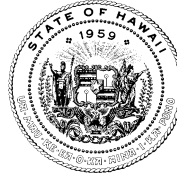


DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



LATE

JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

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
HEARING ON JANUARY 31, 2019 AT 1:15PM IN CR 016

SB 212 RELATING TO HAWAIIAN HOME LANDS

January 30, 2019

Aloha Chair Shimabukuro and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits comments on this bill, which provides that a lessee of Hawaiian Homelands may use the value of the lease as collateral for a loan to build a dwelling on the tract of leased land, provided that a lender who does not qualify to be a lessee of Hawaiian Homes under this Act shall not become a lessee of the respective tract of land.

The Department appreciates the overall motivation behind this measure, which seeks to find solutions to bring greater opportunities to lessees. A meeting between DHHL and members of the committee that worked on this legislation was held last week. During this meeting, details related to DHHL leases and loans were shared because the committee members were operating from incomplete information about DHHL's lease and loan processes. DHHL's main concern is that this measure or any similar bills carefully weigh improved outcomes against unintended consequences.

Thank you for your consideration of our testimony.

LATE

SB-212

Submitted on: 1/30/2019 11:21:46 PM

Testimony for HWN on 1/31/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie Lauifi	Testifying for Kalamaula Homesteaders Association	Support	No

Comments:

SB-212

Submitted on: 1/25/2019 3:58:53 PM

Testimony for HWN on 1/31/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

PETER SAVIO
(808) 951-8976
1451 S. King Street, Suite 504
Honolulu, Hawaii 96814-2509

Senator Maile Shimabukuro, Chair
Senator Kaiali'i Kahele, Vice Chair

Thursday, January 31, 2019

RE: Testimony in Support S.B. 212

I support S.B. 212.

I recently had the privilege of working with a group of local residents, mostly Native Hawaiians under the Fulfilled Prince Kuhio's Promise of 1921. (Build more Hawaiian Homes working groups).

Our challenge was to find a way to increase the number of homes built and make it easier for Hawaiians to receive a lease and qualify to build a home. We came up with a number of suggestions.

The first one is doing what Senate Bill 212 does. The Hawaiian homes lease is the only long term land lease that I know of in Hawaii which does not allow the holder of the lease to use the value of the lease as collateral for building homes. Basically, when Hawaiian Homes issue a lease that lease is extremely favorable. It is a \$1.00 a year and set for 99 years. That lease automatically has a market value comparable to the fee-simple value of the land.

By passing this Bill, you will take the first step of modernizing the lease and having the Trust allow the appraiser to give the lease a market value. The recipient of that lease should be able to use the value as his down payment of equity when building or remodeling.

This solves the biggest problem for beneficiaries being offered a lease but not having the down payment needed to build a home. Under the present system, you are also giving the value to the beneficiary but then not allowing them to use it.

THIS IS WRONG.

Imagine the Hawaiian families constantly being offered a lease and never being able to accept the offer since they do not have the savings needed for the down payment. This would be true for most working families in Hawaii-not having the \$50,000 to \$80,000 needed for a down payment. The sense of failure must have been depressing for that family.

Yet as soon as they are given the lease they are given the value of the lease but not allowed to use that value to build and/or repair existing homes. This Bill is the first step in correcting their problem.

Remember the debt is not on the land, but on the lease. The land is debt free similar to a Kamehameha Schools residential lease.

I would suggest we change the language about the bank not being able to become the leases to language that states the lease must be foreclosed on it must be resold to a Native Hawaiian family or individual on the waiting list. If the financial institution takes title during a foreclosure must be rented to a qualified Native Hawaiian or sold to a qualified Native Hawaiian.

I would also like to mention this bill is only the first step. Additional bills should be proposed to:

1. The lease should also be modernized as required in a bill through the House of Representatives so that it meets all the requirements of all federal and state lenders. Basically, buying a Hawaiian Home Land lease of Par with the lease owner by all the other Native Hawaiian estates and private land owners in Hawaii.
2. Also, remove the 50% blood quotient after discussion with the Native Hawaiian community. I found strong opposition to any change but almost unanimous agreement to the change as long as any change kept the 50% beneficiaries at the top of the list and gave them first change on any lease offered.
3. Also, looks at the option of a monetizing the estate by allowing Native Hawaiian leases to pay voluntarily more than the \$1.00 in rent as long as the extra funds go to buy more land for the future.

By lessees agreeing to voluntarily making pledges to pay additional rent, the estate could borrow money based on the extra income and purchase land for the future.

Again, I got strong opposition to this but again almost universal support if (a) the extra income does not release the state and federal government of any obligation they have to the Hawaiian commitment; and (b) the fund are used to buy more land (Hawaiians helping Hawaiians).

4. The process of awarding and approving issues of a lease or assignment of a lease needs to be shortened to no more than 30 days.

I thank you for your first steps and encourage you to continue the process until every Native Hawaiian family who wants to live on Hawaiian Home Lands has been issued a modern Hawaiian Homes lease.

