

SB-2782

Submitted on: 2/24/2018 10:46:41 AM

Testimony for JDC on 2/27/2018 9:30:00 AM

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.

SB-2782

Submitted on: 2/26/2018 8:21:50 AM

Testimony for JDC on 2/27/2018 9:30:00 AM

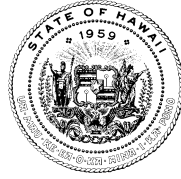
Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Testifying for Ho`omana Pono, LLC	Support	Yes

Comments:

In STRONG SUPPORT.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

SHAN S. TSUTSUI
LT. GOVERNOR
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**

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**TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON JUDICIARY**

IN SUPPORT OF

SB 2782 RELATING TO PERSONAL PRIVACY

February 27, 2018

Aloha Chair Taniguchi and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) strongly supports this bill that creates a new section of the HRS specifying that certain content of the Department's homestead applicant and lessee files are not required to be disclosed. This bill is part of the Governor's administrative package by request of our department.

The Department has received Uniform Information Practices Act (UIPA) requests for specific homestead application files and homestead lease files that include personal contact information, genealogies, finance and loan documents, successorship forms, permission forms regarding the use of records in the file and other correspondence. Public access to this information should be considered an unwarranted invasion of privacy. This bill also allows the Hawaiian Homes Commission to discuss these matters during an executive session recognizing the sensitive nature of these private family matters.

The relationship between DHHL and its applicants and lessees is unique and very different than relationships between other agencies and members of the public they each serve. The department is required to maintain records that affect beneficiaries' day-to-day life related to matters that are highly personal – their home and their families. In many cases the documents in these files may be very old, stretching back 90 years for our oldest homestead communities. This fact distinguishes these beneficiary files from other types of government records, and therefore those documents that are not currently deemed public information should not be required to be disclosed.

Thank you for your consideration of our testimony.

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: February 27, 2018, 9:30 a.m.
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 2782
Relating to Personal Privacy

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) takes **no position** on this bill, which would provide exceptions to public disclosure under chapter 92F, the Uniform Information Practices Act (“UIPA”), for specified information maintained by the Department of Hawaiian Home Lands (“DHHL”) in connection with its lease files. OIP has worked with DHHL in reviewing the draft of the bill and believes the exceptions for public record disclosure provided for in this bill are reasonably limited in scope and in many instances protect information that OIP has already found is not required to be disclosed under the UIPA., so OIP considers the decision on whether to put those exceptions into statute to be a policy call for the Legislature.

The bill’s proposed protection for loan applications and related material specifically excludes information that is required to be disclosed by section 92F-12(a)(8), a UIPA provision requiring disclosure of specific information about government loans including a borrower’s name, address, and occupation and the amount, purpose, and status of the loan. Thus, that information would remain

public. Under current law, additional information about a government loan could theoretically be public if the borrower's privacy interest in the information was outweighed by the public interest in disclosure such that the UIPA's privacy exception did not apply, but in practice, OIP has not found information about DHHL loans to be public beyond the information made public by section 92F-12(a)(8). Thus, while this bill would change the law by definitively making the loan applications and related information confidential except where disclosure was required by section 92F-12(a)(8), it would not change what DHHL loan information the public has been able to access in practice.

The bill also provides protection for consents to release personal information to the DHHL. Such consents may not be categorically exempt from disclosure under current law – OIP has not issued an opinion on them, but it is not clear that the disclosure of a consent to release would be an unwarranted invasion of individual privacy as a general rule. At the same time, though, OIP does not see a strong public interest in inspecting consents to release personal information to DHHL, as they would not shed any particular light on DHHL's performance of its functions. Thus, OIP does not have real concerns about the provision making consents to release personal information confidential.

The remaining provisions would protect lease successor designations: both requests to succeed and designations of successor, for both leases and lease application rights. OIP has previously found similar information to fall within the UIPA's privacy exception. Thus, OIP believes these provisions would simply provide a statutory protection for information that OIP has already found to be protected under the UIPA's privacy exception.

In summary, DHHL narrowly limited the types of information it seeks to protect in this bill to information that either has not previously been public under

the UIPA, or that does not raise serious concerns that the public interest would be harmed by making it confidential. Thus, OIP believes that whether to grant the statutory protection this bill would provide for specified lease file information maintained by DHHL is a policy call for the Legislature to make, and OIP takes no position on this bill.

Thank you for the opportunity to testify.

From: [OIP](#)
To: [JDCTestimony](#)
Cc: [DBFleg.DIR](#)
Subject: SB2782_AGS-OIP_02-27-18_JDC
Date: Monday, February 26, 2018 9:01:16 AM
Attachments: [SB2782_AGS-OIP_02-27-18_JDC.pdf](#)

Submitting testimony for SB2782 to be heard on February 27, 2018.

Thank you!

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