



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 960, RELATING TO PERSONAL PRIVACY.

**BEFORE THE:**

SENATE COMMITTEE ON HAWAIIAN AFFAIRS

**DATE:** Tuesday, February 7, 2017 **TIME:** 1:15 p.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Craig Y. Iha, Deputy Attorney General

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Chair Shimabukuro and Members of the Committee:

The Department of the Attorney General supports this administration measure.

The purpose of this bill is to exempt certain types of homestead application and lease files maintained by the Department of Hawaiian Home Lands from mandatory public inspection requirements under part II, chapter 92F, Hawaii Revised Statutes. We recommend that the bill be further clarified to reflect this purpose by amending lines 6 through 10 on page 1 of the bill as follows:

**§ -1 Government records and personal records;  
department of Hawaiian home lands.** The following government records maintained by the department of Hawaiian home lands shall not be required to be publicly disclosed or made open to [~~public~~] inspection pursuant to public records requests under section 92F-11:

Thank you for the opportunity to testify.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 6, 2017 9:01 PM  
**To:** HWNTestimony  
**Cc:** klhpoliticalactioncommittee@gmail.com  
**Subject:** Submitted testimony for SB960 on Feb 7, 2017 13:15PM

**SB960**

Submitted on: 2/6/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
M. Healani Sonoda-Pale	Ka Lahui Hawaii Political Action Committee	Support	Yes

Comments: Please submit this version of testimony. The first version we submitted had some grammatical errors. Sincerely, Healani

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BEFORE THE COMMITTEE ON HAWAIIAN AFFAIRS

Hawaii State Legislature  
February 7, 2017

Senate Bill 960  
Relating to Personal Privacy

Aloha Chair Shimbukuro, Vice Chair Galuteria and Member of the Committee,

The Ka Lahui Hawaii Political Action Committee (KPAC) supports SB960 Relating to Protecting Privacy of Beneficiary Information.

Personal records maintained by the department of Hawaiian Home Lands related to loans, birth, marriage, death, successors or any other personal information that could be used in identity theft or for political reasons like adding them to unsecure Kana'iowalu list should not be released. The Kana'iowalu or Native Hawaiian Role that has been used to support the Department of Interior Rule has been released to hundreds of people despite the fact that it has personal information. The personal information of beneficiaries and applicants of the Department of Hawaiian Home Lands should not be subject to the Hawai'i State Sunshine laws.

Respectfully submitted,

M. Healani Sonoda-Pale  
Chair, KPAC

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 6, 2017 5:23 PM  
**To:** HWNTestimony  
**Cc:** Kapaakeahomestead@gmail.com  
**Subject:** \*Submitted testimony for SB960 on Feb 7, 2017 13:15PM\*

**SB960**

Submitted on: 2/6/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Doreen Gaspar	Individual	Support	No

Comments:

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# COUNCIL FOR NATIVE HAWAIIAN ADVANCEMENT

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## Testimony in support of **SB960**

Department of Hawaiian Home Lands; Disclosure of Government Records

### COMMITTEE ON HAWAIIAN AFFAIRS

Tuesday, February 7, 2017

Chair Shimabukuro, Vice Chair Galuteria and members of the Committee on Hawaiian Affairs, on behalf of the Council for Native Hawaiian Advancement (CNHA) and our Policy Center, I offer **comments** on **SB960** which specifies certain content of Department of Hawaiian Home Lands homestead applicant and lessee files are not required to be disclosed.

Founded in 2001, CNHA is a Native Hawaii non-profit membership organization with more than 150 voting members. CNHA's mission is to enhance the well being of Hawaii through the cultural, political, economic, and community development of Native Hawaiians. At our Annual Native Hawaiian Convention, we convene a homestead caucus in partnership with the Sovereign Councils of the Hawaiian Homelands Assembly and work throughout the year with homestead leaders from across the state.

CNHA is also a HUD Certified Housing Counseling Agency and a Native Community Development Financial Institution (CDFI), certified by the U.S Treasury Department. We are keenly aware of the need to protect the privacy of HHCA beneficiaries as it pertains to personal loan applications, loan prequalification documents and other information collected to make credit determinations. We support the protection of personal records because we also understand the severity of identify theft that could potentially result from improper use of personal data included in loan application and underwriting files.

In the interest of securing personal information of HHCA beneficiaries, we support SB960.

Mahalo for the opportunity to provide testimony on the measure.

