



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2020**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 2393, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

**BEFORE THE:**

SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND ON  
GOVERNMENT OPERATIONS

**DATE:** Thursday, February 6, 2020 **TIME:** 3:30 p.m.

**LOCATION:** State Capitol, Room 225

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Craig Y. Iha, Deputy Attorney General

---

Chairs Shimabukuro and Thielen and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill.

This bill requires a majority of members of the Hawaiian Homes Commission (HHC) to be beneficiaries of the Hawaiian Homes Commission Act (HHCA). The bill also allows the State to establish an inter-agency council to address the purposes of the HHCA. The bill further establishes a director that is separate from the HHC to administer the Department of Hawaiian Home Lands (DHHL). The bill also allows the HHC to hire its own attorneys, without the approval or participation of the Attorney General or the Governor, to serve the HHC and beneficiaries of the HHCA. The bill also requires DHHL to submit quarterly reports to beneficiaries regarding land disposition and lease cancellations. The bill also requires DHHL to submit in its annual reports to the Legislature a full accounting of all Act 14, Special Session Laws of Hawaii 1995, funding receipts and expenditures.

Separate legal counsel provision (page 4, lines 12-15)

As a general matter, state agencies should be advised by deputy attorneys general. By locating the attorneys for state agencies within a single department, we are able to provide a wide range of experience and expertise to those agencies. Private attorneys retained by the HHC and DHHL could not acquire the necessary breadth of

knowledge and experience that the Department of the Attorney General already has. Additionally, because state agencies are regulated by a variety of laws, such as the Procurement Code, the Sunshine Law, and the Uniform Information Practices Act, not applicable to private practice, the Department of the Attorney General has a depth of expertise in representing state agencies that would be difficult to duplicate by private attorneys, and certainly not without additional expense. Finally, deputy attorneys general, being separate and apart from the state agencies they represent, are insulated from political issues that may arise within a state agency. This insulation permits the Department of the Attorney General to provide objective and high-quality legal counsel.

The Department of the Attorney General is also unique in its ability under the law to undertake concurrent representation of multiple state agencies that may have conflicting interests, something that private attorneys are not able to do under the Hawaii Rules of Professional Conduct, which are the rules governing lawyers. In State v. Klattenhoff (1990), the Hawaii Supreme Court ruled that the Department of the Attorney General may assign deputies to represent agencies that have competing interests as long as it erects appropriate firewalls between those attorneys and takes steps to ensure that no prejudice is suffered by the clients. The Department of the Attorney General has done this in past cases to ensure that all client agencies are vigorously, and separately, represented. We have provided, and will continue to provide, vigorous and objective legal representation to the HHC.

Notwithstanding the prohibition against employing or retaining an attorney, agencies may submit a request to the Attorney General requesting that section 28-8.3, Hawaii Revised Statutes (HRS), be waived. Under certain circumstances deemed by the Attorney General to be good and sufficient, an agency may retain or employ its own attorney, provided that the Governor also waives section 28-8, HRS. This avenue has been exercised by the HHC in the past.

Moreover, the State, DHHL, and HHC owe fiduciary duties to administer the Hawaiian home lands in the best interest of HHCA beneficiaries. Allowing the HHC to hire counsel to provide legal services directly to beneficiaries, however, could greatly expand the purpose of the Hawaiian homes trust beyond the management and

administration of the Hawaiian home lands. This change could create an additional trust obligation under the HHCA – to provide legal services to the beneficiaries. For the foregoing reasons, we respectfully request that reference to “legal counsel” on page 1, line 14, be stricken and the proposed changes to section 202, HHCA, on page 4, lines 12-15, be removed from the bill.

Other comments

For clarity and consistency with the language of the HHCA, we suggest amending page 5, lines 9-12, as follows: “(f) The State may establish an inter-agency council consisting of all the heads of the state departments to address the purposes of this [~~chapter~~] Act. The inter-agency[;] council, if established, shall meet at least three times a year.”

Further, the bill is unclear on which state instrumentality is to establish the inter-agency body consisting of the heads of all state departments. We therefore recommend replacing “State” on page 5, line 9, of the bill with “governor,” since article V, section 6 of the Hawai’i Constitution places the principal departments of the Executive branch under the supervision of the Governor.

Thank you for the opportunity to provide these comments.

