

Honolulu, Hawaii

MAR 03 2023

RE: S.B. No. 741
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 741, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION
ACT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Exclude from any waiting list maintained by the Department of Hawaiian Home Lands any lessee or successor who sells or transfers their lease on a tract of Hawaiian home lands for personal gain; and
- (2) Establish that the Hawaiian Homes Commission shall have a right of first refusal for the sale or transfer of a lessee's interest in the lease when the sale or transfer is for personal gain.

Your Committee received testimony in support of this measure from four individuals. Your Committee received testimony in opposition to this measure from one individual. Your Committee received comments on this measure from the Department of Hawaiian Home Lands and Department of the Attorney General.

Your Committee finds that the practice of churning can be described as obtaining a Hawaiian home lands lease, selling or



conveying it to others for a fee or other personal gain, then applying again to be placed on the waiting list to receive another lease. Your Committee further finds that the large number of applications is due in part to an applicant being allowed to submit more than one application for the different awards of leases, such as pastoral, agricultural, and residential leases, where the applicant is eligible to apply for all three and hoping to receive just one award. With the number of applications continuing to grow, some eligible native Hawaiian beneficiaries may remain on the list for an extended number of years before receiving a Hawaiian home lands lease or may never obtain a lease. Your Committee finds this practice of churning unacceptable, as it prevents many native Hawaiians from ever obtaining a lease, and that this practice must be prohibited to ensure fairness in the distribution of leases to all beneficiaries.

To align the measure with the existing authority and practice of the Department of Hawaiian Home Lands, your Committee has amended this measure by:

- (1) Specifying that the Hawaiian Homes Commission shall have the right of first refusal by requiring the lessee to surrender the lease to the Department of Hawaiian Home Lands whenever the lessee seeks to sell or transfer the lessee's interest in the lease for personal gain; provided that if the Hawaiian Homes Commission does not exercise the right of first refusal, the respective lessee may proceed in the sale or transfer in accordance with the law; and
- (2) Inserting an effective date of March 22, 2075, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 741, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 741, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,

Karl Rhoads

KARL RHOADS, Chair



