



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

DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

CHUNG I. CHANG
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Statement of
MIKE MCCARTNEY
Director

Department of Business, Economic Development and Tourism
before the

**HOUSE COMMITTEE ON HOUSING
HOUSE COMMITTEE ON WATER & LAND**

Tuesday, February 9, 2021
8:30 a.m.

State Capitol, Conference Room 423

in consideration of
HB902
RELATING TO PUBLIC LANDS.

Chair Nakamura, Vice Chair Hashimoto, Chair Tarnas, Vice Chair Branco, and
Members of the Committees on Housing and Water & Land.

The Department of Business, Economic Development and Tourism (DBEDT)
strongly supports HB902, an Administration bill that would exempt lands set aside to
the HHFDC by Executive Order from the statutory definition of "public lands." This
exemption will help facilitate affordable housing development on State lands, including
leasehold housing on land located within one-half mile of the Honolulu rail transit line.

Thank you for the opportunity to testify.



HB902
RELATING TO PUBLIC LANDS
Ke Kōmike Hale o ke Kuleana Hale Noho
Ke Kōmike Hale o ka Wai a me ka ‘Āina

Pepeluali 9, 2021

8:30 a.m.

Lumi 423

The Administration of the Office of Hawaiian Affairs (OHA) will recommend that the Board of Trustees **OPPOSE** HB902, which seeks to amend the Hawai‘i Revised Statutes (HRS) § 171-2 definition of “public lands,” removing certain procedural safeguards found in HRS Chapter 171 for public lands set aside from the Governor or leased by other State departments or agencies to the Hawai‘i Housing Finance and Development Corporation (HHFDC).

OHA appreciates the inclusion in this bill that lands set aside by the Governor or leased to HHFDC by any state agency or department remain consistently protected against inappropriate alienation pursuant to HRS § 171-64.7. OHA is also appreciative of the additional provision added to HRS § 201H-9, requiring that any lands leased to HHFDC by any state department or agency be returned to that department or agency when no longer needed by HHFDC for housing, finance, or development purposes. These safeguards would help to ensure the appropriate use and disposition of our public lands, including “ceded” lands, and further ensure clear and consistent oversight, accountability, and transparency in the potential sale or alienation of our limited public and “ceded” land base.

However, HB902 contemplates a significant expansion of the public lands that could be leased under HHFDC’s very flexible and liberal land disposition authorities. Currently, HHFDC can give out extremely long-term, including 99-year leases, on the limited lands that HHFDC holds in fee; HHFDC may also lease or otherwise dispose of such lands for far less than fair market value, and without the auction or other requirements generally applicable to the disposition of public lands. HB902 would allow a vast amount of public lands—which are overwhelmingly “ceded” lands to which Native Hawaiians maintain unrelinquished claims, and which are also largely Public Land Trust lands, held for the benefit of native Hawaiians and the general public—to be leased or otherwise disposed of under HHFDC’s broad leasing and disposition authorities. These lands are currently subject to the public transparency and accountability protections of HRS Chapter 171, which include lease length limitations (i.e. maximum aggregate lease period of 65 years), lease extensions prohibitions, and auction requirements; allowing these lands to be exempted from HRS Chapter 171 and instead subjecting them only to HHFDC’s broad leasing and dispositions authorities may foreclose, for a century or more, opportunities for Native

Hawaiians to fully and directly realize the benefits from lands to which they have specific legal and moral claims.

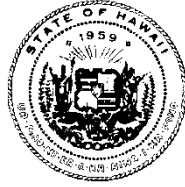
As OHA has highlighted numerous times in the past, extremely long-term, multi-generational leases on “ceded” lands create a sense of entitlement on the part of lessees that has led to, and may continue to lead to, the alienation of public and “ceded” lands. Every year we see lessees attempt to change laws and policies to allow them to hold on to public lands for longer and longer periods. OHA strongly objects to the sale or alienation of “ceded” lands except in limited circumstances, and has significant concerns over any proposal that may facilitate the diminution of the “ceded” lands corpus. Accordingly, OHA cannot support a measure that may subject a significant amount of “ceded” lands to extremely long-term, multigenerational leases, including the instant measure.

Should the Committees nonetheless choose to move this measure forward, **OHA respectfully urges the inclusion of the following suggested amendment to HRS § 201H-9(c), in order to minimally recognize and protect Native Hawaiian claims to “ceded” lands which may be subject to the broad leasing authorities of HHFDC.**

“(c) The corporation may lease or rent all or a portion of any housing project and establish and revise the rents or charges therefor. The corporation may sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein to any person or government. Notwithstanding any law to the contrary, with regards to real property set aside or leased to the corporation that was classed as government or crown lands prior to August 15, 1895, or exchanged for such lands, any lease, sublease, rental, exchange, transfer, assignment, or pledge of such property or interests in such property by the corporation for an aggregate period of longer than 65 years shall be made subject to rules adopted pursuant to chapter 91 and approved by the board of trustees of the Office of Hawaiian Affairs. Rules shall include provisions that reflect the maintained claims of native Hawaiians in the “ceded” lands corpus, such as provisions requiring rights of first refusal, transfers or commitments of resources for programs serving native Hawaiian interests, affordability requirements based on native Hawaiian housing demand data, a reservation of the rights and interests of a native Hawaiian self-governing entity in such lands, or any other relevant provision.”