**COUNTY COUNCIL**

Arryl Kaneshiro, Chair  
Ross Kagawa, Vice Chair  
Arthur Brun  
Mason K. Chock  
Felicia Cowden  
Luke A. Evslin  
KipuKai Kualii



**OFFICE OF THE COUNTY CLERK**

Jade K. Fountain-Tanigawa, County Clerk  
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188  
Facsimile: (808) 241-6349  
E-mail: cokcouncil@kauai.gov

**Council Services Division**  
4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawai'i 96766

January 30, 2020

**TESTIMONY OF KIPUKAI KUALII**  
**COUNCILMEMBER, KAUAI COUNTY COUNCIL**  
**ON**  
**SB 2393, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT**  
**Senate Committee on Hawaiian Affairs**  
**Senate Committee on Government Operations**  
**Thursday, February 6, 2020**  
**3:30 p.m.**  
**Conference Room 225**

Dear Chair Shimabukuro, Chair Thielen, and Members of the Committees:

Thank you for this opportunity to provide testimony in support of SB 2393, Relating to the Hawaiian Homes Commission Act. My testimony is submitted in my individual capacity as Member of the Kaua'i County Council.

I am in full support of improving the governance and accountability entrusted with the Department of Hawaiian Home Lands to fulfill its duty towards the preservation of values, traditions, culture, and self-sufficiency for native Hawaiians.

Thank you again for this opportunity to provide testimony in support of SB 2393. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

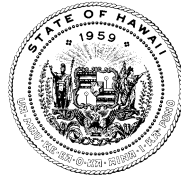
Sincerely,

KIPUKAI KUALII  
Councilmember, Kaua'i County Council

AMK:lc

DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII

JOSH GREEN  
LT. GOVERNOR  
STATE OF HAWAII



WILLIAM J. AILA, JR.  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES  
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879  
HONOLULU, HAWAII 96805

**LATE**

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEES ON HAWAIIAN AFFAIRS &  
GOVERNMENT OPERATIONS  
HEARING ON FEBRUARY 6, 2020 AT 3:30PM IN CR 225

**SB 2393 RELATING TO THE HAWAIIAN HOMES COMMISSION ACT**

February 5, 2020

Aloha Chair Shimabukuro, Chair Thielen, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits comments on this bill that requires that majority of the members of the Hawaiian Home Commission (HHC) be beneficiaries; creates a separate Director of DHHL position; allows the State to establish an inter-agency council to address the purposes of the Hawaiian Homes Commission Act; requires DHHL to provide quarterly reports to beneficiaries; allows the HHC to retain separate counsel from the Attorney General's office to provide service to the Commission and beneficiaries; and requires an annual report to the Legislature and beneficiaries that includes a full accounting of the Act 14 Special Session Laws of Hawaii 1995 moneys.

Section 1 of the bill amends section 201 of the Hawaiian Homes Commission Act (HHCA) to add a definition for beneficiary consultation. DHHL adopted administrative rules, including HAR §10-4-60 Beneficiary consultation that became effective on August 25, 2018. Since the administrative rules already defines beneficiary consultation, this section of the bill is unnecessary.

Section 2 of the bill amends section 202 of the HHCA to require that a majority of the members of the HHC be beneficiaries and create a separate Director of DHHL position. The Hawaiian Homes Commission Act (HHCA) as enacted in 1921 established the HHC to be composed of five members – the Governor and four citizens of the Territory to be appointed by the Governor with at least three of the appointed members of the HHC to be native Hawaiian. In 1935, Congress amended the HHCA providing that the HHC is to be composed of five members appointed by the Governor and at least three of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands previous to 1778. Since this amendment to the HHCA came shortly after the HHCA was passed through an Act of Congress, DHHL would prefer that this language remain and not be deleted as proposed on Page 2, lines 12-14 of the bill. DHHL supports increasing the members

from four to five that are descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands previous to 1778. The larger policy implications of separating the Director's responsibilities from the Chairman should be fully vetted given the enactment of the HHCA by Congress.

Section 2 of the bill adds language to section 202 of the HHCA to allow the HHC to retain separate counsel from the Attorney General's office to provide service to the Commission and beneficiaries. DHHL would recommend amending the HRS instead of the HHCA and suggests the contents of SB2391 be inserted into this bill to replace this new added language or the removal of this section since SB2391 already provides a vehicle for independent legal counsel.

Section 2 of the bill also adds language to section 202 of the HHCA to require DHHL to provide quarterly reports to beneficiaries. DHHL prepares extensive reports on a monthly basis to the HHC. An example from January 2020 can be viewed here: <https://dttl.hawaii.gov/wp-content/uploads/2020/01/January-27-28-2020-HHC-PACKET-Kapolei-Oahu.pdf>. Additionally, an annual report is prepared and can be viewed here: <http://dttl.hawaii.gov/icro/annual-reports/> and an independent financial and compliance audit of DHHL is being completed annually and the most recent audit of for the year ended June 30, 2018 can be accessed here: <https://emma.msrb.org/ER1346417.pdf>.

Section 2 of the bill finally adds language to section 202 of the HHCA to allow the State to establish an inter-agency council to address the purposes of the HHCA. DHHL does not object to this proposed language.

Thank you for your consideration of our testimony.



