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GOVERNOR
STATE OF HAWAII

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STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

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 SENATE COMMITTEE ON HAWAIIAN AFFAIRS**

HB 2464, HD2 RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

March 13, 2018

Aloha Chair Shimabukuro and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits comments on this bill that makes any person who sells or transfers an interest in a Hawaiian home lands lease ineligible to receive a subsequent lease for the same class of land except in limited circumstances.

The Department supports the intent of the bill which is aimed at addressing applicants on the waitlist. The Department started addressing this issue by promulgating a rule that would prohibit the sale of undivided interests and leases to lots that are vacant or undeveloped. The Hawaiian Homes Commission is also considering a right of first refusal to homestead applicants on the waitlist.

We appreciate the Committee's efforts to look at addressing lessee activities that beneficiaries have expressed concern over in the past. We look forward to working with you during this session to see what amendments could be considered to either the HHCA or the department's administrative rules to address these concerns while trying to minimize the impact of any unintended consequences.

Thank you for your consideration of our testimony.



HB2464 HD2
RELATING TO THE HAWAIIAN HOMES COMMISSION ACT
Senate Committee on Hawaiian Affairs

March 13, 2018

1:40 p.m.

Room 016

The Office of Hawaiian Affairs (OHA) appreciates the opportunity to provide **COMMENTS** on HB2464 HD2, which proposes that a Hawaiian Home Lands lessee who sells or transfers his or her interest in a lease, even in a manner currently authorized by the Hawaiian Homes Commission Act, shall be ineligible to receive a subsequent lease for the same class of lands, subject to limited exceptions.

HB2464 HD2 may unfairly limit the economic opportunities of Hawaiian Home Lands lessees, particularly when they have invested in improvements to their lots, and/or find themselves needing to divest themselves of their leases due to financial, medical, or other exigent circumstances. As such, this measure may have the unintended consequence of limiting lessees' options when faced with difficult life and family choices, a limitation not imposed on others who have invested in properties. Further, the Hawaiian Home Commission Act clearly gives lessees the right to transfer their homesteads with the Department of Hawaiian Home Lands' (DHHL's) approval—a right which this measure seeks to abridge.

OHA notes that this bill is unnecessary to address the waitlist backlog. Foremost, ensuring sufficient resources are allocated to DHHL and prioritized for this purpose is the best way to address the backlog. Further, DHHL already has the authority to set policies as it relates to lease transfers. As noted in their testimony, DHHL started addressing the issue of lease transfers and their effects on waitlisted applicants by promulgating a rule prohibiting the sale of undivided interests and leases to lots that are vacant or undeveloped.¹ This rule also provides that lease transfers to qualified relatives of a lessee or waitlisted beneficiaries shall be prioritized for processing over non-waitlisted beneficiaries.² These are examples of an administrative rule structure that may address the waitlist backlog without unduly restricting lessees' pursuit of economic opportunities or change in personal and family circumstances.

Finally, the practice of "churning" – the repeated obtaining of leases and then selling or conveying those leases to others for profit -- is not a common practice, according to the DHHL's oral testimony before the House Finance Committee. In light of this understanding, OHA urges the Committee to consider whether restricting the rights of all lessees under the Hawaiian Homes Commission Act is the most effective way to address this particular practice.

Mahalo nui for the opportunity to testify on this measure.

¹ Hawai'i Administrative Rule (HAR) § 10-3-36(a).

² HAR § 10-3-36(b).

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Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
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March 12, 2018

TO: Honorable Maile S. L. Shimabukuro, Chair
Senate Committee on Hawaiian Affairs

FROM: Stacy Helm Crivello
Councilmember 

DATE: Tuesday, March 13, 2018

SUBJECT: **SUPPORT OF HB 2464 H.D. 2, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is to make any person who sells or transfers an interest in a Hawaiian Home Lands lease ineligible to receive a subsequent lease for the same class of land except in limited circumstances. (HB2464 HD2)

I **support** this measure for the following reasons:

1. One of the principal purposes of the Hawaiian Homes Commission Act is to place native Hawaiians on the lands set aside under this Act in a prompt and efficient manner and assuring long-term tenancy to beneficiaries of this Act and their successors. According to the Department of Hawaiian Home Lands website, as of June 30 2016, the applicant waitlist had a grand total of 44,429 names.
2. The numbers are daunting and the opportunity of signing a lease may not become a reality for some. Many of the applicants have remained on the list for years and still others have passed away while waiting, never realizing their dream of a Hawaiian Homes lease.
3. Exacerbating the problem is the allowable practice of individuals acquiring a lease, then selling or transferring their interest in the lease, then placing their name on the waitlist again for a second lease. The end result is many eligible native Hawaiians never receive an offer to lease.

