability to finance, major repairs or improvements to their leasehold properties because the leases cannot be extended further. Rather, new leases of the lands must be issued pursuant to the public auction process. This sometimes results in the deterioration of infrastructure and facilities.

In 2015, the Legislative Reference Bureau (LRB) issued Report No. 2, Commercial Leasing of Public Lands: State Policies Regarding Leases Near End of Term. LRB identified states with maximum lease terms and reviewed how these other states' leasing practices dealt with end of the term leases. LRB concluded its report in stating:

While some states have policies that generally address the maintenance and improvement of leased public lands, these policies appear to arise when a lease agreement is initially drafted and entered into, or within the context of

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFREY T. PEARSON, P.E.**  
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

negotiations for a lease renewal, rather than during the last few years of an existing lease. In comparison, commercial leases of public lands in Hawaii include a general covenant that requires lessees to maintain the property. The Bureau offers no conclusions regarding which, if any, of the policies employed by the other states represents practices that should be incorporated into the commercial leasing of public lands in Hawaii.

The Department's leases generally provide that the lessee owns any improvements it constructs during the term of the lease, but at the end of the lease, ownership of the improvements reverts to the State without compensation. This is in keeping with general commercial practice regarding ownership of improvements upon expiration of a long-term ground lease, and results in the residual value of the improvements being a public trust asset.

The Board already has the discretion to entertain requests for early lease cancellation and to set the conditions under which the Board will agree to mutual cancellation. The proposed bill would strip the Board of that discretion and grant lessees the right to dictate when their leases would be terminated and the conditions on which state lands would thereafter be put out to public auction.

Specifically, the bill requires any competing bidder at public auction to pay the relinquishing lessee the appraised residual value of the improvements on the property. This is a value that under current law is a public trust asset. The intent of the bill appears to be to give existing lessees an advantage at the auction of new leases for their properties since they would not have to pay for this residual value of improvements.

The Department offers the following suggestions with regard to the language of this measure. First, subsection (c) currently states:

Unless specifically required to do so by the board, a relinquishing lessee shall not be required to remove improvements or restore the land to a vacant condition; provided that, without prejudice to any other rights or remedies that either party may have, this subsection shall not indemnify a relinquishing lessee from any claims regarding pollution or contamination of the land with potentially hazardous substances.

As drafted, this subsection could be interpreted to provide that the early termination of a lease will not require the state to indemnify the lessee for possible pollution or contamination of the property with hazardous substances. The state's current lease form requires the lessee to indemnify, defend and hold the state harmless from any damages and claims resulting from the release of hazardous substances while the lessee is in possession, and this obligation survives lease termination. The Department therefore recommends that subsection (c) be amended to read as follows:

Unless specifically required to do so by the board, a relinquishing lessee shall not be required to remove improvements or restore the land to a vacant condition; provided that, without prejudice to any other rights or remedies that either party may have, this subsection shall not alter any obligation of a relinquishing lessee to indemnify [a relinquishing lessee], defend, and hold the state harmless from any claims regarding pollution or contamination of the land with potentially hazardous substances.

Second, “improvements” as defined at subsection (h) of the measure as currently drafted:

means all physical improvements to the land that are for the benefit of the lessee, including but not limited to buildings, structures, driveways, roads, or fences erected on or affixed to the land, and water and sewer pipes, electricity and telephone lines and cables, or other infrastructure necessary to the utility of the land.

In other words, improvements can include infrastructure and facilities that the lessee did not construct or pay for. If this measure is approved, subsection (h) should be limited solely to those improvements constructed and/or owned by the lessee for the term of the lease; it should exclude all other infrastructure like roads, sewer, water lines etc. that were not constructed or owned by the lessee. The Department therefore proposes the following amendment of this language:

means all physical improvements constructed and/or owned by the lessee during the lease term and shall exclude all infrastructure constructed and/or owned by third parties such as [~~to the land that are for the benefit of the lessee, including but not limited to~~

~~buildings, structures, driveways, roads, or fences erected on or affixed to the land, and] water and sewer pipes, electricity and telephone lines and cables, or other infrastructure [necessary to the utility of the land].~~

Without this amendment, the lessee could receive a windfall in being compensated for infrastructure it did not construct and which in fact may have been constructed by state or county government or by a public utility.

