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GOVERNOR OF
HAWAII



SUZANNE D. CASE
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LAND
STATE PARKS

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

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Committee on
WATER AND LAND**

**Friday, February 10, 2017
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 15
RELATING TO GOVERNMENT IMPOUNDMENT OR DISPOSAL OF PERSONAL
PROPERTY**

House Bill 15 proposes to establish notice requirements for the disposal of personal property stored on state lands and provides the State, the Counties and their employees immunity from civil liability for actions resulting from removal of personal property on state lands. **The Department of Land and Natural Resources (Department) supports the intent of the bill and offers the following comments pertaining to SECTION 1.**

The Department currently removes abandoned or seized property under Section 171-31.5, Hawaii Revised Statutes (HRS), which requires a 30 day notice that property identified as abandoned will be disposed of as seen fit by the state. The property must be abandoned for at least 24 hours in order for the state to declare a property abandoned and trigger the provisions under Section 171-31.5, HRS. If the owner of the property has no address or is not in the vicinity, the state can post abandoned property notices on or near the property and leave it in place for 30 days. This is normally the protocol that the Department uses for abandoned camp sites.

One of the Department's biggest problems is its ability to identify and remove trash from State lands where adjacent illegal campers are located. Under Section 171-31.5, HRS, there is a three step process to remove both trash and illegal campers:

- 1) Reconnaissance—identify abandoned sites and number of occupied campsites
- 2) Post notice –post notice on all abandoned sites and notify campers of the statute or rule that they are violating.

- 3) Remove trash and any possessions left behind. Provide contact information regarding where possessions can be picked up. Inventory all possessions.

This three step process requires visiting the site on three separate occasions.

The ability to move trash faster than in 30 days would be helpful. However because this bill requires notice to the owner or possessor of the property, it does not address abandoned property or trash, where no owner can be located. The Department suggests incorporating the language of Section 171-31.5 (b), HRS, and defining “abandoned property” or “trash” in the bill.

(b) The department shall send notice by certified mail, at least thirty days prior to disposition of the abandoned or seized property, to the address of the owner of the property abandoned or seized if the owner is known or can be determined. The notice shall apprise the owner of the identity and location of the property abandoned or seized and of the intent of the department to sell, donate, or otherwise dispose of the property. Where the identity or the address of the owner is unknown or cannot be determined, the notice shall be posted on the premises where the property was abandoned or seized.

SECTION 1 of the bill requires a written notice is in advance of impoundment or disposal but there is no guidance on how an employee decides what gets impounded, and what gets disposed. The current practice, based on advice from the Department of the Attorney General, is that abandoned property under the definitions in Section 171-31.5, HRS, can be disposed. However, personal property that was not abandoned, or abandoned because the illegal camper was removed from his or her property, must be stored for thirty days and owners need to have enough information and opportunity to collect their property. Perhaps under this bill storage time could be decreased as well.

It is also current practice to treat as trash anything that nearby campers identify as trash. If something has been identified as trash by a nearby camper, then the Department is free to dispose of those things immediately. It would be helpful if the language of this bill clarified that items identified as trash by a nearby camper, near a trash bin or roll-off, or tagged as trash with temporary signage can be treated as trash and disposed of immediately.

Thank you for the opportunity to testify on this measure.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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STATEMENT OF

JESSE K. SOUKI, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

HOUSE COMMITTEE ON WATER AND LAND

ON

Friday, February 10, 2017

9:00 a.m.

State Capitol, Conference Room 325

in consideration of

**HB15 – RELATING TO GOVERNMENT IMPOUNDMENT OR DISPOSAL
OF PERSONAL PROPERTY.**

Chair Yamane Vice Chair Kong and members of the committee.

This testimony reflects my view alone. The Hawaii Community Development Authority (HCDA) has not acted on this measure.

In my capacity as the HCDA Executive Director, I respectfully offer **comments** on HB 15.

While this bill provides beneficial immunity for government workers collecting and disposing of personal property, it requires lengthy notification procedures before abandoned property can be removed. These provisions will hamper the HCDA's ability to provide safe and open access to all park users. The HCDA owns the Kakaako Waterfront Park, and we must occasionally clean the park of abandoned items to provide for public safety and cleanliness. Providing written notices seven days in advance would cause practical problems and make it impossible for the HCDA to immediately remove items that threaten the public's health and safety.

The HCDA already has administrative rules governing the handling of abandoned property. Pursuant to Hawaii Administrative Rules § 15-210-16, the

HCDA stores personal property for at least 45 days, and a written notice is left for the owner with instructions on how to retrieve their property.

The HCDA has never charged a fee for property retrieval.

Our goal and commitment to the public is to ensure our parks are open, clean and safe for all park users, and we work closely with the Governor's Coordinator on Homelessness to address those unsheltered individuals in the park.

To meet our commitment to the public, we must periodically clear the park of debris and abandoned property in strict accordance with the rules. The cost of that cleanup and property storage was \$287,000 last calendar year. Adding additional notifications would require additional resources and make it difficult to fully clean the parks to the public's satisfaction, as property is abandoned in our parks every day.