For the foregoing reasons, I **support** this measure.

HB-2464-HD-2

Submitted on: 3/12/2018 5:51:26 AM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Testifying for Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

We continue to STRONGLY SUPPORT this bill. Mahalo.

HB-2464-HD-2

Submitted on: 3/9/2018 5:59:07 PM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:



BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS

Hawaii State Legislature
March 13, 2018

House Bill 2464 HD2
Relating to the Hawaiian Homes Commission Act

Aloha Chair Shimabukuro and Vice Chair Galuteria,

Ka Lāhui Hawaii Political Action Committee (KPAC) supports HB 2464 HD2 which makes any person who sells or transfers an interest in a Hawaiian Home Lands lease ineligible to receive a subsequent lease for the same class of land except in limited circumstances.

Currently, there are over 20,000 applicants on the list waiting to receive land awards. This measure would help to alleviate double dipping and even out the chances for all Kanaka Maoli of 50% blood quantum to attain a lease for their own homestead in a more timely. According to a recent study entitled “Asset Limited Income Constrained Employed: A Study of Financial Hardships in Hawai‘i” published in 2017, fifty-seven percent of all Kanaka Maoli in Hawai‘i are struggling financially and 33% of all houseless are Kanaka Maoli. Eliminating the number of eligible Kanaka Maoli on the Department of Hawaiian Home Lands waitlist should be a priority for the State.

Respectfully submitted,

M. Healani Sonoda-Pale
Chair, KPAC

SCHHA Testimony on HB2464 HD2
A Bill to Deny eligibility of native Hawaiians from the
HHCA upon Lease Transfer of a homestead allotment



March 11, 2018

Aloha Honorable Chair, Vice Chair and Members of the Hawaiian Affairs Committee:

Please accept for the record, this testimony in **OPPOSITION** to HB2464 by the Sovereign Councils of the Hawaiian Homeland Assembly (SCHHA), also known as the Statewide Council of Hawaiian Homestead Associations.

The SCHHA was founded in 1987 and is the oldest and largest coalition of homestead leaders and native Hawaiians eligible and defined under the Hawaiian Homes Commission Act of 1921. The SCHHA Executive Council is elected by HHCA beneficiaries on the land, and on the waitlist for a homestead land award.

HB2464 appears to be a solution looking for a problem. Indeed, it is legislation that is perhaps unintentionally anti-native Hawaiian and would reduce the rights and benefits of native Hawaiians defined in the HHCA, something that under the 1959 Statehood Act would require Congressional consent. We offer the following for members of the Committee to consider:

1. To date, no study, nor statistics have been compiled and made public, to indicate the level of lease transfers referenced in HB2464. We recommend that the Committee hold this bill and instead direct DHHL to conduct due diligence on the activities this bill proports to address.
2. The authors of the bill, should consider that the sale of a home and the ground lease may have completely legitimate purposes other than pure monetary gain, such as a need to relocate due to health conditions, or employment, or other unforeseen social or economic challenges. This bill would improperly punish eligible native Hawaiians by prohibiting these common life and standard of living activities enjoyed by all other citizens. It is wholly unacceptable to burden native Hawaiians and restrict mobility, particularly in a difficult economy.
3. It is factually incorrect for HB2464 to state that an HHCA beneficiary transferring to another eligible beneficiary contributes to other eligible beneficiaries “never” receiving a lease offer. Its just factually incorrect. The greatest contributors to an eligible beneficiary being thwarted from taking a lease award are:
 - a. The State of Hawaii and its agency DHHL, failing to install infrastructure (water, utilities, roads and the like) to tens of thousands of acres of lands in order to award infrastructure ready allotments.

Moreover, a refusal by the State of Hawaii and its agency to issue allotments without infrastructure, particularly farm and ranch lands. On the island of Kauai, where more than 20,000 acres lay vacant, much of which were former sugar lands, DHHL has not offered farm or ranch homesteads since 1981, more than 35 years.

- b. The State of Hawaii and its agency DHHL, failing to timely spend federal grant funds resulting in the loss of more than \$40M in NAHASDA funds over the last 4 years.