Accordingly, OHA respectfully urges the Committees to **HOLD** HB902. However, should the Committees choose to move this measure forward, OHA minimally urges the inclusion of the suggested amendment offered above. Mahalo nui loa for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

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
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

**HOUSE COMMITTEE ON HOUSING
HOUSE COMMITTEE ON WATER & LAND**

February 9, 2021 at 8:30 a.m.
State Capitol, Room 423

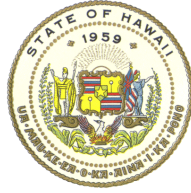
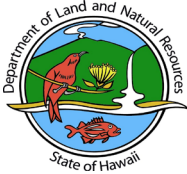
In consideration of
H.B. 902
RELATING TO PUBLIC LANDS.

The HHFDC ***strongly supports*** H.B. 902, an Administration bill to exempt lands set aside to the HHFDC by Executive Order or leased from another State department or agency from the definition of "public lands" subject to the jurisdiction of the Department of Land and Natural Resources (DLNR). The bill will extend HHFDC's statutory exemption for the limited lands it holds in its corporate capacity and will help to streamline the development of affordable housing on state lands.

This bill will help to shave months off the development process by reducing the number of DLNR approvals required once land is set aside to HHFDC. Housing development will be subject to all conditions imposed by the Board of Land and Natural Resources and as set forth in the Executive Order. This includes the return of state land if it is no longer needed for housing.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committees on
HOUSING
and
WATER & LAND**

**Tuesday, February 9, 2021
8:30 AM**

State Capitol, Via Videoconference, Conference Room 423

**In consideration of
HOUSE BILL 902
RELATING TO PUBLIC LANDS**

House Bill 902 proposes to clarify that lands set aside to the Hawaii Housing Finance and Development Corporation (HHFDC) by the Governor or leased to HHFDC by any state department and agency are exempt from the definition of “public lands”. **The Department of Land and Natural Resources (Department) offers the following comments on this measure.**

The bill proposes to exempt lands set aside or leased to HHFDC from the definition of public lands under Section 171-2, Hawaii Revised Statutes (HRS), and require legislative approval of any sale of said lands under Section 171-64.7 HRS. Lands to which the HHFDC in its corporate capacity holds title are already exempt under Section 171-2, HRS. As a result, if House Bill 902 were to become law, HHFDC would no longer need to secure the approval of the Board of Land and Natural Resources (BLNR) for land dispositions or projects on lands set aside to HHFDC under Section 171-11, HRS, or leased to HHFDC under Section 171-95, 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 or under leases approved by the BLNR. Any lands no longer needed for housing, finance, and development purposes should be returned to the public trust administered by the Department. As currently written, this measure only requires that lands leased by HHFDC be returned to the public trust administered by the Department. Therefore, the Department recommends amending SECTION 3 to include lands set aside to HHFDC as follows (changes indicated in gray shading):

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

SECTION 3. Section 201H-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The corporation may acquire any real or personal property or interest therein by purchase, exchange, gift, grant, lease, or other means from any person or government to provide housing. Exchange of real property shall be in accordance with section 171-50. Any lands leased or set aside to the corporation by any department or agency of the State that ~~is~~ are no longer needed for housing, finance, or development pursuant to this chapter shall be returned to the department or agency of the State that leased or approved the set aside of the lands to the corporation."

Thank you for the opportunity to comment on this measure.

Kūpuna for the Mo'opuna
committed to the well-being of Hawai'i for the next generations to come
kupuna4moopuna@gmail.com



STOP LEGAL THIEVERY!

COMMITTEE ON HOUSING

Rep. Nadine K. Nakamura, Chair

Rep. Troy N. Hashimoto, Vice Chair

Date: Tuesday, February 9, 2021

COMMITTEE ON WATER & LAND

Rep. David A. Tarnas, Chair

Rep. Patrick Pihana Branco, Vice Chair

Time 8:30 A.M. Place: Room 423

Testimony of Kūpuna for the Mo'opuna

HB 902 – RELATING TO PUBLIC LANDS. **STRONG OPPOSITION**

We, Kūpuna for the Mo'opuna, a group of kūpuna Hawaiian homestead farmers committed to the well-being of Hawai'i for the next generations to come, **strongly oppose HB 902.**

HB 902 seeks to amend the HRS 171-2 definition of “public lands” by removing certain safeguards for public lands **to the detriment of the public lands' beneficiaries.**

HB 902 would allow a vast amount of public lands – **which are overwhelmingly “ceded” lands to which Native Hawaiians maintain unrelinquished claims, and which are also largely Public Land Trust lands** - to be leased or otherwise disposed of under Hawai'i Housing Finance and Development Corporation's broad leasing and disposition authorities without the safeguards of public transparency and accountability. lands are not yours to give away.

Vote NO to taking what *doesn't belong to you.*

Vote NO to hiding what you do with what you took that *doesn't belong to you.*

Vote NO to HB 902.

Ua mau ke ea o ka 'āina i ka pono!