Third, subsection (b)(2) of the proposed bill requires a lessee wishing to avail itself of the measure to contract with a licensed or certified appraiser “to determine the current depreciated or residual value of any improvements to the land . . . .” If the objective of the measure is to compensate the lessee for the value of its improvements due to voluntary early lease termination, then the quoted language should be replaced as follow:

(b) Prior to relinquishing the lease, the lessee shall:

...

(2) Contract with a real estate appraiser licensed or certified pursuant to chapter 466K to determine ~~[the current depreciated or residual value of any improvements to the land]~~ to determine the current value of the improvements to the land for the remaining term of the lease, less ground rent; and

Under this language, the appraiser could determine the present value of the improvements for remaining lease term and calculate a one-time payment for the improvements.

Subsection (e) of the measure should similarly be amended to provide:



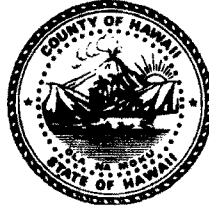
Lease terms for the new lease shall be determined by the board; provided that if the lease is awarded after public auction to any party other than the relinquishing lessee, the lease rent shall include a premium equal to the [~~residual~~] current value of any improvements to the land for the remaining term of the lease, less ground rent, as determined pursuant to subsection (b), which shall be paid to the relinquishing lessee prior to transfer of the land and improvements to the new lessee.

The Department notes that if this bill were to become law, there are practical issues with its implementation. The Department has more than 50 leases in the Banyan Drive area and Kanoelehua Industrial Area, and the majority of them are in the final ten years of their terms. The Department does not have sufficient staff, ceiling or funding to negotiate the early termination of 50+ leases that will likely require rent arbitration in many cases to determine fair values for improvements and ground rent. The Department's request for a \$500,000 increase in ceiling expenditure in the Special Land and Development Fund to address capacity issues for lease management and operations was rejected by the Committee on Finance this legislative session.

Finally, there are a number of bills under consideration this session that would transfer management of leases in the Banyan Drive area and Kanoelehua Industrial Area to the Hawaii Community Development Authority (HCDA) or to specially created improvement districts and planning committees. In particular, the Department notes that Senate Bill 1292, Senate Draft 2, incorporates the broad leasing powers of HCDA under Section 206E-C, HRS, including the rights to issue leases by direct auction and to extend leases, and provides in sections 2 and 3 for extensive planning, administrative and office staffing and operational funding. These are not policy options, nor funding resources, currently available to the Department. It is not clear how House Bill 575, House Draft 1, Proposed Senate Draft 1, would be implemented if one of the lease transfer bills were to become law.

Thank you for the opportunity to comment on this measure.

**Harry Kim**  
*Mayor*



**Wil Okabe**  
*Managing Director*

**Barbara J. Kossow**  
*Deputy Managing Director*

**County of Hawai'i**  
**Office of the Mayor**

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553  
KONA: 74-5044 Ane Keohokalole Hwy., Bldg. C • Kailua-Kona, Hawai'i 96740  
(808) 323-4444 • Fax (808) 323-4440

March 17, 2017

Senator Karl Rhoads  
Committee on Water and Land  
Hawai'i State Capitol  
Honolulu, HI 96813

**RE: HB 575**  
**Relating to Public Lands**

Dear Chair Rhoads and Members:

On behalf of the Hilo community, I would like to thank the Legislature for its attempts to resolve the dilemma of State leases on commercial properties that are nearing the end of their lease term.

This Administration has been supporting the efforts of Big Island legislators to make special provisions for the economic district in Hilo, as in earlier drafts of HB 575, and even more so in SB 1292 and HB 1479. We have wanted to reflect the community wishes, and have been very impressed with the way in which the community has worked together and rallied behind these proposals.