SB-212

Submitted on: 1/30/2019 12:05:46 PM

Testimony for HWN on 1/31/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marion K A Kapuniai	Individual	Oppose	No

Comments:

Applicants and Lessees have to be able to way in on this one, before the Hawaiian Homes Commission and the Hawaii State Legislature decides.

Thank you!

SB-212

Submitted on: 1/30/2019 2:38:08 PM

Testimony for HWN on 1/31/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher Baron	Individual	Support	No

Comments:

I speak for many fellow citizens, ohana and friends in urging expedited passage of this bill, Mahalo

LATE

SB-212

Submitted on: 1/30/2019 7:04:07 PM

Testimony for HWN on 1/31/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen K Frank	Individual	Support	No

Comments:

I support this bill, it will allow leasees to utilize the value of the land to offset mortgage lender down payment requirements to possibly allow 100% financing and help more leasees obtain financing.

LATE

SB-212

Submitted on: 1/30/2019 11:13:57 PM

Testimony for HWN on 1/31/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Doreen Gaspar	Individual	Support	No

Comments:



January 31, 2019

LATE

To: Sen. Maile Shimabukuro, Chair
Sen. Kai Kahele, Vice Chair
Members of the Senate Committee on Hawaiian Affairs

Re: Hearing on SB212 Relating to Hawaiian Home Lands

January 31, 2019 at 1:15 pm
Hawai'i State Capitol
Conference Room 016

COMMENTS ON SB212

The Council for Native Hawaiian Advancement notes that SB212 attempts to assist homestead beneficiaries by allowing them to access the value of their leased land, allowing them to capitalize that value to refinance their houses with greater ease, to borrow money to build, expand, and rehabilitate their homes, to borrow money to send their kids to college, to borrow money to start businesses, to borrow money to meet medical or other emergencies, and so on.

CNHA has concerns about the unintended consequences that could come from this legislation without adequate research, clarification, or shared understanding. Our concerns are that trust lands cannot be removed from, forfeited by, or levied upon any third party for any reason whatsoever. Were that possible, the character of these lands as trust lands would be jeopardy, and it is possible that these lands could be removed from the trust by the action of a third party collecting and foreclosing on a debt. Such a possibility is not and should not ever be allowed to become a reality.

As a remedy to this situation, the federal government has created numerous grant and loan products to assist homesteaders in financing the building and purchase of their home, the borrowing of funds against the value of the structure on their homestead, and other financing tools. These tools were originally created for Tribally Designated Housing Entities on Indian reservations as part of federally recognized sovereign tribal governments and are now available to homesteaders on the Hawaiian Homelands through federal legislation empowering the State Department of Hawaiian Homelands to perform such a function, even though the DHHL itself is not a native Hawaiian sovereign government.

In light of our concerns, CNHA is recommending this bill be turned into a resolution that creates a working group to explore the adequacy and availability of financing products now available under the loan funds presently available to and managed by the DHHL for the benefit of the native Hawaiian beneficiaries of the Hawaiian homesteads.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Kuhio Lewis', is positioned above the typed name.

J. Kuhio Lewis
Chief Executive Officer
Council for Native Hawaiian Advancement

LATE

SB-212

Submitted on: 1/31/2019 12:22:06 PM

Testimony for HWN on 1/31/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kapua Keliikoa-Kamai	Individual	Support	Yes

Comments:

Aloha Chair Shimabukuro, Vice Chair Kahele and Committee Members,

I support SB 212 RELATING TO HAWAIIAN HOME LANDS. I request that you ensure that no loopholes exists for non-qualified lenders to receive the HHL tract lease. Mahalo.

I appreciate and support the current leadership of Jobie Masagatani and the opportunities implemented on our behalf. I remain a proud HHCA beneficiary and HHL lessee. Mahalo for this opportunity to support SB 212 and it's beneficiaries.

Kapua Keliikoa-Kamai

Wai'anae Valley Homestead

LATE

SB-212

Submitted on: 1/31/2019 12:45:57 PM

Testimony for HWN on 1/31/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
M. Healani Sonoda-Pale	Testifying for Ka Lahui Hawaii Political Action Committee	Comments	No

Comments:

BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS

JANUARY 31, 2019

Senate Bill 212

Relating to the Hawaiian Home Lands

Aloha Chair Shimabukuro, Vice Chair Kahele, and Members of the Committee,

KPAC submits the following comments Senate Bill 212 providing that a lessee of Hawaiian Homelands may use the value of the lease as collateral for a loan to build a dwelling on the tract of leased land.

Ka LĀ• hui Hawai'i Political Action Committee (KPAC) **urges caution moving forward** with this measure which may have unintended consequences of lease to fee conversions, repossession of lands by the banks, and ultimately the breaking of a century old trust that serves tens of thousands of the Kanaka Maoli homesteaders. We understand that there are currently over 20,000 applicants on the list waiting to receive land awards and that this measure may help alleviate the financial burden of prequalifying for a loan, therefore, we urge the State to do a comprehensive financial study and analysis of the impacts **before** embarking on this road whereby lessees are able to use their leases as collateral.

