



SB710
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** SB710, 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 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.

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 and lands leased 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 leased or 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 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 Hawaiian 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;"

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

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
HOUSING
and
WATER AND LAND**

**Tuesday, February 12, 2019
1:15 PM
State Capitol, Conference Room 225**

**In consideration of
SENATE BILL 710
RELATING TO PUBLIC LANDS**

Senate Bill 710 proposes to clarify that lands set aside to the Hawaii Housing Finance and Development Corporation (HHFDC) by the Governor or leased to the corporation by other state departments and agencies 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 or leased 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 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

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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DAVID Y. IGE
GOVERNOR



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CRAIG K. HIRAI
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STATE OF HAWAII

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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. 710
RELATING TO PUBLIC LANDS.

The HHFDC supports S.B. 710, which exempts lands set aside to the HHFDC by Executive Order or by lease from other State departments or agencies 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.