SCHHA Executive Council ~ Robin Puanani Danner, Chairman - Kauai ~ Kammy Purdy, Vice Chairman - Molokai ~ Michelle Kauhane, Oahu ~ Blossom Feiteira, Maui ~ Mike Hodson, Hawaii Island ~ Kamaki Kanahale, Chair Emeritus ~ Iwalani McBrayer, Housing ~ Teddy Blake, Rights ~ Kekoa Enomoto, Farm ~ Kanani Kapuniai, DHHL ~ Harold Johnston, Telecom ~ Alohi Bikle, Health ~ Leif Mokuahi, Education ~

- c. The State of Hawaii and its agency DHHL, improperly spending native Hawaiian trust funds in the tens of millions of dollars on operational and administrative costs instead of on costs related to infrastructure and land distribution to native Hawaiians.
- d. The State of Hawaii and its agency DHHL, placing arbitrary and unnecessary barriers on native Hawaiians to be eligible to receive a land allotment. For example for more than a decade, it was the internal policy of DHHL to mandate native Hawaiians on the waitlist to prequalify for a mortgage of at least \$250K before being allowed to select a lot, without administrative rules. This practice only recently has been changed, again without administrative rules.

We recommend that the Committee hold this bill and instead mandate an annual report by DHHL on the number of lease awards made in each fiscal year by residential, agriculture and ranching homestead, as well as mercantile land awards described in HHCA section 207, as well as a financial report on levels of funds dedicated to creating infrastructure-ready lots.

- 4. When an HHCA eligible beneficiary transfers a homestead lease to another eligible HHCA beneficiary, that act, in and of itself, is providing a lease award to a beneficiary on the waitlist. In essence, lease transfers by and to HHCA eligible beneficiaries is doing the State of Hawaii's job. We ask that the Committee consider what the benefit to anyone is, including the State of Hawaii, by closing off a perfectly lawful transfer authorized by the HHCA that removes an eligible beneficiary off the waitlist.

We recommend that the Committee hold this bill, and direct DHHL to engage in Beneficiary Consultation to potentially promulgate administrative rules to address any residual concerns to protect, not punish HHCA eligible beneficiaries.

- 5. Finally, we remind the Committee that the HHCA was enacted to distribute lands to eligible native Hawaiians, not to inhibit that distribution unless it is only achieved through a direct award via government. Indeed, the HHCA rightfully authorizes transfers of lease awards between eligible beneficiaries, with improvements and without improvements for very good reason – to support the self-sufficiency, and economic prosperity of native Hawaiians.
- 6. The SCHHA recognizes that the issue of lease transfers and inserting the words “sale” makes for fodder to strike at emotional fears, and at times ignorance of the purposes of the HHCA, and even the notion that native Hawaiians are people with challenges the same as any other citizen in Hawaii. Mobility and life choices based on social and economic well-being must very much be at the center of the administration of the HHCA. The HHCA is not a welfare program, it is a birth right that should not be abridged, nor met with unnecessary legislative barriers.

We ask the Committee to oppose this perhaps well-intentioned, but ill-conceived bill, and instead begin a dialogue with HHCA beneficiaries to identify meaningful and relevant strategies to award more and more homestead awards. Most SCHHA executives have 25 years or more experience on the land and waitlist.

Mahalo.



Robin Puanani Danner, SCHHA Chairman

SCHHA Executive Council ~ Robin Puanani Danner, Chairman - Kauai ~ Kammy Purdy, Vice Chairman - Molokai ~ Michelle Kauhane, Oahu ~ Blossom Feiteira, Maui ~ Mike Hodson, Hawaii Island ~ Kamaki Kanahale, Chair Emeritus ~ Iwalani McBrayer, Housing ~ Teddy Blake, Rights ~ Kekoa Enomoto, Farm ~ Kanani Kapuniai, DHHL ~ Harold Johnston, Telecom ~ Alohi Bikle, Health ~ Leif Mokuahi, Education ~

HB-2464-HD-2

Submitted on: 3/12/2018 1:37:25 PM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Oppose	No

Comments:

HB-2464-HD-2

Submitted on: 3/12/2018 9:58:18 AM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kanoe Medeiros	Individual	Oppose	No

Comments:

Aloha,

As a constituent and DHHL lessee, I strongly OPPOSE HB2464 because it is a detriment to Native Hawaiians, especially DHHL lessees. Essentially, this bill is taking homes away from Native Hawaiians and is by no means helping anyone.