Michelle Kauhane  
President & CEO

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 6, 2017 11:24 AM  
**To:** HWNTestimony  
**Cc:** kaipelayo@gmail.com  
**Subject:** \*Submitted testimony for SB960 on Feb 7, 2017 13:15PM\*

**SB960**

Submitted on: 2/6/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alvin K Pelayo	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 6, 2017 10:39 AM  
**To:** HWNTestimony  
**Cc:** mkkapuniai@gmail.com  
**Subject:** Submitted testimony for SB960 on Feb 7, 2017 13:15PM

**SB960**

Submitted on: 2/6/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marion K A Kapuniai	SCHHA	Support	No

Comments: Information is only to be provided by the Department of Hawaiian Home Lands upon receipt of motorized affidavit by current lessee or current applicant. Thank you! M Kapuniai

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 6, 2017 9:14 AM  
**To:** HWNTestimony  
**Cc:** Fedscoach001@hotmail.com  
**Subject:** Submitted testimony for SB960 on Feb 7, 2017 13:15PM

**SB960**

Submitted on: 2/6/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robert Kaaihue	Individual	Comments Only	No

Comments: I support the above proposal for SB 961.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 5, 2017 3:59 PM  
**To:** HWNTestimony  
**Cc:** dkanealii02@gmail.com  
**Subject:** Submitted testimony for SB960 on Feb 7, 2017 13:15PM

**SB960**

Submitted on: 2/5/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diane Kanealii	Individual	Comments Only	No

Comments: I support and ask for your support in protecting the potential leasees financial information for (1) Loan applications, loan pre qualification documents, loan approval documents, underwriting findings, financial data forms, and financial assessments except where disclosure is required by section 92F-12(a)(8); I do NOT support the part (2) which allows the DHHL to withhold information regarding documents in the application or lessee such as: Designation of successor to a lease; Designation of successor to application rights for homestead lease; Requests to succeed to a homestead lease; and Requests to succeed to application rights. I believe that this she public knowledge to insure that the DHHL is NOT transferring lands to those who were NOT designated by the lessee. Mahalo

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 5, 2017 11:55 AM  
**To:** HWNTestimony  
**Cc:** lady.flach@gmail.com  
**Subject:** \*Submitted testimony for SB960 on Feb 7, 2017 13:15PM\*

**SB960**

Submitted on: 2/5/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teri Heede	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 5:43 PM  
**To:** HWNTestimony  
**Cc:** jflowers7733@gmail.com  
**Subject:** \*Submitted testimony for SB960 on Feb 7, 2017 13:15PM\*

**SB960**

Submitted on: 2/3/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jerry Wayne FlowersJr	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 3:33 PM  
**To:** HWNTestimony  
**Cc:** naregion9@gmail.com  
**Subject:** Submitted testimony for SB960 on Feb 7, 2017 13:15PM

**SB960**

Submitted on: 2/3/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Derek Kimura	Individual	Support	No

Comments: In support of SB960.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 2:24 PM  
**To:** HWNTestimony  
**Cc:** hynmahi@yahoo.com  
**Subject:** \*Submitted testimony for SB960 on Feb 7, 2017 13:15PM\*

**SB960**

Submitted on: 2/3/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
carol lee kamekona	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 1:00 PM  
**To:** HWNTestimony  
**Cc:** shane.nelsen@gmail.com  
**Subject:** \*Submitted testimony for SB960 on Feb 7, 2017 13:15PM\*

**SB960**

Submitted on: 2/3/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shane Nelsen	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 12:06 PM  
**To:** HWNTestimony  
**Cc:** rossdavis777@yahoo.com  
**Subject:** Submitted testimony for SB960 on Feb 7, 2017 13:15PM

**SB960**

Submitted on: 2/3/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gene Ross K. Davis	Individual	Support	Yes

Comments: I fully support SB960. Not all information pertaining to individuals should be considered public information. There are personal information that should be classified as confidential, and received only upon designation of release.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 9:59 AM  
**To:** HWNTestimony  
**Cc:** lawrence@molokaicommunityfcu.com  
**Subject:** Submitted testimony for SB960 on Feb 7, 2017 13:15PM

**SB960**

Submitted on: 2/3/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lawrence K. Lasua	Kalamaula Homesteaders Association	Support	No

Comments: I'm in support of having all of the homesteaders information be protected under the privacy act of all beneficiary information. Lawrence K, Lasua, 3rd Generation Homesteader Kalamaula, Molokai

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 7:38 AM  
**To:** HWNTestimony  
**Cc:** kamakane73@gmail.com  
**Subject:** \*Submitted testimony for SB960 on Feb 7, 2017 13:15PM\*

**SB960**

Submitted on: 2/3/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kama Hopkins	Individual	Support	No

Comments:

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# Waimānalo Hawaiian Homes Association

P.O. Box 353, Waimanalo, Hawaii 96795-0353 • (808) 426-1223

Thursday, February 2, 2017

TESTIMONY IN SUPPORT OF  
SENATE BILL 960  
RELATING TO PERSONAL PRIVACY

Aloha e Chair Shimabukuro, Vice Chair Galuteria and members of the Committee on Hawaiian Affairs,

The Waimānalo Hawaiian Homes Association submits this testimony in **SUPPORT** of Senate Bill 960 relating to personal privacy. This bill will ensure the privacy of specific government and personal records regarding beneficiaries of the Department of Hawaiian Home Lands (DHHL). Thank you for the opportunity to submit testimony.