HB 575, Proposed SD1, now brings in a new concept. Allowing lessees of certain public lands on Banyan Drive, and in the Kanoiehua Industrial Area, to relinquish their leases during the last ten years of the term of the lease, and then allowing the lessee to bid on the new lease at public auction, has not been considered up to now, as far as I know. But what is clear is that the collaborative efforts of state, county, and community leaders will be put at risk unless there is time to give this new idea a thorough vetting. And time is, of course, in short supply at this stage of the legislative session.

HB575 HD1 was an attempt to address two of the issues that have arisen due to the current leasing practices of the State under HRS 171, namely the inability to extend leases beyond 65 years without going to public auction and the dilapidated state of some of the improvements on State-leased lands. HB575 HD1 offered a potential

solution by providing lessees the opportunity to extend the terms of their lease for up to fifteen years with the commitment on the side of the lessee to make substantial improvements to the premises. The language in HB575 HD1 attempted to balance the interests of the lessee with the interests of the State and community. Please note, however, that requiring an investment of 50% of the market value seemed to focus on those properties that are dilapidated and might in fact punish those who have kept their property in good condition.


The proposed HB575 HD1 SD1 provides the option for a lease-holder to push their leased property to public auction if there are ten years or less remaining on the lease. The lessees may, if they choose, place the winning bid at auction and be re-awarded the lease on the property. This option might give the lessees security in the length of their leases and a better opportunity to secure financing for desired improvements, but it does not address the current state of the improvements nor require any reinvestment in the property. If the problem really is two-fold, which we believe it to be, and a desired outcome includes an improvement to the buildings and infrastructure, then HB575 HD1 SD1 should include provisions to that end.

In order to give DNLR the most tools to make its leases work, maybe a hybrid version of the bills can be developed. Preserve the idea of a special district, keep some 15-year lease extension provisions AND add in the ability to have the lessee bring the property to auction during the last 10-year period.

Our suggestion is to use the language of SB 1292 as Part I of a new draft of HB 575, and then add the proposed SD1 new language as Part II. The two concepts are not incompatible, and if such a bill were to continue on to conference, it would give the stakeholders' time to fully evaluate the options and collaborate on a final approach. Lessees might appreciate having two or three options, or reject one or more out of hand, but the hard work of building consensus would be rewarded rather than lost.

Thank you for your consideration.

Respectfully submitted,



Harry Kim  
Mayor

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 17, 2017 3:03 PM  
**To:** WTL Testimony  
**Cc:** sue.leeloy@hawaiicounty.gov  
**Subject:** Submitted testimony for HB575 on Mar 20, 2017 15:30PM

**HB575**

Submitted on: 3/17/2017

Testimony for WTL on Mar 20, 2017 15:30PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Council Woman Sue Lee Loy	Individual	Support	No

Comments: In support of HB 575 HD 1. Not in support of the proposed SD1 as it is currently drafted!

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:** [Elena Cabatu](#)  
**To:** [WTL Testimony](#)  
**Subject:** Support for HB 575 HD1  
**Date:** Friday, March 17, 2017 7:09:07 AM

---

Aloha Senate Committee on Water and Land,

Please accept support for HB 575 HD1 on behalf of the East Hawaii Region of Hawaii Health Systems Corporation, consisting of Hilo Medical Center, Hale Ho'ola Hamakua in Honoka'a, Ka'u Hospital and our 9 specialty clinics.

Sincerely,  
Elena Cabatu

**Elena Cabatu**

Director of Marketing and Public & Legislative Affairs  
Hilo Medical Center - Hale Ho'ola Hamakua - Kau Hospital  
1190 Waianuenue Avenue  
Hilo, Hawaii 96720  
Phone: (808) 932-3160  
Cell: (808) 333-7223  
Fax: (808) 974-6831

Check us out at: [www.hilomedicalcenter.org](http://www.hilomedicalcenter.org)

"Like" us on Facebook: [www.facebook.com/HiloMedicalCenter](https://www.facebook.com/HiloMedicalCenter)

Confidentiality Notice: This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.



