

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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TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE HOUSE COMMITTEE ON HOUSING  
HEARING ON MARCH 17, 2022 AT 9:00AM VIA VIDEOCONFERENCE

**SB 3247, SD2, RELATING TO HAWAIIAN HOME LANDS**

March 17, 2022

Aloha Chair Nakamura, Vice Chair Hashimoto, and members of the Committee:

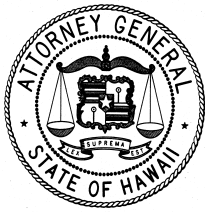
The Department of Hawaiian Home Lands (DHHL) submits comments on this bill that requires DHHL to build rental units, apartments, and rent-with-option-to-buy housing units to address the housing needs of native Hawaiians on the waitlist for homestead leases. DHHL appreciates the motivation behind this bill, but the DHHL Beneficiaries Study Applicant Report, 2020 that can be accessed here: <https://dhhl.hawaii.gov/wp-content/uploads/2021/04/DHHL-Applicant-Report-FINAL-Revised-210426.pdf> notes that over 75% of applicants indicated a turn-key lot or vacant lot as their first choice reflected as follows:

Residential Applicants' Housing Preferences, 2020

	1st Choice	Pct.
Turn-Key (Lot with single-family house on it)	12,496	53.9%
Lot with water, electricity and sewer, but no house	5,146	22.2%
Single-family house to rent with option to buy	2,070	8.9%
Don't know/Refused	1,925	8.3%
Apartment suited for senior citizens	628	2.7%
An affordable rental unit and retain my place on the waiting list	496	2.1%
Condo or Townhouse Rental unit with option to buy	197	0.8%
Townhouse in a duplex or four-plex	135	0.6%
Condominium apartment (Multi-family building)	106	0.5%
Total	23,199	100.0%

In light of the preference of residential applicants for a single-family house or lot, this bill would not accomplish the result desired to satisfy the housing needs of native Hawaiians currently on the waitlist.

Thank you for your consideration of our testimony.



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 3247, S.D. 2, RELATING TO HAWAIIAN HOME LANDS.

**BEFORE THE:**

HOUSE COMMITTEE ON HOUSING

**DATE:** Thursday, March 17, 2022                      **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 423, Via Videoconference

**TESTIFIER(S):** Holly T. Shikada, Attorney General, or  
Craig Y. Iha, Deputy Attorney General

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Chair Nakamura and Members of the Committee:

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

This bill requires the Department of Hawaiian Home Lands (DHHL) to build sufficient rental housing to satisfy the housing needs of those native Hawaiians currently on the waiting list for DHHL homestead leases.

We are concerned that the bill might be interpreted as creating an implied private right of action, in which individual native Hawaiian beneficiaries might bring multiple suits against DHHL and the State if DHHL does not completely eliminate the waiting list by developing rental housing. To determine whether a statute creates an implied private right of action, Hawai'i courts weigh the following factors:

First, is the plaintiff one of the class for whose especial benefit the statute was enacted? Second, is there any indication of legislative intent, explicit or implicit, either to create such a remedy or to deny one? Third, is it consistent with the underlying purposes of the legislative scheme to imply such a remedy for the plaintiff?

*Org. of Police Officers v. City & Cty. of Honolulu*, 149 Hawai'i 492, 506 (2021) (quoting *Cort v. Ash*, 422 U.S. 66, 78 (1975) (citations and punctuation omitted). To clarify that this bill does not create another private right of action against DHHL and the State, we recommend amending section 2 on page 2, lines 6-10, of the bill to read as follows:

SECTION 2. The department of Hawaiian home lands shall build sufficient rental housing, including apartment units and rent-with-option-to-

buy housing units, to satisfy the housing needs of those native Hawaiians currently on the waitlist for homestead leases[-]; provided that nothing contained in this Act shall create an express or implied private right of action against the State or its department of Hawaiian home lands.

Thank you for the opportunity to provide these comments.

SB 3247, SD2-Relating to Hawaiian Home Lands

Thursday, March 17, 2022

Laverne Fernandes Moore

Chair Nakamura and Members of the Committee

I, Laverne Fernandes Moore, a Native Hawaiian woman, strongly supports SB 3247, SD2, which requires the Department of Hawaiian Home Lands to build rental units, apartments, and rent-with-option-to-buy housing units to address the housing needs of Native Hawaiian on the waitlist for homestead leases.

Back in 1970, I had the opportunity of acquiring my Native Hawaiian Aunt's home in Waimanalo who recently passed. I turned it down at the dismay of my Native Hawaiian Mother because I was fortunate to be able to qualify for a home loan.

The passage of the Hawaiian Homes Commission Act in 1921 states the State of Hawaii holds a fiduciary obligation to enable beneficiaries of the Hawaiian home lands trust to acquire a residence and to enable the Department of Hawaiian Homes Lands to fulfill its fiduciary duties to beneficiaries.

The time is now, for the State of Hawaii to fulfill its fiduciary duties to native Hawaiians who will move into affordable housing and leave a legacy of home ownership for the next generation.

Mahalo for the opportunity to testify and support SB 3247, SD2.