Transfers and sales of DHHL leases are done for many reasons and benefit both parties in agreement to the transfer/sale. This bill penalizes eligible Native Hawaiians by prohibiting standard of living activities enjoyed by all other citizens. Part of home ownership is the right to transfer and/or sell your home and it should not be any different for DHHL lessees.

Please do not allow this bill, HB2464, to go any further. By doing so, you will help Native Hawaiians have homes for generations to come.

Mahalo,

Kanoe Medeiros

Testimony for Public Hearing
Hawaiian Affairs Committee
HB2464 HD2: A Bill to Deny eligibility of native Hawaiians from the
HHCA upon Lease Transfer of a homestead allotment.
Testimony in OPPOSITION

March 11, 2018

Aloha Honorable Chair and Members of the Hawaiian Affairs Committee,

My name is Tamar deFries, a resident of Kalawahine Streamside, a planned residential homestead community. I am adamantly in **OPPOSITION** to HB2464 HD2, as it reduces rights and benefits to native Hawaiians defined in the Hawaiian Homes Commission Act (HHCA) of 1921. I find HB2464 HD2 a direct attack on native Hawaiian rights to self-reliance, because it permanently penalizes a native Hawaiian beneficiary their right to make a personal social and economic decision related to a purchased asset.

Residing on Hawaiian Home Lands is NOT free, as many people assume. Hawaiian Homes lessees must purchase their home, which entails a mortgage. For many lessees, like myself, our home is our only asset and we should have the right to manage our asset as deemed appropriate for our individual life circumstances without penalty and the forced forfeiture of a right and benefit under HHCA.

HB2464 HD2 is personal attack on my rights and benefits as a Hawaiian Homes lessee, because it removes any option for me to sell my home due to my legitimate health condition, so I can move to another home on Hawaiian Homes that is more suitable to my physical health needs. Less than two years ago, I underwent C-3 to C-7 Anterior Cervical Discectomy and Fusion (ACDF) that caused temporary paralysis. The temporary paralysis prohibited my return home for nearly three (3) months, because the “planned” home developed by DHHL requires eighteen (18) stairs with a landing to enter into the living space. The only accessible space at ground level is the garage.

Understanding that I will need to eventually live in a home that meets ADA Standards, due to the irreversible and progressive nerve damage, I met with several contractors to make the necessary ADA Standard improvements. Each contractor felt demolishing and rebuilding the house to be most cost effective, because the design of the house does not lend to “reasonable cost renovation”. Essentially, “renovating” my house will cost **MORE** than the purchase price, while “demolishing and rebuilding” will cost about the same as the purchase price due to the “common wall”. It is important to note that all the Kalawahine Streamside homes planned and developed by DHHL have stairs, which makes the development prohibitive to “aging in place” and/or the disabled living comfortably in their own home.

As a twenty-nine (29) years old graduate student and working mom, I never imagined being disabled nor even considered that I could not “age in place”. I did not view the numerous stairs, small hallway, narrow doorways, and two small bathrooms with tubs as access prohibitive. I only

felt blessed that I could raise my children in a Hawaiian community on my ancestral lands without being economically forced to leave my homeland due to the unaffordable housing market for low- to moderate-income Hawaiian families.

Here we are today, nearly twenty (20) years later, I am faced with the hardship of living in a “barrier” home without an option to utilize my only asset to relocate to another home on Hawaiian Home Lands that will allow me to “age in place” and build a ADA Standard home that meets my needs as a disabled person, because of a very short sided House Bill (HB2464 HD2).

I truly believe that there is a large silent community of Hawaiian Home lessees, particularly among our kupuna (elders) and disabled that are living or will be living in a “barrier” home that is or will negatively affect one’s quality of life and will be forced to endure the suffering, if HB2464 HD2 passes. It is critical to recognize that I want to live in a Hawaiian Homes community and to be forced out of my community, because HB2464 HD2 does not allow me the opportunity to sell my home to purchase or build an ADA Standard home in another Hawaiian Home community is a social and economic crime.

Therefore, I request that the Committee OPPOSE HB2464 HD2, as it punishes some of the most vulnerable populations (the elderly and disabled) among the native Hawaiian community.