HB 575 SD1

Senate Committee, WTL  
Chair Karl Rhoads  
Vice Chair Mike Gabbard

Aloha Chair Rhoads,

I am Garth Yamanaka, Committee chair for Government affairs for the Kanoelehua Industrial Area Association (KIAA). Established in 1968, KIAA is an active business association that is comprised of both small and large businesses and organizations within specific Hilo and Keaau boundaries. One of our goals is to advance the commercial and community interests of our member firms. Presently, we represent approximately 350 business members employing approximately 4,500 workers.



KIAA supports the purpose of this measure which is to allow lessees who are within the last ten years of their land lease, to voluntarily request that the lease be put up to bid at a public auction and by allowing the lessee to bid on a new lease. The current framework for leasing of public lands in the East Hawaii area has created an environment that is sub-par to market expectations. Although we feel the original version of HB 575 is a preferable version and a much more beneficial approach for both parties, the passing of HB 575 SD1 will help to push policy in the right direction.


We urge you to pass HB 575 SD1 and Mahalo for this opportunity to provide testimony.

Mahalo,

Garth Yamanaka  
Committee Chair for Government Affairs  
KIAA



 | 808-733-7060  
 | 808-737-4977

 | 1259 A'ala Street, Suite 300  
Honolulu, HI 96817

March 20, 2017

**The Honorable Karl Rhoads, Chair**  
Senate Committee on Water and Land  
State Capitol, Room 414  
Honolulu, Hawaii 96813

**RE: H.B. 575, H.D.1, PROPOSED S.D.1 Relating to Public Lands**

**HEARING: Monday, March 20, 2017, at 3:00 p.m.**

Aloha Chair Rhoads, Vice Chair Gabbard, and Members of the Committee.

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,200 members. HAR **supports** H.B. 575, H.D.1, Proposed S.D.1 which Allows lessees of certain public land in the Banyan Drive and Kanoelehua industrial area of Hilo, Hawaii, to relinquish a lease during the last ten years of the term of the lease, subject to certain conditions, and allows the lessee to bid on the new lease at public auction.

The State currently leases state land to many entities for commercial, industrial, hotel, and resort purposes. Unfortunately, lessees have virtually no economic incentive to invest in the property over the last 10 to 15 years of the lease term knowing full well that their lease is about to term out.

HAR supports this measure which is to serve the public use and public purpose of state lands used for commercial purposes to authorize the extension of commercial, hotel, resort, and industrial leases for the lessee's substantial improvement to the leased premises. We believe the proposed bill provides a fair and equitable solution to the problem by having the existing lessee invest in "substantial improvements" to the lease hold property in order to qualify for a lease extension.

Mahalo for the opportunity to testify on this measure.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 19, 2017 3:05 PM  
**To:** WTL Testimony  
**Cc:** joy@joydillon.com  
**Subject:** \*Submitted testimony for HB575 on Mar 20, 2017 15:30PM\*

**HB575**

Submitted on: 3/19/2017

Testimony for WTL on Mar 20, 2017 15:30PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joy Dillon	Hawaii Island Realtors	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)



Presentation To the  
Senate Committee on Water and Land  
March 20, 2017 at 3:30 p.m.  
State Capitol Conference Room 308

**Testimony in Support of House Bill 575, HD1**

TO: The Honorable Karls Rhods, Chair  
The Honorable Mike Gabbard, Vice Chair  
Members of the Committee

My name is Neal K. Okabayashi and I am substituting for Edward Pei, who is the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing eleven FDIC insured depository institutions with branch offices in the State of Hawaii.

