



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2640, S.D. 2, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

**DATE:** Tuesday, March 12, 2024                      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325 and Videoconference

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Jordan A. K. Ching, Deputy Attorney General

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Chair Tarnas and Members of the Committee:

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

The bill proposes to amend the Hawaiian Homes Commission Act, 1920, as amended (HHCA), to allow the Department of Hawaiian Home Lands (DHHL) to provide an unspecified cash award to a beneficiary on the Hawaiian Home Lands waitlist to purchase a residential lot outside of DHHL trust lands or to pay the beneficiary's existing mortgage note or rent in lieu of awarding the beneficiary a lease in an effort to shorten the waitlist.

The proposed section (d), HHCA, in section 2 of the bill provides on page 2, lines 20-21, that "[t]he department may expend funds from the Hawaiian home loan fund" to pay the cash awards. The Hawaiian Home Loan Fund is established under section 213, HHCA, which also specifies the allowed uses of the fund. For further clarity, we recommend adding a new section 3 to the bill to amend section 213(b), HHCA, to add cash award payments as an allowed use of the fund, as follows:

SECTION 3. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (b) to read as follows:

(b) Hawaiian home loan fund. The moneys in this fund shall be available for the purposes enumerated in section 214 ~~[and]~~, for payments

provided in section 209, and for payment of cash awards provided in section , and shall not be expended for any other purpose except as provided in subsection (e).

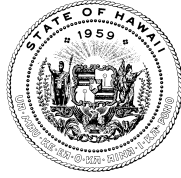
Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home operating fund.

(Subsequent sections of the bill should be renumbered as appropriate.)

Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.  
GOVERNOR  
STATE OF HAWAII  
*Ke Kia'āina o ka Moku'āina 'o  
Hawaii*

SYLVIA J. LUKE  
LT. GOVERNOR  
STATE OF HAWAII  
*Ka Hope Kia'āina o ka Moku'āina  
'o Hawaii*



KALI WATSON  
CHAIRMAN, HHC  
*Ka Luna Ho'okele*

KATIE L. DUCATT  
DEPUTY TO THE CHAIRMAN  
*Ka Hope Luna Ho'okele*

**STATE OF HAWAII**  
**DEPARTMENT OF HAWAIIAN HOME LANDS**  
*Ka 'Oihana 'Āina Ho'opulapula Hawaii'i*

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**TESTIMONY OF KALI WATSON, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS  
HEARING ON MARCH 12, 2024 AT 2:00PM IN CR 325**

**SB 2640, SD2, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT**

March 12, 2024

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits comments on this bill which 1) amends the Hawaiian Homes Commission Act to authorize the DHHL to provide cash awards to beneficiaries on the waitlist in lieu of a lease; 2) requires the DHHL to remove those beneficiaries from the waitlist; 3) specifies that beneficiaries that accept a cash reward shall lose their right to return to the waitlist, but remain entitled to other rights provided by the Hawaiian Homes Commission Act; and 4) takes effect on either the date of the Secretary of the Interior's notification that congressional approval of this Act is unnecessary, or on the date of consent by the United States congress.

Before passage of the Hawaiian Homes Commission Act, 1920, as amended, (HHCA), Delegate Jonah Kūhiō Kalaniana'ole wrote to U.S. Senators and stated that "After extensive investigation and survey on the part of various organizations organized to rehabilitate the Hawaiian race, it was found that the only method in which to rehabilitate the race was to place them back upon the soil." While the DHHL appreciates the intent of this bill, there are some concerns. The purpose of the HHCA is to return native Hawaiians to the land while encouraging them to become self-sufficient homesteaders on leased parcels of trust land through residential, agricultural, and pastoral lots pursuant to section 207 of the HHCA – not to provide cash awards in lieu of a lease award.