**Robin Puanani Danner, Chairman**  
**Sybil Lopez, Vice Chairman**  
1451 South King Street, Suite 448  
Honolulu, HI 96814  
[info@hawaiianhomesteads.org](mailto:info@hawaiianhomesteads.org)

Date: February 4, 2020

To: Honorable Members of the Senate Committees on Hawaiian Affairs and Government Operations

Fr: Robin Puanani Danner, SCHHA Chairman, HHCA Beneficiary

Re: Strong Support of SB2393

Founded in 1987, SCHHA is the oldest and largest coalition of Hawaiian Homestead Associations, and native Hawaiian beneficiaries eligible for lands under the Hawaiian Homes Commission Act of 1920 (HHCA). We serve and represent the interests of native Hawaiians on the waitlist, as well as on the land via leases for homes, farms, ranches or mercantile under the HHCA.

SB2393 makes technical amendments to the HHCA, as was authorized by the U.S. Congress under the 1959 Hawaii Admissions Act, wherein State government may amend the HHCA when essentially, revisions do not infringe on the interests of native Hawaiians or impact federal responsibilities. For further reference, see *Federal Register / Vol. 81, No. 93 / May 13, 2016 / Page 29777*.

Under 43 CFR 47/48 (the code of federal regulations), the Obama administration adopted specific regulations when an amendment is enacted at the State level. The CFR mandates a step by step processes for the federal Department of Interior to review any amendments to determine if Congressional review is required.

SB2393 makes technical amendments as follows:

- 1. Defines the Term Beneficiary Consultation.** Gives a definition with the widest flexibility and benefit of modern technology for DHHL to use to notify native Hawaiians and receive input on potential policy decisions beyond in-person consultation sessions. Democracy is at its best when government considers the views of citizens most impacted by government actions.
- 2. Re-Aligns the Hawaiian Homes Commission.** Requires 5 of 9 Commissioners be HHCA Beneficiaries as defined by the HHCA itself and requires at least 2 of the 5 be individuals on the State's waitlist for a homestead award. Presently, the HHCA calls for a minimum of 4 of 9 Commissioners to be Native Hawaiian, but not necessarily eligible for the HHCA itself.
- 3. Reforms Conflicting Roles of Director & Commission Chair.** Presently and for decades, the cabinet member of DHHL Director, automatically is also the Chair of the agency's governing body as its Chair. SB2393 removes the DHHL Director from the Commission, resolving the dual conflicting roles, to establish a clear role for the DHHL Director to report TO and be accountable TO the Commission. The bill authorizes the 9-member Commission to elect its own Chair and Vice Chair.
- 4. Authorizes Autonomous Legal Counsel.** Presently, the Commission is required to utilize the Attorney General's office for legal representation, unless the AG approves the Commission to access outside counsel. SB2393 authorizes the Commission to access autonomous legal counsel from the AG, to ensure that the rights of native Hawaiian beneficiaries of the HHCA are duly represented, rather than only the interests of State government.
- 5. Requires Quarterly Reporting.** The core function and intent of the HHCA enacted 100 years ago, was and continues to be the disposition of land to native Hawaiians defined in the HHCA. SB2393 requires DHHL to

*Founded in 1987, SCHHA is the oldest and largest coalition of Hawaiian Homestead Associations and native Hawaiians exercising sovereignty on the trust lands enacted by Congress under the Hawaiian Homes Commission Act of 1920*

issue a report to the oversight body of the executive branch, the legislature, as well as HHCA beneficiaries on all land dispositions made by DHHL every quarter. This 4-times a year reporting, ensures that all stakeholders are aware of the types of land dispositions being made and whether to HHCA Beneficiaries or non-HHCA Beneficiaries.

6. **State Inter-Agency Council.** Authorizes the State to establish an inter-agency council to bring the full talent and expertise of state government to bear on the compact State government made with the federal government under the 1959 Admissions Act. This section of the Bill addresses a long-standing challenge that DHHL does not have expertise in agriculture and ranching, or in mercantile economic development, or even in affordable housing development, wherein other state agencies do have expertise in these areas.
7. **Accounting of Act 14 Expenditures.** SB2393 re-enforces a requirement in the 1995 Act 14 settlement wherein DHHL was to report annually to the legislature and to HHCA beneficiaries on expenditures. Over the 20 years that Act 14 was under implementation, DHHL failed to provide a single financial report. SB2393 calls for the fulfillment of Act 14, setting a timeline of 365 days for an accounting of Act 14 expenditures is reported to the legislature.

Each of these seven (7) areas addressed in SB2393 are not earth shattering, and SCHHA strongly supports each one. Yet, they are representative of important technical revisions after 100 years since the HHCA enactment by the U.S. Congress and 61 years since State of Hawaii administration began, that honors the lessons learned over this period. SB2393 creates a more healthy, transparent and accountable agency to fulfill the promise of the HHCA to our native Hawaiian citizens and beneficiaries of the HHCA. We mahalo the legislature for engaging and considering reforms that can make the next 100 years a success, as the U.S. Congress intended, as we believe the new state of Hawaii did as well, 61 years ago.

