



SB1190
RELATING TO PUBLIC LANDS
Senate Committee on Housing
Senate Committee on Water and Land

February 12, 2019

1:15 p.m.

Room 225

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB1190, which may inadvertently (i) result in leases that inhibit the state's fiduciary obligations under the public trust and the public land trust and (ii) 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 the following amendments be made to ensure that leases term lengths are reasonably set, and state-owned lands set aside from the Governor or leased 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 by way of HRS 210H.

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 state-owned lands set aside by the Governor or leased to the HHFDC from the Board of Land and Natural Resources' oversight and management under Chapter 171, by excepting such lands from the definition of "public lands" in HRS §171-2.

Again, to ensure that HHFDC lands are treated consistently with lands HHFDC holds in title 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 or leased to 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 leased or set aside to HHFDC, but held by another entity. **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, lands leased to the Hawaii housing finance and development corporation by the department or agency of the State, or lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;”

Additionally, extremely long-term multi-generational leases, such as those currently proposed, may inhibit multiple future generations from ensuring the best use of public lands and public land trust lands, and may inadvertently create a sense of entitlement on the part of lessees that has led and may continue to lead to the alienation of public land, including “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 relatively long 75-year lease term timeline. Thus, OHA suggests an amendment to page 1, lines 8-10 to read as follows:

“§201H- Leasehold condominiums on state land. (a) The corporation may sell leasehold units in condominiums created pursuant to chapter 514B and developed under this part on state land to a "qualified resident" as defined in section 201H-32. (b) The term of the lease may be for seventy-five years.”

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

DAVID Y. IGE
GOVERNOR



LATE

CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

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

IN REPLY REFER TO:

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

**SENATE COMMITTEE ON HOUSING
SENATE COMMITTEE ON WATER AND LAND**

February 12, 2019 at 1:15 p.m.
State Capitol, Room 225

In consideration of

S.B. 1190

**RELATING TO LEASEHOLD CONDOMINIUMS ON LANDS CONTROLLED BY THE
STATE.**

The HHFDC supports S.B. 1190, a bill authorizing HHFDC to develop and sell leasehold units in condominiums developed on state lands that are set aside to the HHFDC by the Governor and lands leased to the HHFDC by any state department or agency, in addition to lands to which HHFDC holds title, for terms of up to 99 years.

Allowing HHFDC to sell leasehold units in condominiums developed on state land to qualified residents will provide homeownership opportunities to Hawaii residents without necessitating the sale of the state land in fee simple. It is anticipated that the State will have to pay for or finance the infrastructure costs for affordable for sales leasehold housing on state lands both on Oahu and the neighbor islands. If the sales price of a leasehold condominium unit will pay for its construction cost, there is a possibility that most of the unit's allocable share of infrastructure costs may be recovered over the term of a unit's lease.

Thank you for the opportunity to testify.



LATE

DAVID Y. IGE
GOVERNOR
MIKE MCCARTNEY
DIRECTOR

**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
MIKE MCCARTNEY
Director
Department of Business, Economic Development and Tourism
before the
**SENATE COMMITTEE ON HOUSING
AND
SENATE COMMITTEE ON WATER AND LAND**
Tuesday, February 12, 2019
1:15 PM
State Capitol, Conference Room 225

in consideration of
SB 1190
**RELATING TO LEASEHOLD CONDOMINIUMS ON
LANDS CONTROLLED BY THE STATE.**

Chairs Chang and Kahele, Vice Chairs Kanuha and Keith-Agaran, and Members
of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT)
strongly supports SB 1190, a bill authorizing HHFDC to develop and sell leasehold
units in condominiums developed on state lands that are set aside to the HHFDC by the
Governor and lands leased to the HHFDC by any state department or agency, in
addition to lands to which HHFDC holds title, for terms of up to 99 years. This bill will
help increase the inventory of affordable for-sale leasehold housing on State lands.

Thank you for the opportunity to testify.

LATE



**TESTIMONY TO THE SENATE COMMITTEES ON HOUSING, AND WATER AND LAND
State Capitol, Conference Room 225
415 South Beretania Street
1:15 PM**

February 12, 2019

RE: SENATE BILLS NO. 1190 and 1309, BOTH RELATING TO LEASEHOLD CONDOMINIUMS ON LANDS CONTROLLED BY THE STATE

Chairs Chang and Kahele, Vice Chairs Kanuha and Keith-Agaran, and members of the committees:

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 both S.B. 1190 and S.B. 1309, which proposes to authorize the Hawaii Housing Finance and Development Corporation to enter into ninety-nine 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 state-owned lands. We believe the bill would broaden the interest among private developers to consider developments on state-owned lands.

We are in strong support of both S.B. 1190 and S.B. 1309, and appreciate the opportunity to express our views on this matter.