

DAVID Y. IGE  
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HAWAII



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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Testimony of  
SUZANNE D. CASE  
Chairperson

Before the Senate Committee on  
WATER AND LAND

Monday, January 31, 2022  
1:00 PM

State Capitol, Conference Room 229 & Videoconference

In consideration of  
SENATE BILL 2533  
RELATING TO THE LAND CONSERVATION FUND

Senate Bill 2533 proposes to provide increased funding for land conservation by removing the annual dollar amount cap on Conveyance Tax revenue that is deposited into the Land Conservation Fund. **The Department of Land and Natural Resources (Department) strongly supports this measure, provided that its passage does not replace or adversely impact priorities indicated in the Executive Supplemental Budget request.** The Department offers the following comments and an amendment.

During Fiscal Years 2016-2021, implementation of Conveyance Tax revenue caps reduced Land Conservation Fund revenues by \$14 million. In Fiscal Year (FY) 2021, \$15 million was transferred from the Land Conservation Fund to the General Fund. After these losses, and with full spending of existing appropriations for fiscal years 2022 and 2023, the projected cash balance of the Land Conservation Fund will be just \$4.4 million, while the historic base spending ceiling is \$5.1 million per year.

Recent escalation in real estate market values has eroded the buying power of the Land Conservation Fund to its lowest level since its establishment. At current funding levels, the Legacy Land Conservation Program is unable to support many important opportunities for land acquisition. The current revenue stream—if restricted to \$5.1 million per year—will not deliver enough cash to support additional spending that may be authorized by future ceiling increases and CIP appropriations, for FY 2024 and beyond. Senate Bill 2533, if enacted, would help return Land Conservation Fund finances to the position envisioned by the 2005 Legislature when it recognized that "an alarmingly small amount of money is invested each year to protect our natural capital base" and "the preservation, protection, and enhancement of the State's land,

coastal areas, and natural resources are of central importance for current and future residents and for the state economy" (Act 156).

The Department of Taxation reports that FY 2022 Conveyance Tax revenues reached over \$118.6 million by the end of December 2021, which would provide an additional infusion of at least \$6.7 million for the Land Conservation Fund if distributed this FY. Therefore, the Department requests that the Committee consider amending SECTION 3, page 2, line 2 of this measure to read as follows:

SECTION 3. This Act shall take effect [~~on July 1,~~  
2022] upon approval.

Thank you for the opportunity to comment on this measure.

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

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THE TRUST FOR PUBLIC LAND'S TESTIMONY IN SUPPORT OF SB 2533

Senate Committee on Water & Land

Monday, January 31, 2022, 1:00 p.m.

Conf. Rm. 229 & Videoconference

The Trust for Public Land strongly supports SB 2533, which proposes to remove the \$5.1 million cap on the Legacy Land Conservation Fund. During the past five or more years, the cap has remained at \$5.1 million while real estate prices have skyrocketed. Meanwhile, residents' desire to conserve special lands on their islands has risen. As a result, the Legacy Land Conservation Commission routinely recommends many more worthy projects for funding than there are funds available – double or triple the amount available in the fund. Due to lack of funds, projects must request money over multiple years – delaying closings, and resulting in heartbreaking missed opportunities while international or mainland speculators quickly purchase incredibly special lands above asking price or appraised fair market value, in cash, with short closings.

As real estate prices rise and conveyance tax collections rise, it is appropriate that the Legacy Land Conservation Fund is not capped, but rather keeps pace with rising real estate prices.

Mahalo for this opportunity to testify. I apologize that I will not be able to attend the hearing in person or virtually due to a scheduling conflict.

Me ke aloha,



Lea Hong

State Director

Edmund C. Olson Trust Fellow

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January 31, 2022

**The Honorable Lorraine Inouye, Chair**  
Senate Committee on Water and Land  
Via Videoconference

**RE: S.B. 2533, Relating to the Land Conservation Fund**

**HEARING: Monday, January 31, 2022, at 1:00 p.m.**

Aloha Chair Inouye, Vice Chair Keith-Agaran, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 10,800 members. HAR **opposes** S.B. 2533 which removes the monetary cap for the amount of conveyance taxes collected that shall be paid into the land conservation fund.

The Conveyance Tax was not intended as a revenue generating tax. It was designed to cover the administrative costs to assist the Department of Taxation in determining market value of properties transferred.