Mahalo,

Tamar deFries

Tamar deFries

HB-2464-HD-2

Submitted on: 3/12/2018 3:50:20 PM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Craig "Bo" Kahui	Individual	Oppose	Yes

Comments:

Senate Committee on Hawaiian Affairs: Sen Galuteria and Sen. Shimabukuro,

I'm submitting this testimony opposing HB 2464. I hope I can draw upon a position that places the Department as the sole reasons the wait list is so long and why beneficiaries should not be penalize for preparing to accept an award.

Placing this issue on the "middle class native Hawaiian" for having been prepared to accept a homestead and, after surrendering its lease to its family members, must not prohibit myself or any other beneficiary to get back on the "bottom of the list" to accept another award.

The fact that DHHL has not performed to create an inventory of homesteads to address the waitlist is a reflection of the Department's inefficiency to develop homestead housing for our beneficiaries.. Most egregious is the recent lost of NAHASDA funding that could have built alot of homes for native Hawaiians

Therefore, I respectfully a submit this testimony in opposition of HB 2426.

Mahalo

Bo Kahui

HB-2464-HD-2

Submitted on: 3/12/2018 4:48:09 PM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Diana Shaw	Individual	Oppose	No

Comments:

HB-2464-HD-2

Submitted on: 3/12/2018 5:13:58 PM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lilia Kapuniai	Individual	Oppose	No

Comments:

HB-2464-HD-2

Submitted on: 3/12/2018 9:52:46 PM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kale Medeiros	Individual	Oppose	No

Comments:

As a constituent and a native Hawaiian, I strongly oppose this bill because it does not help native Hawaiians at all.

Please oppose this bill.

thank you,

Kale Medeiros

HB-2464-HD-2

Submitted on: 3/13/2018 3:54:46 AM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments:

In STRONG SUPPORT!

HB-2464-HD-2

Submitted on: 3/13/2018 10:01:22 AM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Bottelo	Individual	Oppose	No

Comments:

Aloha Honorable Chair and Members of the Hawaiian Affairs Committee,

I am speaking in opposition to HB2464 HD2, as it does not protect people who cannot reside in their home due to no fault of their own, such as unforeseen medical issues, aging, or disabilities. I understand that section 2 - a. - (3) of the bill states there could be an exception if "There is another circumstance qualifying as an exception set forth in administrative rules".

This is very vague and does not guarantee that people will have an option to use their only asset (their home) to relocate to another home on Hawaiian Home Lands that is more ADA friendly, allowing them to "age in place" and build an ADA Standard home that meets their needs.

I have lived with my husband in our home in Kahaluu for over 25 years. It has multiple stairs, which was never a problem early in our lives. As we have begun to age, the stairs have become an increasing challenge - carrying groceries or laundry up three flights of stairs, etc. We have contemplated the thought of moving to a more accessible home. I cannot imagine how it would feel knowing that I could not sell my home and move into my same community.

HB2464 HD2 does not allow homesteaders the opportunity to sell their home to purchase or build an ADA Standard home in another Hawaiian Home community, and that is just wrong. Therefore, I request that the Committee OPPOSE HB2464 HD2, as it does not take into account some of the most vulnerable populations (the elderly and disabled) among the native Hawaiian community.

Mahalo - Nancy Bottelo

HB-2464-HD-2

Submitted on: 3/13/2018 10:50:53 AM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
scott mahoney	Individual	Oppose	No

Comments:

this bill is ridiculous and just another attemp by dhhl to tie the hands of hawaiians who are just trying to survive. if a hawaiian has bills to pay and is forced to sell just to make ends meet than why not. there are people who have been on the list for over 50 years and so if i sell what chance would i have to expect to reach the top of the list again. we have so much land available and still dhhl cant put our people on the land yet they continue to try to stop us from staying on the land we have. whoever wrote up this bill is an idiot!!!!!!!1111

HB-2464-HD-2

Submitted on: 3/13/2018 10:42:11 AM

Testimony for HWN on 3/13/2018 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kapua Keliikoa-Kamai	Individual	Support	No

Comments:

Aloha kakou,

I fully support HB2464 HD2 - RELATING TO THE HAWAIIAN HOMES COMMISSION ACT. Makes any person who sells or transfers an interest in a Hawaiian Home Lands lease ineligible to receive a subsequent lease for the same class of land except in limited circumstances.

This Bill allows other waitlisters to rise to the top of the list faster and ensures equity amongst all. Please pass HB 2464 HD2 out of your committee.

Mahalo,

Kapua