We focus our testimony on #3, to Reform Conflicting Roles of the DHHL Director Being Simultaneously the Commission Chair.

### **Prior to 1959 Management/Governance Structure of HHCA Duties – The Before Today**

Prior to Statehood in 1959, under the HHCA, our land trust was managed by a 7-member Hawaiian Homes Commission, appointed by the Territorial Governor, with one being named the Chair by that Governor. Commissioners served 5-year terms. The HHC, then hired the Executive Officer and “other clerical staff”, which today is the equivalent to the DHHL Director and the DHHL agency, which required that the Executive Officer reside “habitually in a Hawaiian Homes Settlement”, and also not be paid more than \$6,000. Most importantly, the Executive Officer was never a part of the Commission, much less its Chair. The position was hired by the Commission and was fully accountable to the Commission.

After statehood, in 1963, Act 207 was enacted by the State of Hawaii to replace the word “territorial” to “state” in the HHCA, and to formally establish the Department of Hawaiian Home Lands (DHHL), which was led by the Executive Officer, hired by the HHC, and separate from the HHC. It is at this point, when the HHCA was amended to combine the Governor appointment of the DHHL Director to also serve as the Chair of the HHC. While the State of Hawaii implemented Act 207 immediately without proper review by the Department of Interior to ascertain whether Congressional approval was required, in 1986, under the leadership of Senator Inouye, numerous Acts by the State of Hawaii, were processed to bring it into compliance with federal law.

By 1989 under State of Hawaii Act 265, the HHC grew to a total of 9 members, one of which continued to serve in the dual role of DHHL Director and HHC Chair.

### **Comparable State and County Commission Governance Structures**

There are State and County Commissions that operate autonomously like the HHC used to, and there are those that have a similar structure as DHHL today (the dual role). For example, the DLNR Director, also serves as the Chair of the Board that governs and oversees DLNR. SCHHA makes no representations on whether this dual role is prudent for DLNR. We do however see this dual role at DHHL as a major source of dysfunction, of conflict, and disservice to HHCA beneficiaries the HHC and DHHL are bound to serve. For example, unlike DLNR, DHHL is a state agency

*Founded in 1987, SCHHA is the oldest and largest coalition of Hawaiian Homestead Associations and native Hawaiians exercising sovereignty on the trust lands enacted by Congress under the Hawaiian Homes Commission Act of 1920*



mandated under the 1959 Statehood Act, as a specific compact at Statehood between the new State Government and the Federal Government to serve a very specific citizenry specifically defined by the federal government - HHCA beneficiaries.

Prior to 1961, DHHL did not exist. Also unlike the DLNR Board, the Hawaiian Homes Commission is not only the governing body over DHHL to direct implementation of the HHCA, to oversee that implementation by DHHL, it also has an additional duty that DHHL the agency, does not have – *to act exclusively in the interest of HHCA beneficiaries* – see HAR chapter 10.

### **“Two Masters” & the Conflicting Interests of DHHL vs HHCA Beneficiaries**

The federal Department of Interior, in its 2016 regulations by the Obama Administration (43CFR), states clearly, that at times, the interests of HHCA Beneficiaries will conflict with State of Hawaii interests. The conflicting interests between the State agency of DHHL and the interests of HHCA beneficiaries that the Commission is bound to exclusively represent, is perhaps, the single most important lesson learned after 61 years of State administration of the HHCA. If the DHHL Director and the HHC Chairman are the same person, the loyalties to the State (DHHL) and the loyalties to HHCA Beneficiaries (HHC) are in constant conflict and turmoil. Former State Senate President and Congresswoman, Colleen Hanabusa, and others, frequently referred to this as having “two masters”.

The best solution to this reality of the last many decades, and indeed, a common sense reform for the decades of challenges of the Hawaiian Homes Program overall, is to end the conflict by separating the dual identities of the DHHL Director and the HHC Chair and return to the first 40 years of the HHCA. Under SB2393, the Governor still appoints his DHHL Director and cabinet member, however SB2393, ensures, mandates and frees the DHHL Director to act in the interests of the State DHHL agency in the administration of the HHCA, by being accountable TO the HHC that must *act in the exclusive interest of HHCA beneficiaries*. No longer will the DHHL Director set the direction or agenda of the HHC, no longer will the DHHL Director present the views and priorities of DHHL on the HHC, but rather, will do this, rightly off the HHC and to the HHC. Stated succinctly, the DHHL Director will staff and report to the HHC, not run it.