In July 2012, the Auditor of the State of Hawaii prepared Report No. 12-04: “Study of the Transfer of Non-General Funds to the General Fund.” The Auditor examined issues relating to the establishment and continuance of special and revolving funds in the State. The Auditor used the statutory criteria for establishment and continuance of special and revolving funds, under Sections 37-2.3 and 37-52.4 of the Hawaii Revised Statutes (“HRS”). Of those reviewed, the Auditor determined that the Land Conservation Fund and the Natural Area Reserve Fund did not qualify for continuance, both of which are funded by the Conveyance Tax.

Furthermore, the problem linking funding to the Conveyance tax is that when the real estate market is down, there are not enough funds to pay for the programs and special funds it covers. Then, the Conveyance Tax is often targeted for increase to cover these programs. However, when the market is up, there are excess funds over and above the program's needs. This becomes a cyclical issue, and unreliable in forecasting these program's needs.

The Conveyance Tax applies to the conveyance of multi-family rentals, land for residential subdivisions, affordable housing projects, mixed-income and multi-use properties, commercial properties, resort properties, and agricultural lands, as well as condominium and single-family homes. It applies whether or not a property is sold at a gain or a loss.

Finally, while the Land Conservation Fund is valuable, it should be noted it can request appropriations and funds through the budgetary process.

Mahalo for the opportunity to testify.



**SB-2533**

Submitted on: 1/29/2022 12:42:32 PM

Testimony for WTL on 1/31/2022 1:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>         | <b>Testifier Position</b> | <b>Remote Testimony Requested</b> |
|---------------------|-----------------------------|---------------------------|-----------------------------------|
| Robin Rayner        | Testifying for Ke Ao Hali'i | Support                   | No                                |

Comments: The original bill establishing the Land Conservation Fund was intended to help ensure some of our precious Hawaiian lands would be protected from development. With demand to develop property increasing and the cost to purchase land rising monthly, it is crucial that this Land Conservation Fund be increased to keep pace with the competing demands of private development. PLEASE REMOVE THE MONETARY CAP FOR THE AMOUNT OF CONVEYANCE TAXES COLLECTED THAT SHALL BE PAID INTO THE LAND CONSERVATION FUND. Mahalo, Robin Rayner Board member, Ke Ao Hali'i Hana, Maui

**SB-2533**

Submitted on: 1/29/2022 5:12:22 PM

Testimony for WTL on 1/31/2022 1:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>                   | <b>Testifier Position</b> | <b>Remote Testimony Requested</b> |
|---------------------|---------------------------------------|---------------------------|-----------------------------------|
| Lucienne de Naie    | Testifying for Sierra Club Maui Group | Support                   | No                                |

Comments:

Dear WTL Chair and Committee members

Mahalo for hearing this bill. Sierra Club Maui is in strong support of raising the cap on the amount of conveyance tax that can be distributed to the Land Conservation Fund. Real estate sales in Hawaii are booming and prices are shooting upward as well. Higher prices and robust sales= more conveyance tax revenue. This means the cost of acquiring land for public recreation and conservation purposes is also rising. We need to keep things in balance. Please pass this bill and help the Legacy Lands Commission have the support they need to help acquire the lands that are important parts of our present and future "green infrastructure".

Mahalo for your support

Lucienne de Naie

Chairperson, Sierra Club Maui Group



P. O. Box 2122 Wailuku, HI 96793

January 30, 2022

**SB 2351 and SB 2533 RELATING TO THE LAND CONSERVATION FUND**

Aloha Senators,

Ma`alaea Village Association (MVA), a 501(c) 3 nonprofit corporation, with over 190 dues-paying members, supports increased funding for the State's Land Conservation Fund.

The Ma`alaea community, along with other Maui community groups from Kihei to Haiku, has worked for over 20 years to preserve "Ma`alaea Mauka" Ag. lands at the crossroads between Lahaina, Kihei and Central Maui, in open space and free from development. The property is key to restoring the Pohakea Watershed with its scenic views of Ma`alaea Bay and Haleakala. It contains the historic Lahaina Pali Trail which dates back over 100 years. Ma`alaea Bay is a precious resource, and home of the Hawaiian Islands National Humpback Whale Marine Sanctuary, and Kealia Pond National Wildlife Refuge as well as environmental leaders Maui Ocean Center and the Pacific Whale Foundation. Recent efforts to restore Ma`alaea Bay, a 303(d) 'impaired body of water designated by EPA, undertaken by the DLNR Division of Forestry and Wildlife (DOFAW), along with Maui nonprofit Maui Nui Marine Resource Council, have begun to address wildfire and erosion that threaten the Bay and the watershed. Combining this 257 acre property with the 4,000 acre West Maui watershed will allow the state to manage the entire watershed in perpetuity.

