

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 House Committee on
WATER, LAND, & HAWAIIAN AFFAIRS**

**Wednesday, February 13, 2019
11:15 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 439, HOUSE DRAFT 1
RELATING TO LAND USE**

House Bill 439, House Draft 1 proposes to clarify that lands set aside to the Hawaii Housing Finance and Development Corporation (HHFDC) by the governor are exempt from the definition of “public lands.” **The Department of Land and Natural Resources (Department) offers the following comments on this measure.**

As noted above, the bill exempts land set aside to HHFDC from the definition of public lands under Section 171-2, Hawaii Revised Statutes (HRS). Lands to which the HHFDC in its corporate capacity holds title are already exempt under Section 171-2, HRS. As a result, HHFDC would not need to secure the approval of the Board of Land and Natural Resources (BLNR) for land dispositions relating to HHFDC’s projects under Section 171-11, HRS.

The Department notes that some of HHFDC’s lands are public trust lands that HHFDC manages under executive orders recommended by the BLNR and approved by the Governor. Any lands no longer needed for housing, finance, and development purposes should to be returned to the public trust administered by the Department.

Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

February 13, 2019 at 11:15 a.m.
State Capitol, Room 325

In consideration of
H.B. 439, H.D. 1
RELATING TO LAND USE.

The HHFDC supports H.B. 439, H.D. 1, which exempts lands set aside to the HHFDC by Executive Order from the statutory definition of "public lands." Currently, lands to which HHFDC holds title to in its corporate capacity are exempt from the definition of "public lands." This exemption will help HHFDC to expedite housing development on state lands.

Thank you for the opportunity to testify.



**HB439 HD1
RELATING TO LAND USE**

House Committee on Water, Land & Hawaiian Affairs

February 13, 2019

11:15 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** HB439 HD1, which may inadvertently allow for the sale or alienation of public and “ceded” lands without the procedural safeguards found in Chapter 171. Accordingly, should the Committees choose to move this measure forward, OHA respectfully requests an amendment to ensure that lands set aside from the Governor to the Hawaii Housing Finance and Development Corporation (HHFDC) remain consistently protected against inappropriate alienation, notwithstanding their proposed exemption from the definition of “public lands” in HRS § 171-2.

OHA appreciates that the HHFDC may benefit from greater flexibility and autonomy over the management and disposition of lands that may potentially fall within its control, particularly given its considerable mission to oversee affordable housing finance and development in Hawai‘i. OHA understands that this measure would accordingly remove lands set aside by the Governor to the HHFDC from Board of Land and Natural Resources’ oversight and management under Chapter 171, through an amendment to the definition of “public lands” in HRS §171-2.

Again, to ensure that HHFDC lands are treated consistently with lands HHFDC holds title in and other state lands generally removed from BLNR jurisdiction, OHA requests that this measure expressly reaffirm that current legislative approval requirements for the sale or alienation of any state lands, as found in HRS §171-64.7, also apply to all lands which may be set aside to the HHFDC. This statutory requirement is critical to maintaining the “ceded” lands corpus, and its enactment was a condition precedent to the settlement agreement in the OHA v. Housing and Community Development Corporation of Hawai‘i lawsuit, brought in response to the State’s actions to sell and otherwise alienate “ceded” lands. **OHA objects to the sale of “ceded” lands except in limited circumstances, and notes that the legislative approval requirements for the sale of state lands in HRS § 171-64.7 were enacted to ensure a high level of accountability and transparency in any proposed alienation of the state’s limited land base, and to protect “ceded” lands from being sold prior to the resolution of Native Hawaiians’ unrelinquished claims.**

OHA recognizes that under this measure, HHFDC would continue to be required to obtain legislative approval pursuant to HRS § 171-64.7, to sell or otherwise alienate

lands to which it holds title. However, the amendments proposed in this bill may create confusion and inconsistency with regards to applicability of HRS § 171-64.7 to the sale or alienation of lands set aside to HHFDC. **Therefore, should the Committees choose to move this measure, OHA respectfully asks that parallel language be inserted into subsection (a)(4) of HRS § 171-64.7, to read as follows:**

“(4) Lands that are set aside by the governor to the Hawaii housing finance and development corporation or lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;”

Mahalo a nui for the opportunity to testify on this measure.