Kamakana M. Aquino, President  
Waimānalo Hawaiian Homes Association

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 9:36 PM  
**To:** HWNTestimony  
**Cc:** lilia@papakolea.org  
**Subject:** \*Submitted testimony for SB960 on Feb 7, 2017 13:15PM\*

**SB960**

Submitted on: 2/2/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lilia Kapuniai	Individual	Support	No

Comments:

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THE CIVIL BEAT  
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Senate Committee on Hawaiian Affairs  
Honorable Maile S.L. Shimabukuro, Chair  
Honorable Brickwood Galuteria, Vice Chair

**RE: Testimony Commenting on S.B. 960, Relating to the Personal Privacy**  
Hearing: February 7, 2017 at 1:15 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **commenting** on S.B. 960 to the extent it may seek to reverse a 1991 Office of Information Practices (OIP) Opinion declaring that DHHL leases are public records. The Law Center respectfully requests that the Committee clarify in its report that S.B. 960 is not intended to change the law as interpreted in OIP Opinion 91-19.

Records of government land ownership and what the State does with that land, including leasing it to private parties, should be publicly accessible. Citizens should be able to learn how the State is managing the assets entrusted to it. The 1988 Legislature recognized the critical public value of this information when it enacted the Uniform Information Practices Act (UIPA) because it had a specific provision requiring – without exception – that government agencies disclose records of “Land ownership, transfer, and lien records, including real property tax information and leases of state land.” HRS § 92F-12(a)(5).

In 1991, OIP held that the mandatory disclosure provision regarding land ownership required DHHL to disclose information regarding leases of DHHL land. OIP Op. No. 91-19. At DHHL’s request, OIP addressed at length and in detail concerns about privacy and held that lessee data must be released after DHHL removed the lessee’s and spouse’s home address and social security numbers. For more than twenty years, this information has been publicly accessible, and DHHL never challenged the legality of the OIP opinion in court.

As a direct result of OIP’s opinion, citizens have been able to learn more about DHHL leases and raise questions about the Department’s management of State land. *E.g.*, Rob Perez, *Mismanagement Plagues Leases*, Honolulu Star-Advertiser (May 5, 2013). When the public began to question DHHL leasing practices based on the agency’s own data, the Department introduced a bill similar to S.B. 960 to restrict public access. *E.g.*, Rob Perez, *House Committee Advances Hawaiian Home Lands Secrecy Bill*, Honolulu

Star-Advertiser (Feb. 6, 2014) (referring to H.B. 2287 during the 2014 session). There is no basis for taking away the public's right to this information.

In its justification sheet for S.B. 960, DHHL claims that the bill is necessary to protect personal contact information, genealogies, finance and loan documents, and other correspondence. As reflected in OIP Opinion 91-19 and OIP's 2014 testimony on H.B. 2287, most of that information is protected already under the UIPA. DHHL's bill focuses substantially on succession records (designations of successor and requests to succeed). OIP never held that such records on succession are publicly accessible. It provided only that DHHL must provide data on whether a lessee had made a survivorship designation (*i.e.*, status – not names – such as designation approved, no designation made, designation invalid). OIP Op. No. 91-19 at 4-6.

The Law Center would appreciate clarification from the Committee that S.B. 960 is not intended to change the law as interpreted in OIP Opinion 91-19.

Thank you again for the opportunity to testify.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 5:08 PM  
**To:** HWNTestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for SB960 on Feb 7, 2017 13:15PM\*

**SB960**

Submitted on: 2/2/2017

Testimony for HWN on Feb 7, 2017 13:15PM in Conference Room 016

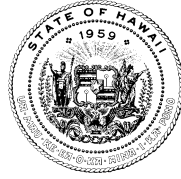
<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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GOVERNOR  
STATE OF HAWAII



JOBIE M. K. MASAGATANI  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

SHAN S. TSUTSUI  
LT. GOVERNOR  
STATE OF HAWAII

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**

**IN SUPPORT OF**

**SB 960 RELATING TO PERSONAL PRIVACY**

February 7, 2017

Aloha Chair Shimabukuro 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.

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.