We have been successful in obtaining Maui County Council Open Space funding toward purchase of the property. With Trust for Public Lands helping to facilitate the process, we have made great headway with the County and the landowner toward realizing this long-held dream. MVA submitted its application for "Pohakea Watershed Lands" to the DLNR Legacy Lands program in 2020, and Ma`alaea is on the calendar for consideration next month. Legacy Lands funding could make all the difference.

There are communities all over this state with precious natural resources, scenic vistas and valuable Ag. land that need to be protected and preserved. The Land Conservation Fund, in conjunction with other funders – both public and private, through the Legacy Lands program, makes this possible.

Please support increased funding for the Land Conservation Fund.

Mahalo!

Lynn Britton  
Immediate Past President and Co-Founder, Ma`alaea Village Association

Cc: Scott Fretz, Maui Branch Manager, DLNR DOFAW

Lyndon Ibele, MVA President 2022

Lea Hong, Hawaii Director, Trust for Public Lands

**Testimony of The Nature Conservancy  
Supporting SB 2533, RELATING TO THE LAND CONSERVATION FUND.**

**Committee on Water and Land  
January 31, 2022, 1:00 pm  
Conference Room 229 & Videoconference**

Aloha Chair Inouye, Vice Chair Keith-Agaran and Members of the Committee:

The Nature Conservancy (TNC) strongly supports SB 2533, Relating to the Land Conservation Fund, which removes the monetary cap for the amount of conveyance taxes collected that shall be paid into the Land Conservation Fund.

The Land Conservation Fund supports the Legacy Land Conservation Program, which funds grants to state and county governments and non-profit land conservation organizations to acquire land and protect valuable resources for public benefit. Protecting these lands offers wide benefits for the people of Hawai'i, including reforestation efforts that help mitigate the impacts of climate change by providing freshwater and preventing runoff, drought, and wildfires.

As real estate prices rise, removing the cap on the Land Conservation Fund will help meet the demand for and cost of acquiring land for public and ecological benefit. Under the current cap, the Legacy Land Conservation Program regularly is unable to meet all the need. Additionally, the Land Conservation Fund provides vital matching funds necessary to access federal money under the Land and Water Conservation Fund, which provides \$900 million annually for land conservation programs.

Removing the cap on the Land Conservation Fund will support much needed land protection efforts as Hawai'i battles the impact of climate change.

Mahalo for your support of Hawai'i's natural resources and the opportunity to provide testimony on SB 2533.

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*The Nature Conservancy of Hawai'i and Palmyra is a non-profit organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 nature preserves and work in over 50 coastal communities to help protect and restore the nearshore reefs and fisheries of the main Hawaiian Islands. We forge partnerships with government, private parties, and communities to protect forests and coral reefs for their ecological values and for the many benefits they provide to people.*

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January 30, 2022

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Meeting on January 31, 2022 at 1 p.m.  
Conference Room 229 & Videoconference

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RE: **Support for SB2533 and the Legacy Land Conservation Program**

Dean Takebayashi  
Director

Aloha Chair Inouye, Vice Chair Keith-Agaran, and WTL Committee Members,

Gary Weller  
Director

Livable Hawaii Kai Hui **strongly supports** SB2533. As a member of the Ka Iwi Coalition – which led the movement to protect Kaiwi Coast from Maunalua to Makapu'u – we know firsthand the positive impact that can be made by a grant from the Legacy Land Conservation Program (LLCP).

Kendrick Chang  
Community Outreach  
Coordinator

In 2014, Livable Hawaii Kai Hui was awarded one such grant to conserve the Kaiwi Mauka Lands in perpetuity. Not only did the grant fund a substantial portion of the acquisition (completed in 2016), it provided much needed momentum for our campaign to build public support.

Dylan Ramos  
Communications &  
Operations

**SB2533** removes reference to a dollar amount in the Land Conservation Fund allocation which supports the LLCP. Whereas the existing statute references "Ten per cent or \$5,100,000, whichever is less," SB2533 guarantees the full 10% share of revenue moving forward.

