



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 FINANCE

March 28, 2019 at 2:00 p.m.
State Capitol, Room 308

In consideration of
S.B. 1190, S.D. 2, H.D. 2
RELATING TO LEASEHOLD CONDOMINIUMS ON LANDS CONTROLLED BY THE STATE.

The HHFDC supports S.B. 1190, S.D. 2, H.D. 2. HHFDC proposed this measure so that we may develop affordable condominium projects on State lands along the rail transit line as sustainable affordable leasehold condominiums, similar to sustainable affordable developments as defined in §516-1, Hawaii Revised Statutes (HRS). Based on the advice of national affordable housing financing experts, the extended lease terms (i.e., 99 years) are necessary to finance these developments without major financial support from the State.

The leasehold sale of the condominium units would be subject to resale and shared appreciation equity restrictions under §§201H-47, -49, and -50. Based on the advice of national affordable housing financing experts, the extended lease terms (i.e., 99 years) are necessary to finance these developments without major financial support from the State.

Sustainable affordable leases are intended to maintain continued affordability of the leased units and therefore must satisfy the requirements set out in §516-1, HRS. Sustainable affordable leases are exempt from the Land Reform Act as set forth in Chapter 516, HRS, as are leasehold condominium developments in general. Accordingly, the fee simple interest in lands upon which these condominiums are located will remain with the State without risk of lease-to-fee conversion.

Thank you for the opportunity to testify.



SB1190 SD2 HD2
RELATING TO PUBLIC LANDS
House Committee on Finance

March 28, 2019

2:00 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB1190 SD2 HD2, which authorizes the Hawai'i Housing Finance and Development Corporation (HHFDC) to sell leasehold units in condominiums on public lands, including "ceded" and public land trust lands, for lease terms of up to 99 years. **OHA appreciates the amendments in the previous drafts of this measure, reflecting OHA's recommendations to better safeguard the "ceded" lands corpus against inappropriate alienation and potential violations of the state's fiduciary obligations under the public trust and public land trust, and requests that prior amendments limiting leasehold interests to no more than 75 years be restored.**

OHA expressed concerns in previous versions of this measure, which might have inadvertently allowed for the sale or alienation of public and "ceded" lands without the procedural safeguards found in Chapter 171. Although 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, by excepting lands set aside or leased to HHFDC from the definition of "public lands" in HRS §171-2, the original version of this measure would have resulted in confusion over whether such lands may be sold without the legislative approval requirements of HRS §171-64.7. **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.** Accordingly, OHA appreciates the amendments made and retained in the current draft, ensuring that lands leased or set aside to the HHFDC remain subject to the requirements of HRS §171-64.7.

OHA continues to be concerned with the extremely long, multi-generational 99 year leases originally authorized by and reinserted into the current draft of this bill. Such long-term leasehold interests can substantially and unnecessarily inhibit future generations from ensuring the best use of public lands, consistent with the state's fiduciary obligations under the public trust and public land trust, and may foster a sense of entitlement in lessees that could result and has in the past resulted in the alienation of public and "ceded" lands. While OHA understands that certain federal financing programs may require leasehold interests of 75 years, the 99-year leasehold interests in

public lands approved by this measure exceed even this long 75-year lease term timeline. Thus, should the Committee choose to move this measure forward, OHA respectfully urges the Committee to amend the language on to page 1, lines 8-10 to read as follows:

"(b) The term of the lease may be for seventy-five years."

Mahalo nui for the opportunity to testify on this measure.

SB-1190-HD-2

Submitted on: 3/26/2019 8:09:06 PM

Testimony for FIN on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Goodman	Hawaii Kai Homeless Task Force	Support	Yes

Comments:

TO:	The House Committee on Finance
FROM:	Mike Goodman, Director of the Hawaii Kai Homeless Task Force & Member of the Partners In Care Advocacy Committee.
RE:	SB1190 SD2, HD2
HEARING:	Thursday March 28, 2019 2:00 P.M. Conf. Room 308

Dear Representative Luke, Chair, and Representative Cullen, Vice Chair, and all Members of the Committee on Finance, thank you for the opportunity to provide testimony in support of SB1190.

For the last 50 years, the State of Hawaii and various counties were unable to create a enough affordable housing to affect market prices. Only those lucky enough to get apartments were helped.

The strategy was to construct housing that costs as much to build as market-rate housing and make it affordable for some, by shifting the cost to developers and tax payers. This was a woefully inadequate way to resist the powerful law of supply and demand. The result was hundreds of units built when many thousands were needed, with little or no effect on the cost of market-rate housing.

SB1190 should be enacted for the same reasons SB1 should be enacted. Senator Chang, and others introduced SB1, "Aloha Homes", which is the first truly feasible plan to address the high cost of housing by building 60 thousand units at no cost to the State. Essential to the success of SB1, is using leased State land to build residential condominiums financed by bonds that would be repaid by the individual condominium owners. The efficacy of building Aloha Homes under SB1 was proved in Singapore. Because of Senator Chang and others, we finally have a solution to a vexing problem.

Like SB1, SB1190 allows condominiums to be built on leased State land and will thereby radically increase affordable housing in our State.

Thank you for the opportunity to testify.



