



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

S.B. NO. 2623, S.D. 1, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, March 1, 2022 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Craig Iha,
Deputy Attorney General, at (808) 587-2978)

Chair Rhoads and Members of the Committee:

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

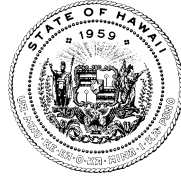
This bill amends sections 208 and 209 of the Hawaiian Homes Commission Act, 1920 (HHCA), to prohibit a lessee of, or successor to, a Department of Hawaiian Home Lands (DHHL) homestead lease who has sold or transferred the interest in the lease for personal gain, from being placed on any waiting list maintained by DHHL for an award of a homestead lease under section 207, HHCA.

Section 5 of the bill contains a severability clause whereby any amendments that require the consent of the United States shall take effect upon consent, and any amendments that do not require consent shall be unaffected and shall take effect immediately. Section 7 of the bill, however, makes the entire bill effective "upon its approval with the consent of the United States Congress." To conform section 7 with the severability clause contained in section 5, we suggest amending section 7 to state: "This Act shall take effect upon its approval [~~with the consent of the United States Congress~~] or as otherwise provided in section 5."

Thank you for the opportunity to provide these comments.

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**

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HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON JUDICIARY
DECISION MAKING ON MARCH 1, 2022 AT 9:30AM VIA VIDEOCONFERENCE

SB 2623, SD1, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

March 1, 2022

Aloha Chair Rhoads, Vice Chair Keohokalole, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits comments on this bill that excludes from any waiting list maintained by DHHL any lessee or successor who sells or transfers their lease on a tract of Hawaiian home lands.

Act 179 (2018) required DHHL to conduct a study on the issue of Hawaiian Home Lands lessees selling or transferring their Hawaiian Home Lands lease to another Native Hawaiian for a fee or personal gain and then applying for a subsequent Hawaiian Home Lands lease that can be accessed here: <https://dhhl.hawaii.gov/wp-content/uploads/2019/12/DHHL-Report-to-the-2020-Legislature-Relating-to-Act-179-2018.pdf>. The findings from this study indicated that less than half of 1% of pastoral and agricultural applications and 4% of residential applications had a prior lease. The vast majority of the transfers ranging from 68-93% were made to a family member without remuneration. The recommendation from the study was that legislative action was not needed given the small number of applicants (176) that transferred their lease for a fee or other personal gain and then applied for a subsequent Hawaiian home lands lease. Enacting legislation for such a small number could have unintended consequences to other beneficiaries. Furthermore, DHHL's existing administrative rules already provide a priority and preference for award of leases. HAR §10-3-7 states that "in making awards, the department shall give preference to an applicant who is not a lessee, or whose spouse is not a lessee." DHHL's administrative rules were also amended in 2017 to stipulate that "leases for vacant or undeveloped lots and undivided interests, or any interest therein, shall not be sold but may be transferred for no consideration or by succession" (HAR §10-3-36(a)). The rules provide that "lease transfers to qualified relatives of a lessee or to beneficiaries on a waitlist shall have priority for processing over transfers to beneficiaries not on a waitlist" (HAR §10-3-36(b)).

Thank you for your consideration of our testimony.