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IN REPLY, REFER TO:
OCS 23.1090

February 24, 2023

To: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Tuesday, February 28, 2023
Time: 10:00 a.m.
Place: Conference Room 211, State Capitol & Videoconference

From: Jovanie Domingo Dela Cruz, Executive Director
DLIR – Office of Community Services

Position: Support

Re: S.B. 297, S.D. 1 Relating to Grants-in-Aid

I. OVERVIEW OF PROPOSED LEGISLATION

If a grant-in-aid under Chapter 42F is used by an organization for the acquisition of land and the organization discontinues the activities or services on the land acquired for which the grant was awarded, S.B. 297, S.D. 1 would require the organization to obtain authorization of the Legislature, by concurrent resolution, to dispose of the land in fee simple or by lease. Only after the organization obtained this authorization would it be able to dispose of the land.

II. CURRENT LAW

Under current law, HRS §42F-103(d), a non-profit organization that wishes to dispose of land that it previously acquired with State grant funds under Chapter 42F must negotiate with the expending agency “for a lump sum or installment repayment to the State of the amount of the grant used for the acquisition of the land.” This restriction must be registered, recorded, and indexed in the Bureau of Conveyances or with the assistant registrar of the Land Court as an encumbrance on the property. Amounts received from the repayment of a grant shall be deposited into the State’s general fund.

III. COMMENTARY

The Office of Community Services (OCS) currently administers the majority of the Grants-in-Aid awarded by the 2022 Legislature. OCS supports the intent of this measure, which provides the Legislature the discretion to provide authorization for the disposition of land acquired using Grants-in-Aid awarded under Chapter 42F.

The Senate Committee on Government Operations considered this bill and made an amendment, S.D. 1. That amendment appears to make the Legislative approval process mandatory starting on July 1, 2024. The requirement for this approval process will evidently relate back to all prior Chapter 42F grants where the grantee has obtained land and may in the future want to dispose of it. The amendment does not address a question that OCS had raised in our prior testimony, namely whether this new requirement is intended to be retrospective to cover lands that were acquired before the effective date of this bill as law.

If the Legislature's intent is to make this requirement retroactive, it seems that the requirement would need to be placed on existing deeds as a new encumbrance. This may be very difficult to implement. The alternative might be to amend the bill further to clarify that the Legislative approval requirement will only apply to land acquisitions that take place after the effective date of this bill as law.

Thank you very much for the opportunity to testify.