LATE

**TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE
State Capitol, Conference Room 308
415 South Beretania Street
2:00 PM**

March 28, 2019

RE: SENATE BILL NO. 1190 SD 2, HD 2, RELATING TO LEASEHOLD CONDOMINIUMS ON LANDS CONTROLLED BY THE STATE

Chair Luke, Vice Chair Cullen, 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 S.B. 1190, SD 2, HD 2, which proposes to authorize Hawaii Housing Finance and Development Corporation to enter into ninety-nine (99) year leases of units in residential condominiums located on state lands.

Most residential developments on leasehold lands require extended lease terms to make projects economically feasible. As a major landowner at several rail stations along the transit corridor, the proposed bill would provide the state flexibility in negotiating with investors who would be building residential condominiums on the state-owned lands. At the end of the day, the real estate transaction is a "lease" and not a conveyance in fee. We believe the bill would broaden the interest among private developers to consider developments on state-owned lands.

We are in strong support of S.B. 1190 SD 2, HD 2, and appreciate the opportunity to express our views on this matter.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Finance
Thursday, March 28, 2019 at 2:00 P.M.
Conference Room 308, State Capitol**

LATE

**RE: SB 1190 SD2 HD2 RELATING TO LEASEHOLD CONDOMINIUMS ON LANDS CONTROLLED
BY THE STATE**

Chair Luke, Vice Chair Cullen and Members of the Committee:

The Chamber of Commerce Hawaii (“The Chamber”) supports SB 1190 SD 2 HD 2, which proposes to authorize Hawaii Housing Finance and Development Corporation to enter into ninety-nine (99) year leases of units in residential condominiums located on state lands.

The Chamber is Hawaii’s leading statewide business advocacy organization, representing 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of members and the entire business community to improve the state’s economic climate and to foster positive action on issues of common concern.

Most residential developments on leasehold lands require extended lease terms to make projects economically feasible. As a major landowner at several rail stations along the transit corridor, the proposed bill would provide the State flexibility in negotiating with investors who would be building residential condominiums on the state-owned lands. At the end of the day, the real estate transaction is a “Lease” and not a conveyance in fee. We believe the bill would broaden the interest among private developers to consider developments on State owned lands.

Thank you for the opportunity to provide testimony.



LATE

March 28, 2019

Representative Sylvia Luke, Chair
Representative Ty J.K Cullen Chair
House Committee on Finance

Support of SB 1190, SD1, HD2 Relating to Leasehold Condominiums on Lands Controlled by the State (Authorizes the Hawaii Housing Finance and Development Corporation (HHFDC) to enter into 99-year leases for residential condominium units developed on state lands. Exempts certain land from the definition of public land. Subjects certain land to the legislative approval requirement for the sale or gift of the lands.)

FIN Hrg: Thursday, March 28, 2019 at 2:00 p.m. in Conf. Rm. 308

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers resort operators and utility companies. 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 express its **support for SB 1190, SD1, HD2.**

SB 1190, SD1, HD2. This bill authorizes HHFDC to enter into ninety-nine year leases of units in residential condominiums located on state lands; and subjects lands set aside by the governor or lands leased to HHFDC by any agency or department of the State to the legislative approval requirement prior to the sale or gift of the lands.

LURF's Position. LURF supports **SB 1190, SD1, HD2**, based on, among other things, the following:

1. **The ninety-nine year leases in this bill are comparable with and much shorter than the Department of Hawaiian Homelands' (DHHL) ninety-nine (99-year) and one hundred ninety-nine-year (199-year) DHHL homestead leases!** DHHL was established pursuant to the Hawaiian

Homes Commission Act, 1920, as amended (HHCA), which was passed by Congress and signed into law by President Warren Harding on July 9, 1921.¹ The HHCA provides for a government-sponsored homesteading program for Native Hawaiians, who are defined as individuals having at least fifty percent Hawaiian blood.² Pursuant to provisions of the HHCA, the DHHL provides direct benefits to native Hawaiians with **ninety-nine-year homestead leases** at an annual rental of \$1. **In 1990, the Legislature authorized the Department to extend leases for an aggregate term not to exceed 199 years.**³

2. **This bill is justified by the following reasons:**
 - a. The state will forever own the fee simple land underlying the condominiums.
 - b. A percentage of the residential rental units will be leased at affordable prices, and will be leased to low-income individuals and families, based on the affordable housing income levels established by the Federal Housing and Urban Development (HUD) Guidelines under the State's affordable housing law, 201H-32 Hawaii Revised Statutes (HRS).
 - c. The lease prices for the affordable units will be restricted by, and must comply with the HUD Guidelines under the State's affordable housing law, 201H-32, HRS.

3. **Using the HD2 version of the bill, developers can finance and build, thousands of affordable condominium units which can be leased by qualified applicants, including Office of Hawaiian Affairs beneficiaries.**

For the above reasons, LURF **supports SB 1190, SD1, HD2** and respectfully urges that your Committee to favorably consider this bill.

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

¹ See Ch. 42, 42 Stat. 108 (1921).

² See Section 201, HHCA; sections 10-2 and 674-2, HRS.

³ See Act 305, SLH 1990; section 208, HHCA.