The Hawaii Bankers Association supports the intent of House Bill 575, HD1, authorizing the Board of Land and Natural Resources (BLNR) to extend commercial ground leases on state owned land so that tenants can continue to maintain and make improvements to its premises. Currently, there is a statutory term limit of 65 years for such ground leases. Unfortunately, towards the latter half of such leases, as the expiration looms closer, commercial enterprises will be reluctant to invest in the maintenance or improvement of their properties, if their lease is scheduled to expire. Furthermore, banks will not provide financing for such initiatives beyond the scheduled expiration of the lease, which severely limits the tenant's ability and propensity to invest in their operations. The economic vitality of the Hilo area will suffer if ground leases are not renewed for the tenants leasing state owned land in this area.

There are some flaws in the current version of this measure, such as limiting the lease extension to a maximum of 15 years. We hope your committee will consider the issues and concerns that are raised by those that are directly affected and amend this bill so that it supports the tenants of State lands in Hilo and the economic development in this region.

Our understanding is that there is a proposed SD 1 which would amend the bill to provide for a process which may not accomplish the intent of extending the lease so that the lessee may avail obtain financing to perform improvements to the demised premises, including any improvements thereon. We urge the Committee to review the proposed SD 1 to determine if, as drafted, it will accomplish the goal of enhancing the ability of lessees to provide economic advancement for the community.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.

A handwritten signature in black ink, appearing to read 'Edward Y. W. Pei', with a stylized flourish at the end.

Edward Y. W. Pei  
(808) 524-5161

**From:** [Tracey Niimi](#)  
**To:** [WTL Testimony](#); [ETT Testimony](#)  
**Subject:** Support of HB 1479 & 575  
**Date:** Friday, March 17, 2017 4:34:56 PM

---

Aloha,

Thank you for the opportunity to provide testimony in strong support of House Bills 1479 and 575. We support these bills and the legislature's efforts to revitalize Hilo's small business community. The both of us were born and raised in Hilo (Tracey graduated from Waiakea High School, Danielle graduated from Kamehameha Schools Hawaii Campus), the both of us graduated from the UH Hilo College of Business and Economics, and we now run our own small business here in Hilo. These bills are exactly what Hilo needs to revitalize our small business community. HB 1479 and HB 575 have broad community support and will go a long way in helping to keep and create jobs in Hilo.

Mahalo,

Tracey & Danielle Niimi  
Owners/Photographers  
TN Photography  
(808) 987-9474

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 17, 2017 1:06 PM  
**To:** WTL Testimony  
**Cc:** alinoue@hawaiiantel.net  
**Subject:** Submitted testimony for HB575 on Mar 20, 2017 15:30PM

**HB575**

Submitted on: 3/17/2017

Testimony for WTL on Mar 20, 2017 15:30PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Al M. Inoue	Individual	Support	No

Comments: Ladies and Gentlemen: I was born and raised in Hilo and have been in business for over 50 years. In the study of economics we know that the the key ingredients to build a successful economy is the availability of land,labor and capital. Of these and at this time for Hilo and for East Hawaii, the question of the future of the State leased land to businesses is affecting our economic future. There is no incentive for an entity to plan for the long term, to expand their business and to make physical improvements to their facilities when the future of their lease of the land is uncertain. Therefore, I encourage you to consider passage of this important legislation. Thank you the opportunity to submit is testimony. Sincerely, Al Inoue

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:** Saturday, March 18, 2017 4:00 PM  
**To:** WTL Testimony  
**Cc:** dkg1031@gmail.com  
**Subject:** \*Submitted testimony for HB575 on Mar 20, 2017 15:30PM\*

**HB575**

Submitted on: 3/18/2017

Testimony for WTL on Mar 20, 2017 15:30PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Debra Koonohiokala Norenberg	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)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 18, 2017 9:01 AM  
**To:** WTL Testimony  
**Cc:** valerie@isomedia.com  
**Subject:** Submitted testimony for HB575 on Mar 20, 2017 15:30PM

**HB575**

Submitted on: 3/18/2017

Testimony for WTL on Mar 20, 2017 15:30PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Valerie Barnes	Individual	Support	No

Comments: This bill would permit revitalization of Hilo and is important to pass for the well-being of the community. Please support it.

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)