I respectfully ask the committee to allow the HCDA to continue to clean our parks in accordance with our administrative rules.

Thank you for the opportunity to testify on this measure.



LATE

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

February 10, 2017

TO: The Honorable Representative Ryan I. Yamane, Chair
House Committee on Water & Land

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

**SUBJECT: HB 15 – RELATING TO GOVERNMENT IMPOUNDMENT OR DISPOSAL OF
PERSONAL PROPERTY**

Hearing: Friday, February 10, 2017, 9:00 a.m.
Conference Room 325, State Capitol

POSITION: The Governor's Coordinator on Homelessness appreciates the intent of this measure, and offers the following comments. The Coordinator notes that when cleanup efforts are conducted on state lands that impact persons experiencing homelessness, these efforts should be coordinated with homeless outreach efforts that connect homeless persons to necessary services and housing. The Coordinator defers to other executive departments in regard to statutory processes related to cleanup activities on specific state properties.

PURPOSE: The purpose of the bill is to provide the State, each county, and their employees with immunity from civil liability arising from the impoundment or disposal of personal property unlawfully stored on public property, if prior notice requirements are met. The bill requires that initial written notice be provided no later than seven days in advance of impoundment or disposal, and another written notice provided on the day immediately preceding the date of the impoundment or disposal.

The current process for the disposition of abandoned property on state land for all individuals, including individuals who are homeless, is found at section 171-31.5, Hawaii Revised Statutes (HRS). Section 171-31.5, HRS, requires a 30 day notice that property has been abandoned or seized, and provides a means for owners or abandoned or seized

property to retrieve such property. Personal property may include government issued identification or other government records.

In addition to section 171-31.5, HRS, other state agencies, such as the Hawaii Community Development Authority (HCDA) have adopted administrative rules that outline similar procedures to address the disposition of abandoned or seized property. These administrative procedures also apply equally to all individuals and are not limited only to address property abandoned by or seized from homeless persons.

In addition to directly addressing issues related to property, the Coordinator further notes that homeless outreach is critical to ensure that homeless persons have access to shelter, and are not simply displaced from one unsafe living area to another. The State's strategy to address homelessness includes a strong connection between homeless outreach and efforts to address unauthorized encampments on public land. For example, in Kakaako Makai, the role of homeless outreach played a key role in assisting over 290 of an estimated 300 homeless individuals to access shelter and permanent housing between August 2015 and present.

Thank you for the opportunity to testify on this bill.

kong2 - Crystal

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 7:12 PM
To: waltestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB15 on Feb 10, 2017 09:00AM*

HB15

Submitted on: 2/7/2017

Testimony for WAL on Feb 10, 2017 09:00AM in Conference Room 325

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

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Testimony Opposing HB 15, Relating to Government Impoundment and Disposal of Personal Property

Submitted to House Committee on Water and Land for
9 am February 10, 2017 Hearing in Conference Room 325

I request that you delete the current contents of HB 15 and totally rewrite the bill to give every state and county agency discretion to adopt rules under which that agency may remove, impound, or dispose of tangible personal property from real property controlled or managed by that agency.

It would be inappropriate to enact a law which requires all public agencies in all circumstances to serve the owner with written notice exactly 1 day prior to impoundment or disposal of tangible personal property unlawfully stored on public property. For example, if state law requires written notice to warn scofflaws that in exactly 1 day the DLNR intends to impound and dispose of commercial equipment which is unlawfully stored on state property, I doubt that DLNR will ever again impound commercial equipment which is unlawfully stored on state property. Or for example, it would be dangerous to require written notice exactly 1 day before HDOT removes and either impounds or disposes of personal property which is obstructing the freeway. Or, for example, it would be silly to require written notice exactly 1 day before DAGS removes and disposes of tangible personal property which is clogging a toilet in a public building.

Since 2013 I have been complaining to the DLNR about scofflaw vendors who unlawfully store unrented commercial-recreational equipment on Waikiki Beach. The rest of this testimony consists of December 2016 pictures of conspicuous unauthorized storage of unrented commercial-recreational equipment on a state-owned part of Waikiki Beach. I am hoping that this Committee will have the courage to ask the DLNR to stop procrastinating and start impounding.



12/28/16 8:30 am picture of commercial beach chairs & umbrellas stored on state property makai of the east end of Fort DeRussy



12/28/16 8:30 am picture of commercial beach chairs & umbrellas stored on state property makai of the east end of Fort DeRussy



12/28/16 8:30 am picture of miscellaneous commercial storage on state property makai of the east end of Fort DeRussy



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12/28/16 8:30 am picture of miscellaneous commercial storage on state property makai of the east end of Fort DeRussy



12/28/16 8:30 am picture of miscellaneous commercial storage on state property makai of the Waikiki Shore Hotel



12/28/16 8:30 am picture of commercial beach chairs & umbrellas stored on state property makai of the Waikiki Shore and Reef Hotels



12/28/16 8:30 am picture of commercial beach chairs & umbrellas stored on state property makai of the Reef Hotel