Likewise, this new reality will free the HHC to *act exclusively in the interests of HHCA beneficiaries*, and to properly govern how DHHL implements the purposes of the HHCA. In short, the DHHL Director will no longer have “two masters” - 1) the Governor as a Cabinet Member (the DHHL Director role) and 2) the interests of HHCA Beneficiaries (the HHC role). Under SB2393, DHHL as an agency, led by a cabinet member DHHL Director will have “one master” – the Governor, and will operate the agency under the direction of the HHC that also has “one master”, the interests of HHCA beneficiaries.

### **Reforms Are Needed – Go Back to Go Forward**

The SCHHA recognizes that some, especially in State Government, may feel uncomfortable about this change, uncomfortable about the separation of duties so desperately needed. We recognize that the DHHL Director having control of the governing body, control of the agenda, makes for an easier posture for DHHL. We state for the record, the HHCA does NOT exist for the ease of DHHL, but rather for the ease and success of HHCA beneficiaries. We offer that the “land trust” is NOT DHHL. The “land trust” is the HHC, is the body of HHCA beneficiaries on the land and on the waitlist, and DHHL is a state agency directed by the HHC to serve the “land trust” of HHCA beneficiaries. Based on the source of the HHCA in 1920, the delegated federal level fiduciary under the 1959 Statehood Act, DHHL cannot and should not be compared to DLNR or other dual role State Agencies and Boards.

There are many examples of the difficulty of the dual role, especially in meeting the mandate of the Statehood Act compact. SCHHA does not demonize any DHHL Director placed in this position – it is untenable for these individuals as well, which the legislature can correct through an HHCA technical amendment.

The Chair of the Commission should be, must be autonomous of DHHL as it was for the first 40 years. We liken the current situation at DHHL to a totally untenable situation if the Police Chief were also the Chair of the Police Commission, or the lack of confidence in the Campaign Spending Commission if the Executive Director were also the

*Founded in 1987, SCHHA is the oldest and largest coalition of Hawaiian Homestead Associations and native Hawaiians exercising sovereignty on the trust lands enacted by Congress under the Hawaiian Homes Commission Act of 1920*

Chair of the Commission, and so on. There are certain responsibilities that absolutely warrants autonomy between a governing body and the agency charged with implementation.

We believe to best achieve the promise 61 years ago made by our then, brand new State government to the federal government, and most importantly to bring confidence of our HHCA beneficiary citizenry, separation of the DHHL Director from the HHC is paramount.

Finally, SCHHA comments on #2 above, the technical amendment that finally has an emphasis and mandates that at least 5 of the 9 Commissioners must be HHCA beneficiaries themselves, with a further emphasis on being on the Waitlist. It is clear, stronger representation of the 28,000 on the Waitlist is needed, especially since the primary purpose of the HHCA is to place HHCA beneficiaries from the Waitlist, onto the land.

The SCHHA strongly supports enactment of SB2393 and is available to answer any questions or provide additional comments on any aspect of SB2393.

It's been 61 years of State management, 100 years since federal enactment of the HHCA. These 7 reforms are worthy, timely and well thought-out based on the struggle to get the Hawaiian Homes Program right.

Mahalo.

**SB-2393**

Submitted on: 2/5/2020 12:47:11 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marion K A Kapuniai	Testifying for SCHHA, WHHA	Support	No

Comments:

**WITH AMENDMENTS:**

1. **SECTION 1. Section 201** - At last sentence, Add "*all lessees and applicants and to*" at specific notification to.

2. **SECTION 2. Section 202 (b)** = Sentence 3 - These positions **DELETE** (may) **INSERT "shall" be funded . . . INSERT or** operating fund. **DELETE ( or native Hawaiian Rehabilitation Fund.) These positions are Administrative and Operational!!!**

3. **SECTION 5. Section 26-17** Sentence 4 **DELETE ( The Governor shall appoint )**. New sentence shall begin, The chairperson of the commission **INSERT "shall be selected by vote"** from among the members thereof.

4. **SECTION 7.** Sentence 1. The incumbent . . . effective date of the Act shall **INSERT "relinquish that position". DELETE ( continue to serve . . 26-34 Hawaii Revised Statutes.)**

5. **SECTION 8.** Revise this section to include "upon the determination by the Department of Interior that any section, sentence, clause, or phrase must have the consent of the United States. Per the Federal Register, this is the process - Preparer of HHC amendments by the drafter of related bills shall read the Federal Register and draft bills accordingly.

Thank you! M Kapuniai



**Kūpuna for the Mo‘opuna**  
*committed to the well-being of Hawai‘i for the next generations to come*  
[kupuna4moopuna@gmail.com](mailto:kupuna4moopuna@gmail.com)

Committee on Hawaiian Affairs

Senator Maile S. L. Shimabukuro, Chair  
Senator Kaiali‘i Kahele, Vice Chair

Committee on Government Operations

Senator Laura H. Thielen, Chair  
Senator Lorraine R. Inouye, Vice Chair

Date: February 6, 2020

Time: 3:30p.m.