**Website**

[www.hawaiikaihui.org](http://www.hawaiikaihui.org)  
[www.kaiwicost.org](http://www.kaiwicost.org)

**Like us on Facebook**  
Livable Hawaii Kai Hui  
Aloha Aina O Kamilo Nui  
Ka Iwi Coast

By passing SB2533, this Committee can show its support for conservation efforts.

Livable Hawaii Kai Hui is a 501c(3) non-profit, community organization serving East Honolulu since 2004. We strive to promote sensible growth, respect for cultural & natural resources and upholding the integrity of the East Honolulu Sustainable Communities Plan.

Mahalo,

Elizabeth Reilly  
Founder/President  
Livable Hawaii Kai Hui

Dylan Ramos  
Communications & Operations  
Livable Hawaii Kai Hui

**SB-2533**

Submitted on: 1/30/2022 8:53:19 AM

Testimony for WTL on 1/31/2022 1:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Remote Testimony Requested</b> |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Thorne Abbott       | Individual          | Support                   | No                                |

Comments:

I strongly support this bill. We should not cap or limit our efforts to conserve Hawaii's natural resources, especially using an arbitrary financial amount. We should not imply that our native resources are only worth spending \$5.1 million a year on. Please remove the cap! Mahalo!

**SB-2533**

Submitted on: 1/30/2022 10:54:29 AM

Testimony for WTL on 1/31/2022 1:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Remote Testimony Requested</b> |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Denise E Antolini   | Individual          | Support                   | No                                |

Comments:

Dear Chair Inouye, Vice Chair Keith-Agaran, and Members of WTL,

I strongly support SB2533 to lift the cap on the Land Conservation Fund.

Established in 2005, the Legacy Land Conservation Program and the Fund (LCP/F) have made major contributions to the conservation of critically important lands - for people and nature - statewide.

The LCP/F has been invaluable to helping to protect the rural lands of the North Shore.

Particularly now, in light of the climate crisis, the biodiversity crisis, and increasing pressures from tourism in our State, it is vitally important that Hawai'i continue its successful efforts over the past eighteen years to protect lands of cultural, biological, and recreational significance.

The unique collaborative nature of the LCP/F, which leverages substantial other funding sources, makes it a great investment for our State.

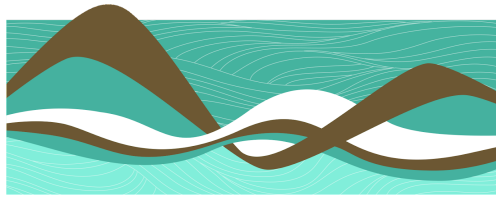
Lifting the ceiling is critical to the continued success of the program.

Please pass SB2533.

Mahalo,

Denise Antolini

Pūpūkea, O'ahu



## HAWAI'I LAND TRUST

### HAWAI'I LAND TRUST'S TESTIMONY REGARDING SB 2533

Senate Committee on Water & Land  
Monday, January 31, 2022, 1:00 p.m.  
Conf. Rm. 229 & Videoconference

Hawai'i Land Trust supports SB 2533 and wishes to share comments. SB 2533 proposes to remove the \$5.1M spending cap on the Legacy Land Conservation Fund. Every year, communities from all over Hawai'i apply to the State Legacy Land Conservation Fund for monies to purchase threatened lands with significant ecological, cultural, agricultural, and recreational attributes. The current cap only allows the top few projects to be funded and the other communities are left without a means to realistically protect their most special natural places. Real estate values in Hawai'i are higher than ever before with no signs of slowing, and there is a higher need for the Legacy Land Conservation Fund than ever before. The public wants to see the places that sustain us and hold our unique history permanently protected. The Legacy Land Conservation Fund is one of the few funding sources that can be used to permanently purchase land and conservation easements. The spending cap is not in line with the public sentiment to purchase and forever the lands that are the heart and soul of Hawai'i.

Hawai'i Land Trust also supports the intent of SB 2351 and the increase in the percentage of Legacy Land Conservation funds that can be used for management from 5% to 25%. We would support folding the terms of SB 2533 to remove the spending cap into SB 2351 for a comprehensive bill that would lead to both increased protection of our most precious threatened lands, and support for the management and stewardship of those lands once protected.

Mahalo for the opportunity to share feedback,

Laura H. E. Kaakua  
President and CEO  
Hawai'i Land Trust

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Laura H. E. Kaakua, *President & CEO*