

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 Committees on
WATER AND LAND
And
HOUSING**

**Tuesday, February 7, 2017
2:55 PM
State Capitol, Room 225**

**In consideration of
SENATE BILL 580
RELATING TO HOUSING AND MIXED USE DEVELOPMENT**

Senate Bill 580 proposes to allow the Department of Land and Natural Resources (Department) to enter into housing, commercial and mixed-use leases for terms in excess of sixty-five years but not exceeding ninety-nine years. The measure also proposes to grant the lessee a right of first refusal following a public auction at the termination of the lease; provided that the lessee shall match the highest lease rental bid offered. **The Department offers the following comments on this measure.**

In the past, the Department has generally opposed legislative bills that proposed to allow, by extension or right of first refusal, existing lessees to acquire new lease terms on leases that are scheduled to expire soon, following instead general public policy to promote fairness in competition in access to public property. One reason for the Department's position was that Section 171-32, Hawaii Revised Statutes, favors the issuance of leases by public auction. Another reason was to preserve the State's legal right to the remaining value of the improvements after the lease term: when leases expire, the lessees' improvements on the land revert to State ownership pursuant to the express terms of the lease, unless the State directs the lessee to remove the improvements. Assuming the improvements have some remaining useful life, the State is then in a position to auction leases of improved properties at potentially greater rents than the State would receive for a ground lease alone, which amounts can in turn be applied to public purposes.

SUZANNE D. CASE
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The Department recognizes that a prior legislative act providing for extensions of resort leases did have a beneficial effect on one State lease on Banyan Drive. The lessee of Hilo Hawaiian Hotel property took advantage of Act 219 Session Laws of Hawaii of 2011, to extend its lease from 2031 to 2068, making substantial improvements to the property pursuant to a development agreement negotiated between the State and the lessee. The Department thus acknowledges different public policy benefits from different approaches. Based on this, the Department now takes a neutral stance on legislative proposals to extend existing leases.

To the extent that this measure seeks to support affordable housing development, the authority under this measure should be granted to development agencies with the appropriate expertise in these types of projects. The bill already contemplates the Department consulting with the Hawaii Housing Finance and Development Corporation (HHFDC) on such projects. Such specialized housing agencies already have statutory authority to promote affordable housing projects rapidly that is unavailable to the Department. Additionally, in order to execute leases pursuant to this measure, the Department would have to engage in rulemaking, which would be time consuming and burdensome. As such, if the intent of this legislation is to promote affordable housing rapidly, then the Department respectfully suggests HHFDC be the agency to do so since it already has the special statutory authority, expertise and specialized staff.

On a technical note, the Department seeks clarification on the term “public option” used in subsection (b) of SECTION 2 of the bill. It appears as though the term intended to be used is “public auction”.

Thank you for the opportunity to comment on this measure.



**Testimony to the Senate Committee on Water and Land,
and Senate Committee on Housing
Tuesday, February 7, 2017 at 2:55 P.M.
Conference Room 225, State Capitol**

**RE: SENATE BILL 580 RELATING TO HOUSING AND MIXED-USE
DEVELOPMENT**

Chairs Rhoads and Espero, Vice Chairs Gabbard and Harimoto, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** SB 580, which allows the department of land and natural resources to enter into housing, commercial, and mixed-use leases for terms in excess of sixty-five years but not exceeding ninety-nine years; gives the lessee a right of first refusal following a public auction at the termination of the lease; provided that the lessee shall match the highest lease rental bid offered.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Historically, the State would allow for a maximum lease term of 65 years for the use of any state owned lands. The principle being that because it is a public asset, there should be a fair and open competition for the use of these assets.

The problem, which is not unique to the State of Hawaii, is that when lease have a fixed termination date, the lessee has no economic incentive to invest in the property over the last 10 to 15 years of the lease term. Lenders will also not loan funds for improvements to the lease hold property unless the remaining lease term is sufficient to secure the mortgage on the property. The result is a "disincentive" to the lessee to invest in the property and thus allowing for conditions to deteriorate at the end of the lease term.

While there needs to be concern on the open and competitive nature on the disposition of public lands, there also needs to be some realization that healthy businesses, many of whom are significant contributors to the community, are unable to invest in improvements to their lease hold properties as the lease term near expiration.

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.



Chamber *of* Commerce HAWAII
The Voice of Business

The proposed amendments to Chapter 171 HRS are long overdue. We support SB 580.
Thank you for the opportunity to testify.

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MAILING:
P.O. BOX 970967
WAIPAHU, HAWAII 96797-0967

PHYSICAL:
94-487 AKOKI STREET
WAIPAHU, HAWAII 96797

**Testimony to the Senate Committees on Water & Land; and
Senate Committee on Housing
Tuesday, February 7, 2017
2:55 pm
Conference Room 225**

RE: SB 580 – Relating to Housing and Mixed Use Development

Chairs Rhoads & Espero, Vice-Chairs Gabbard & Harimoto, and members of the committees:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII is in strong support of S.B. 580 which allows the department of land and natural resources to enter into housing, commercial, and mixed-use leases for terms in excess of sixty-five years but not exceeding ninety-nine years. This bill also gives the lessee a right of first refusal following a public auction at the termination of the lease; provided that the lessee shall match the highest lease rental bid offered. This bill is similar to H.B. 575, but does not include industrial leases. We would suggest that the bill be amended to include industrial leases too.

Historically, the State would allow for a maximum lease term of 65 years for the use of any state owned lands. The principle being that because it is a public asset, there should be a fair and open competition for the use of these assets.

The problem, which is not unique to the State of Hawaii, is that when lease have a fixed termination date, the lessee has no economic incentive to invest in the property over the last 10 to 15 years of the lease term. Lenders will also not loan funds for improvements to the lease hold property unless the remaining lease term is sufficient to secure the mortgage on the property. The result is a "disincentive" to the lessee to invest in the property and thus allowing for conditions to deteriorate at the end of the lease term.

While there needs to be concern on the open and competitive nature on the disposition of public lands, there also needs to be some realization that healthy businesses, many of whom are significant contributors to the community, are unable to invest in improvements to their lease hold properties as the lease term near expiration.

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.

The proposed amendments to Chapter 171 HRS are long overdue. We strongly support S.B. 580. Thank you for the opportunity to express our views on this matter.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 1:30 PM
To: WTL Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB580 on Feb 7, 2017 14:55PM*

SB580

Submitted on: 2/3/2017

Testimony for WTL/HOU on Feb 7, 2017 14:55PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	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.

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