Place: Conference Room 225

**SB 2393:                    Relating to the Hawaiian Homes Commission Act-  
SUPPORT**

Aloha to our Chairs, Vice Chairs, and Members of the Committees,

We, Kūpuna for the Mo‘opuna, a concerned group of kūpuna Hawaiian homestead farmers from Pana‘ewa, Hawai‘i, committed to the well-being of Hawai‘i for the next generations to come, submit this testimony in **SUPPORT of SB 2393**.

As Hawaiian Homes Commission Act (HHCA) beneficiaries, we believe that SB 2393 is a good place to begin fixing the dysfunctional management of our federal land trust. The problems that have plagued the Department of Hawaiian Home Lands (DHHL) for decades are rooted in the DHHL not serving the HHCA beneficiaries because of illegal land dispositions, lack of accountability, lack of transparency, and lack of beneficiary self determination. We need SB 2393.

**Please support and pass SB 2393.**

Mahalo nui loa.

**SB-2393**

Submitted on: 2/4/2020 6:12:05 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Faisha	Testifying for Association of Hawaiians for Homestead Lands	Support	No

Comments:

Aloha Senators,

A time for change is upon us. To uphold an Oath to serve those who believe in democracy. I am a 3rd generation homestead descendant on the waitlist, also a member of SCHHA. I Vanessa K. Garcia Phillips as the AHHL East oahu chapter chair am in support of SB2393.

This bill speaks volumes especially for us as AHHL who are not land base yet we have a voice, it states clearly 50% Hawaiian blood quantum, 100th year of the 1920 HHCA and 20,000 - 30,000 on the waitlist. We are in need of transparency, democracy and equality. MAHALO....

Vanessa Garcia Phillips, AHHL Oahu Chapter Leader

Submitted by Faisha Solomon (SCHHA) at the request of Vanessa Garcia Phillips

**SB-2393**

Submitted on: 2/5/2020 9:56:36 AM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bill Brown	Testifying for Pana'ewa Hawaiian Home Lands Community Association	Support	No

Comments:

Pana'ewa supports this measure with amending the protocol FOR DHHL and the beneficiaries

Mahalo

Milton Kalai, President PPHLCA

**Senate Committee on Hawaiian Affairs**  
**Testimony in Support of SB2393-Relating to the Hawaiian Homes Commission Act**

---

February 5, 2020

Aloha Senators,

Your support and vote to advance SB2393 is critical.

This very important legislation will allow the voices of our Hawaiian Home Lands beneficiaries to be heard. We are often dismissed at the committee level and by the full Senate for the sake of political expediency. Your support is needed.

You have witnessed our frustration with DHHL. SB2393 is an excellent 'first step' in addressing several of our DHHL beneficiary concerns. The majority of Hawaiian Homes Commissioners should be beneficiaries. We need to increase DHHL accountability and transparency. The Attorney General's Office has a serious conflict of interest in representing both the state and DHHL, and thus, DHHL needs its own independent legal counsel. Another critical 'first step' is establishing that the DHHL Director is accountable to the Commission.

We urge you to vote 'yes' and advance SB2393 on behalf of our community and beneficiary communities across the state.

Mahalo,



Maile Lu'uwai  
President  
Keaukaha Pana'ewa Farmers Association  
A Hawai'i Island DHHL Beneficiary Community



**SB-2393**

Submitted on: 1/29/2020 7:56:37 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gerard Silva	Individual	Oppose	No

Comments:

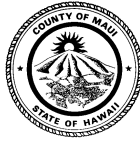
You can not trust the Hawaii Government!

Council Chair  
Kelly T. King

Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Riki Hokama  
Alice L. Lee  
Michael J. Molina  
Tamara Paltin  
Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Maria E. Zielinski

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

January 30, 2020

TO: Honorable Senator Maile S.L. Shimabukuro, Chair  
Senate Committee on Hawaiian Affairs

Honorable Senator Laura H. Thielen, Chair  
Senate Committee on Government Operations

FROM: Tasha Kama   
Presiding Officer Pro Tempore

SUBJECT: **Joint Hearing of February 6, 2020; Testimony in SUPPORT of  
SB 2393, Relating to the Hawaiian Homes Commission Act**

Thank you for the opportunity to testify in support of this measure. The purpose of this measure is to make changes to the Hawaiian homes commission and the department to make them more responsive to the beneficiaries they serve.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. Separating the positions of the Chairperson of the Hawaiian Homes Commission and the Director of the Department of Hawaiian Home Lands will remove the inherent conflict of having one person serve in both capacities and allow a clear distinction between the policy actions of the Commission and the executive actions of the Department.
2. Requiring timely and effective consultation with beneficiaries while recognizing that the form of the consultation should reflect the use of social media by beneficiaries will provide an opportunity for the Commission and the Department to be more responsive to those beneficiaries.
3. Allowing the establishment of an interagency body recognizes that improvements to the delivery of services can be achieved through greater interagency cooperation.
4. Providing the opportunity for the Hawaiian Homes Commission to retain its own legal counsel will better serve the needs of the beneficiaries, especially when the Commission and the State do not agree on the interpretation of law or policy.