Respectfully submitted,

M. Healani Sonoda-Pale

Chair, KPAC

LATE

To: Hawai'i State Senate Committee on Hawaiian Affairs

Date: January 30, 2019

Testimony of: Peter Apo, peterapocompany@gmail.com, (808) 256-6191

Scheduled Public Hearing: 1:15 pm / Thursday, January 31

Subject: SB 212 Relating to Hawaiian Home Lands

Position: Support

ORAL TESTIMONY

Aloha Madame Chair Shimabukuro, Vice Chair Kahele, and members of the committee. Being respectful of your time my oral testimony is limited to brief comments relating to the following talking points.

Support testimony of Peter Savio.

- My Family History w/DHHL Entitlement
t

Father: No bankable asset, government dependency model, absent the any opportunity for self-determination of the individual and his or her family.

Brother: Lost it all.

- The dignity of self-determination

Normalize Hawaiian home ownership by providing for leasehold equity in the land. The pride of home ownership, especially in Hawai'i where the dream is beyond reach for the vast majority of locals is a simple matter of human dignity and family pride.

- Protect those already in line first

No question. Provide protection for the 50% and their successors.

- The Trust Responsibility – The buck stops with you the policy makers.

*2 Opportunities: **First**, for a renewed sense of commitment on the part of the Legislature and the Executive branch to ramp up the effort to honor a 100 year old obligation to native Hawaiians which is still miles from achieving the original intent of the Hawaiian Homestead Act, and; **Second** opportunity is to engage in strategic dialogue on resolving the challenges that will finally honor the promise made in 1920.*

- Strategic Intervention – Transparency of Process
No good guys and bad guys
Act on low hanging fruit in current session

Want to make clear that what's being proposed by those of us in the Broken Promises Working Group there is not only no intent to circumvent any stakeholders or other interested parties – but – we seek total transparency and opportunities for engagement.

The challenge of what's being proposed in SB 212 is far from a simple explanation so just sorting through all the moving parts will take, patience, perseverance, commitment, and an inclusive process that engages all the stakeholders.

The Legislative process is the right place to start.

- Duality of Implementation:
Executive authority
Legislative amendment to the Act

Each has a role to play and hopefully there will be a sorting out of authority between the two branches of government as part of the dialogue.

- Formalize interim work to establish a continuum of the initiative

Two Houses work together toward a Joint Resolution to prescribe interim work to include opportunities for public dialogue.

LATE

Testimony in Opposition of SB 212

SENATE COMMITTEE ON HAWAIIAN AFFAIRS

Senator Maile S.L. Shimabukuro, Chair

Senator Kaiali'i Kahele, Vice Chair

SB 212 RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

January 31, 2019

Aloha Chair Shimabukuro and members of the Committee,

My name is Homelani Schaedel. I am a lessee residing at Malu'ohai homestead in Kapolei for the past 17 years, a homestead leader in the Kapolei region, a beneficiary and advocate for the Hawaiian Home Lands Trust.

As a beneficiary, I'm confused and seriously concerned at the lack of propriety to amend and add a new section to the Hawaiian Homes Commission Act (HHCA) in this manner without beneficiary consultation.

It's preposterous to me that this bill consist of only 7 lines, does not reference any portion of, or where it should be placed in the HHCA, and you're o.k. with submitting this in its' current form to the Governor and Congress for approval.

This "amendment" contradicts and circumvents portions of Section 208 of the HHCA which I've included below.

§208. Conditions of leases.

5) The lessee shall not in any manner transfer to, or otherwise hold for the benefit of, any other person or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the department, or agree so to transfer, or otherwise hold, the lessee's interest in the tract; except that the lessee, with the approval of the department, also may transfer the lessee's interest in the tract to the following qualified relatives of the lessee who are at least one-quarter Hawaiian: husband, wife, child, or grandchild.

(6) Notwithstanding the provisions of paragraph (5), the lessee, with the consent and approval of the commission, may mortgage or pledge the lessee's interest in the tract or improvements thereon to a recognized lending institution authorized to do business as a lending institution in either the State or elsewhere in the United States; provided the loan secured by a mortgage on the lessee's leasehold interest is insured or guaranteed by the Federal Housing Administration, Department of Veterans Affairs, or any other federal agency and their respective successors and assigns, which are authorized to insure or guarantee such loans, or any acceptable private mortgage insurance as approved by the commission. The mortgagee's interest in any such mortgage shall be freely assignable. Such mortgages, to be effective, must be consented to and approved by the commission and recorded with the department.

To be clear, Lessees are able to obtain a construction loan to build their home, and upon completion the construction loan is converted to a regular loan.

This bill does not have value or benefit our beneficiaries; it is written to open the door for a lender that is not recognized or authorized to do business as a recognized lending institution.

Furthermore, and this is the scary part...it seeks to usurp the authority of the Hawaiian Homes Commission. There is no language in this bill that requires consent and approval from the commission.

I strongly oppose this bill and caution the advancement of this bill.

Mahalo,

Homelani Schaedel