February 11, 2019

Representative Ryan I. Yamane, Chair
Representative Chris Todd, Vice Chair
House Committee on Water, Land & Hawaiian Affairs

Comments in Support of HB 439, HD1, Relating to Land Use (Exempts lands set aside by the Governor for the Hawaii Housing Finance and Development Corporation [HHFDC] from classification as “public land.”)

Wednesday, February 13, 2019 at 11:15 a.m. in Conf. Rm. 325

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF’s mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii’s significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to provide comments in **strong support of HB 439, HD1.**

HB 439, HD1. The purpose of this bill is to exempt lands set aside by the Governor for the HHFDC from classification as “public land.” The proposed exemption would streamline the process and procedures required to be followed to develop housing projects on state lands which have been set aside to HHFDC, thereby appreciably expediting the development of such projects.

LURF’s Position. Despite the approval of the Board of Land and Natural Resources (BLNR) and issuance of the Executive Order by the Governor to effectuate the set aside of these lands, HHFDC must currently go back before the BLNR to obtain other approvals necessary for housing development, including rights of entry for planning purposes; Condominium Property Regime(CPR) processing; ground leases to developers; and subleases to limited partnerships or limited liability corporations created specifically for the housing project and/or for mortgage financing.

LURF believes allowing the exemption of lands set aside to HHFDC from the definition of “public land” would greatly assist in accelerating development of much-needed and anticipated housing projects.

The lack of affordable housing remains a significant problem affecting Hawaii and finding ways to provide sufficient housing for Hawaii’s residents has continued to be a major objective for the Legislature, state and county agencies, and members of the housing industry and business community.

Logical changes to existing laws such as the exemption proposed by this bill are therefore significant and necessary and should be welcomed as a method to assist with addressing the diminished supply of affordable housing in Hawaii. Such seemingly small measures have the potential to result in substantial and positive impacts on housing, as well as invigorating the local construction industry and advancing the State’s economy and general welfare.

For these reasons, LURF **supports HB 439, HD1**, and respectfully urges your favorable consideration.

Thank you for the opportunity to provide comments in strong support of this matter.

LATE

HB-439-HD-1

Submitted on: 2/13/2019 4:00:07 AM

Testimony for WLH on 2/13/2019 11:15:00 AM

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

Comments:

WE STRONGLY OPPOSE THIS BILL, AS IT HAS THE POTENTIAL TO ADVERSELY AFFECT THE CEDED LANDS 5(f) REVENUE PURSUANT TO HRS 171.



LATE

**TESTIMONY TO THE HOUSE COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS
State Capitol, Conference Room 325
415 South Beretania Street
11:15 AM**

February 13, 2019

RE: HOUSE BILL NO. 439 HD 1, RELATED TO LAND USE

Chair Yamane, Vice Chair Todd, and members of the committee:

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. Our members build the communities we all call home.

BIA-Hawaii is in strong support of H.B. 439 HD 1, which proposes to exempt lands set aside by the Governor to the Hawaii Housing Finance and Development Corporation (HHFDC) from classification as "public lands", subject to management by the Department of Land and Natural Resources.

We understand that Chapter 171, HRS already exempts lands that HHFDC holds title to from the definition of "public lands." Exempting lands set aside to HHFDC would create more opportunities for HHFDC to develop affordable housing on state owned lands, without having to obtain approval from the Board of Land and Natural Resources for ministerial real estate transactions/approvals (i.e. consents, leases, sub-leases, etc.).

We are in strong support of H.B. 439 HD 1, and appreciate the opportunity provide comments on the matter.