**SB-2393**

Submitted on: 1/30/2020 8:34:03 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kihei A. Ahuna	Individual	Support	No

Comments:

Honorable Senators,

Please consider this SB2393 into law. Vote yes!

Mahalo,

Kihei A. Ahuna

**SB-2393**

Submitted on: 1/31/2020 9:17:54 AM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Stephanie Lauifi	Individual	Support	No

Comments:

**SB-2393**

Submitted on: 1/31/2020 6:36:58 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Edward Halealoha Ayau	Individual	Support	No

Comments:

**SB-2393**

Submitted on: 2/4/2020 2:47:43 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	Individual	Support	No

Comments:

**SB-2393**

Submitted on: 2/4/2020 2:49:50 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bev Brody	Individual	Support	No

Comments:

**SB-2393**

Submitted on: 2/5/2020 3:43:47 AM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bridgit Bales	Individual	Support	No

Comments:

Please please pass this bill. I am an HHCA beneficiary and FULLY support this legislation. Mahalo nui loa!



Date: February 5, 2020  
To: Honorable Members of the Senate Committees on Hawaiian Affairs and Government Operations  
Fr: Chucky Boy Chock, Executive Director, Kauai Museum  
Re: Strong Support of SB2393 (Hearing Scheduled: Thursday, February 6, 2020)

Aloha State Legislators,

I'm in total support of Bill SB2393 mahalo chucky boy chock

Chucky Boy Chock  
Executive Director  
Kauai Museum  
Phone: 808-245-6931

Submitted By Faisha Solomon (SCHHA) At The Request Of Chucky Boy Chock

Date: February 5, 2020

To: Honorable Members of the Senate Committees on Hawaiian Affairs and Government Operations

Fr: Herbert A. Kai, HHCA Beneficiary

Re: Strong Support of SB2393 (Hearing Scheduled: Thursday, February 6, 2020)

I am Herbert A. kai, awardee of agriculture lot in Panaewa which I transferred, to my brother; reside in Hilo and Washington; and though not a current DHHL lessee I have a current application for a homestead parcel, preferably on Moku O Keawe, and herewith submit my mana'o regarding SB2393.

The U.S. Department of the Interior (DOI) held administration oversight of the Hawaiian Homes Act of 1921 (HHA) prior to statehood. Upon statehood that kuleana was passed on to the State of Hawaii (SOH). Today, SOH simultaneously is the oversight auditor and the executive of the benefits, leaving the beneficiaries without recourse as to malfeasance and/or representation...there is virtually no advocate for the beneficiaries; nor clear, distinct taskings nor watchdogs, i.e. functions and tasks.

Whereas SOH will organize for a department with a director to comply with DOI stipulations. The Hawaiian Homes Commission will address the purposes of the Hawaiian Homes Commission Act and be the watchdog, at the ground roots level, to advocate for the beneficiary and be the whistle blower for corrective action, aka wrongdoing.

SB 2393 will definitely distinguish advocacy for the beneficiaries by having Hawaiian Homes commission members who are beneficiaries and awardees. They will understand the requirements for land stewardship in Panaewa versus Waimea; who understand subsistence verses commercial farming; who understand bulldozing everything versus kipuka horticulture.

SB2393 will require the department to conduct quarterly and annual reports to the Commission, beneficiaries, and the Legislature; and full accounting of Act 14, Special Session Laws of Hawaii 1995, funds.

I know I am repeating the resolution but SB2393 draws the line clearer as to functions, tasks, watchdog, and whistle blowing.

Aloha, Herb Kai

Submitted By Faisha Solomon (SCHHA) At The Request Of Herbert A. Kai

Date: February 5, 2020  
To: Honorable Members of the Senate Committees on Hawaiian Affairs and Government Operations  
Fr: Myrna Bucasas, Vice President, West Kauai Hawaiian Homestead Association  
Re: Strong Support of SB2393 (Hearing Scheduled: Thursday, February 6, 2020)

Aloha Senate Committee on Hawaiian Affairs,

My daughter Sharalyn K. Bucasas who has been a leasee for 11 years was very fortunate to receive a homestead lot. I've have been on the waitlist for 15 years. Bill SB2393 will help all Hawaiians in the future.

I feel that The Department of Hawaiian Homelands has abused they governing of our trust. The funding from the State hasn't help those on the waitlist. Many have died waiting to receive a lease. They have used funding from our trust to pay the department head and staff of The Department of Hawaiian Homelands. The funding for the staff of Department of Hawaiian Homelands should come from the state and not the funds that is allotted to the trust. Only you today can correct the injustice done to the Hawaiians.