Furthermore, the DHHL waiting list is not part of the HHCA. Rather, section 222 of the HHCA requires that DHHL adopt administrative rules as are necessary for the efficient execution of the functions vested in the DHHL by this Act. Thus, the DHHL waiting list exists and operates by way of administrative rule.

Thank you for your consideration of our testimony.

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Unity, Equality, Aloha for all



To: HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

For hearing Tuesday, March 12, 2024

Re: SB 2640, SD2 RELATING TO THE HAWAIIAN HOMES COMMISSION ACT. Amends the Hawaiian Homes Commission Act to authorize the Department of Hawaiian Home Lands to provide cash awards to beneficiaries on the waitlist in lieu of a lease. Requires the Department of Hawaiian Home Lands to remove those beneficiaries from the waitlist. Specifies that beneficiaries who accept a cash reward shall lose their right to return to the waitlist, but remain entitled to other rights provided by the Hawaiian Homes Commission Act. Takes effect on either the date of the Secretary of the Interior's notification that congressional approval of this Act is unnecessary, or on the date of consent by the United States congress. (SD2)

TESTIMONY IN OPPOSITION

The slogan most frequently heard about the purpose of the Hawaiian Homelands is "to put Hawaiians back on the land." We might ask: Where else would they be? If they are not on the land, then are they up in the air? Some might say that people who have been waiting for a lease for decades are indeed up in the air about their future, including thousands who have gone so high in the air they are now in heaven! (they "died on the waitlist") The concept of "putting Hawaiians on the land" is clearly a metaphor related to engaging in the occupation of farming, it is not simply a way of identifying the fact that gravity makes everything on Earth rest upon the ground.

This bill's description says "Amends the Hawaiian Homes Commission Act to authorize the Department of Hawaiian Home Lands to provide cash awards to beneficiaries on the waitlist in lieu of a lease. Requires the Department of Hawaiian Home Lands to remove those beneficiaries from the waitlist."

But HHCA (the Hawaiian Homes Commission Act) had a very clear purpose which was NOT to provide housing -- its purpose was to provide LAND which people could lease longterm for farming of vegetables or animals, and where they might also build a farmhouse for their families. The purpose of HHCA was especially NOT to provide money as a bribe for people to give up their spot on a waitlist for a lease on farmland. Indeed, the recent settlement of the class-action lawsuit *Kalima v. State of Hawaii* should be regarded as the already-completed payment of a bribe such that anyone who accepted such a payment has thereby waived any legal demand or moral claim for alleged damages arising from past or future time on the waitlist.

State of Hawaii Department of Hawaiian Homelands prominently displays on its website a page devoted to Prince Jonah Kūhiō Kalanianaʻole, Delegate to Congress for the Territory of Hawaii, who introduced the bill that became the Hawaiian Homes Commission Act of 1920.

<https://dhhl.hawaii.gov/kuhio/>

The webpage begins with the following description of the purpose of HHCA (Webpage retrieved on March 8, 2024):

"Through its passage, the United States set aside approximately 200,000 acres of land to establish a permanent homeland for native Hawaiians, who were identified as a "landless and dying" people as the result of disease, intermarriage, and loss of lands. After extensive investigation and survey on the part of various organizations organized to rehabilitate the Hawaiian race, it was found that the only method in which to rehabilitate the race was to place them back upon the soil," Kūhiō wrote to U.S. Senators before the passage of the Act. The Hawaiian Homes Commission Act intended to return native Hawaiians to the land while encouraging them to become self-sufficient homesteaders on the leased parcels of trust land." By the way, Native Hawaiians are clearly no longer a dying race facing extinction as portrayed in HHCA: following decades of devastating depopulation under the Kingdom, the population of Native Hawaiians increased tenfold during the first century of U.S. sovereignty, from fewer than 40,000 in Census 1900 to more than 400,000 in Census 2000; and then further exploding to 527,000 in Census 2010, then 780,000 in Census 2020, and simple extrapolation would indicate now more than 850,000.