Mahalo,  
Myrna Bucasas  
Vice President  
West Kauai Hawaiian Homestead Association

Submitted By Faisha Solomon (SCHHA) At The Request Of Myrna Bucasas

Date: February 5, 2020

To: Honorable Members of the Senate Committees on Hawaiian Affairs and Government Operations

Fr: Vanessa K. Garcia Phillips, East Oahu Chapter Chair, Association of Hawaiians for Homestead Lands (AHHL)

Re: Strong Support of SB2393 (Hearing Scheduled: Thursday, February 6, 2020)

Aloha Senators,

A time for change is upon us. To uphold an Oath to serve those who believe in democracy. I am a 3rd generation homestead descendant on the waitlist, also a member of SCHHA. I Vanessa K. Garcia Phillips as the AHHL East oahu chapter chair am in support of SB2393.

This bill speaks volumes especially for us as AHHL who are not land base, yet we have a voice, it states clearly 50% Hawaiian blood quantum, 100th year of the 1920 HHCA and 20,000 - 30,000 on the waitlist. We are in need of transparency, democracy and equality. MAHALO

Vanessa K. Garcia Phillips

Submitted By Faisha Solomon (SCHHA) At The Request Of Vanessa K. Garcia Phillips

Date: February 5, 2020  
To: Honorable Members of the Senate Committees on Hawaiian Affairs and Government Operations  
Fr: Michelle Namele Batalona  
Re: Strong Support of SB2393 (Hearing Scheduled: Thursday, February 6, 2020)

Aloha,

I am Michelle Namele Batalona and I support bill SB2393 I believe its beneficial to the Hawaiian people.

Mahalo.

Submitted By Faisha Solomon (SCHHA) At The Request Of Michelle Namele Batalona

**SB-2393**

Submitted on: 2/5/2020 1:57:40 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nanea Lo	Individual	Oppose	No

Comments:

Hello,

My name is Nanea Lo and I am a lifelong resident of Hawai'i from O'ahu. I am a kanaka maoli. Majority of my family live on Hawaiian Homelands and I have a lot of family that are still on the waitlist of Hawaiian Homes. I do not support this bill. The people should be put onto the land and creating another position isn't the answer. We need to get the people on the land.

me ke aloha 'Ä• ina,

Nanea Lo

**SB-2393**

Submitted on: 2/5/2020 2:12:45 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sage-Lee Medeiros-Garcia	Individual	Support	No

Comments:

To the Committee of Hawaiian Affairs and Committee of Government Operations:

Position -- Strongly support.

1. With controversy surrounding landownership, the Great Mahele, and other significant lands held by people being racially and ethnically Hawaiian, the establishment of the Hawaiian Homes Commission Act forms a trust. Under federal recognition, the Hawaiian lands and land use shall be protected Federally and to be further reinforced by State officials and public services. To ensure that designated lands retain the purpose of serving Hawaiian needs, socially and culturally, this act came into fruition.

2. Actions and efforts to subvert this land to other purposes Is not authorized. No aversion or deferment can justify infrastructure not mandated by Hawaiian enterprise to be sitting on Hawaiian land. It is not authorized especially when any form of infrastructure is to be built upon it for other purposes: intellectual or science, that does not support the perseverance of Hawaiian culture.

3. When there is a contest on the extent and interpretation of this law, Hawaiians shall not need to turn to any person that may have a conflict of interest due to a political position to seek counsel.

4. To make this decision and draw the line, the Hawaiian community shall seek higher counsel into the Dept of Interior or a private attorney.

5. This bill is to guide our community with the right directions. Moreover, the goal is to seek for equal liberties, secure Hawaiian rights, equal opportunity, and inclusion in public decisions of public officials impacting Hawaiian livelihood enduring this high cost of living.

**SB-2393**

Submitted on: 2/5/2020 2:21:09 PM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marlene Kamuela Purdy	Testifying for SCHHA member	Support	No

Comments:

Please allow our HHC beneficiaries the opportunity to govern our own legacy. Mahalo!



**LATE**

**SB-2393**

Submitted on: 2/6/2020 12:09:42 AM

Testimony for HWN on 2/6/2020 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Don Aweau	Individual	Support	No

Comments:

In steadfast support of the bill as a check and balance mechanism for the department that is sorely needed. It would hold DHHL directly accountable to the Hawaiian Homes Commission and its beneficiaries. Further, incorporating representation for all HHCA beneficiaries on the Commission has an overall benefit for all parties involved. Legal representation should also be independent of the State Attorney General's office as it has been in conflict with the interests of HHCA beneficiaries for many years. I urge the committee members to pass this bill for its immediate impact.

Mahalo nui loa for the opportunity to testify.