Notice that the purpose of HHCA was NOT to provide houses or apartments, roads, water pipes, electricity, or other conveniences of urban life -- the clearly-stated purpose, repeated several times, was to provide LAND for native Hawaiians "to place them back upon the soil ... to return native Hawaiians to the land while encouraging them to become self-sufficient homesteaders on the leased parcels of trust land." It was envisioned that the leaseholders would become farmers, growing vegetables, cattle, chickens, etc. to feed their own families or to barter or sell to be self-sufficient.

But most leaseholders under the Department of Hawaiian Homelands live in urban-style houses on tiny parcels of land with hundreds of

neighbors living so close nearby they can see and hear each other at all hours. They grow more ornamental bushes and flowers than vegetables. They have pet dogs but no cows or pigs. This urban use of "homestead" lands got started in the very first "Hawaiian homeland" of Papakolea on a hill overlooking Honolulu, and continues in the more recently developed nearby "Kalawahine" hillside area on steeply-sloping streets with closely-packed upscale houses owned by native Hawaiians who are business owners, police detectives and fire captains. The houses on leased land in the middle-class Waimanalo Hawaiian homestead look exactly the same as the houses across the street owned in fee simple by people with no native blood, while native and non-native children mingle in their classrooms at the state-run Blanche Pope Elementary School; and the Department of Hawaiian Homelands decided to build a rental apartment-building nearby, across the street from the public beach (no farm animals allowed in those apartments!).

Prince Kuhio's Hawaiian Homes Commission Act has been twisted far out of line from his intention of rehabilitating a dying race by putting Hawaiians back on the land. This bribery bill would add insult to injury. It also is a slap in the face to the kind-hearted legislators who in 2022-2023 already sent an extra \$600 Million to the Department of Hawaiian Homelands in their misguided desire to provide funding for urban-style development of lands intended for farming.

This bill further expands the growth of a line of legislation that rips money away from the needs of the 95% of Hawaii's people who lack the 50% native blood quantum needed to qualify for the list of bribe-eligible people.

Section 1, sentence 3 of this bill explicitly says "the purpose of this Act is to shorten the waitlist" by paying a bribe to anyone who removes his name. But in recent years this committee has forwarded legislation asking Congress to approve lowering the blood quantum requirement for issuance of a HHCA lease from 1/2 all the way down to 1/32, which is for all practical purposes the same as a "one-drop" rule. According to recent Census data there are now about 700,000 people

in the U.S. who identify themselves as being "Native Hawaiian" and could thereby be added to the waitlist for a DHHL lease. Combining the current bill to bribe people for removing themselves from the waitlist, together with the previous bills to lower the blood quantum to one drop and thereby hugely increase the size of the waitlist, looks very much like a scam. Sell the scam to the public and its legislature by claiming to reduce the waitlist, while actually increasing it vastly, thereby setting the stage for the next round of Kalima v. State of Hawaii whose settlement could very well bankrupt the State. The committee members conspiring in this scam deserve a "lifetime achievement" award if they succeed.



**SB-2640-SD-2**

Submitted on: 3/8/2024 9:55:55 AM

Testimony for JHA on 3/12/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lu Ann Mahiki Lankford-Faborito	Individual	Support	Written Testimony Only

Comments:

As a daughter of a waitlister, strong support to allow mother this opportunity

**SB-2640-SD-2**

Submitted on: 3/8/2024 9:57:01 AM

Testimony for JHA on 3/12/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Mahiki Lankford	Individual	Support	Written Testimony Only

Comments:

as a waitlister, strong support

**SB-2640-SD-2**

Submitted on: 3/9/2024 6:43:50 AM

Testimony for JHA on 3/12/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lynette Cruz	Individual	Support	Written Testimony Only

Comments:

Strongly support. Offer those on the list who cannot qualify for a loan to build at least some kind of cash settlement before they die. Too many already dying on the list.