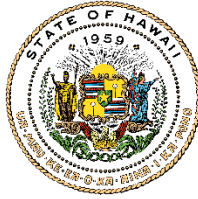


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
WAYS AND MEANS
And
JUDICIARY

Tuesday, April 1, 2025
10:00 AM

State Capitol, Conference Room 211 & Videoconference

In consideration of
HOUSE BILL 1141, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO UPDATING PUBLIC LAND LEASES ISSUED PURSUANT TO
CHAPTER 171, HAWAII REVISED STATUTES

House Bill 1141, House Draft 1, Senate Draft 1 proposes to require that lease extensions approved by the Board of Land and Natural Resources (Board) update the terms and conditions of leases using the most current lease form at the time the extension is approved and to repeal existing language in sections 171-36(c) and 171-192(c), HRS, providing that lease extensions shall be subject to the rules of the Board. **The Department of Land and Natural Resources (Department) supports this Administration bill.**

An audit conducted by the State Auditor at the direction of the Legislature made critical findings regarding the Special Land and Development Fund within the Department. The Auditor's findings and recommendations were contained in Audit Report No. 19-12. Subsequently, a House Investigative Committee (Committee) was established on April 29, 2021.

The Committee made several recommendations to provide clear legislative intent and authority to assist the Department in carrying out its statutory functions. This bill is the result of the Committee's recommended legislation to allow the Board to update the terms and conditions of its leases in the lease extension context using the most current lease form. This will ensure that, in the event the extension of a lease results in a conflict or inconsistency between an updated lease term or condition authorized under chapter 171, HRS, and a term or condition in the lease being extended, the updated lease term or condition authorized under chapter 171, HRS, shall control.

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

House Bill 1141, House Draft 1, Senate Draft 1 is intended to apply to all leases issued under chapter 171, HRS, regardless of whether they were issued by public auction or direct negotiation. The Department of the Attorney General has determined that the Hawaii Supreme Court's decision in *State v. Kahua Ranch, Ltd.*, 47 Haw. 28, 384 P.2d 581 (1963), aff'd on reh'g, 47 Haw. 466, 390 P.2d 737, which concluded that leases issued by public auction cannot be amended, does not apply to extended leases. The bill makes clear that extended leases must be drafted using current, Board-approved terms and conditions.

The issues that were identified in the audit and report are of significance to the State, as the inability to update lease terms and conditions not only deprives the public of a fair return for the use of public lands, but also could lead to additional liability against the State and significant public health and safety issues such as when structures beyond their useful life are left on public lands at the end of a lease.

Adding a new subsection 171-36(g), HRS, will make the most current Board lease form apply to "any lease," thus, all state leases - including those lease types in sections 171-36(b)-(f), 171-36.5, and 171-192, HRS, will be affected.

Finally, the bill proposes to repeal existing language in sections 171-36(c) and 171-192(c), HRS, providing that lease extensions shall be subject to the rules of the Board. The Board has no rules on lease extensions and the Department has no need to adopt rules because the statutory requirements for a lease extension are sufficiently detailed.

Mahalo for the opportunity to provide comments on this measure.

HB-1141-SD-1

Submitted on: 3/29/2025 11:10:08 AM

Testimony for JDC on 4/1/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Patrick Kahawaiolaa	Testifying for Komike O Kupuna Ainahoopulapula	Oppose	Written Testimony Only

Comments:

hawaii.gov>

**** Important Amendments to HB1141 and Act 236, 2021 Session Laws of Hawai'i

***** HB1141 provides the Legislature the opportunity to address CONCERNS raised and shared by the U.S. Department of the Interior (DOI) and Beneficiaries of the Hawaiian Homes Commission Act (HHCA), as well as members of the Legislature, about Act 236 from the 2021 legislative session. The 40-year lease extension authority in Act 236 is reflected in section 3 of HB1141.*****

Aloha e WAM Chair Delacruz, Vice Chair Moriwaki, JDC Chair Rhoads, Vice Chair Gabbard and the honorable members of both committees...

First, I, Patrick L. Kahawaiolaa, a native Hawaiian, as defined pursuant to the HHCA, 1920, amended July 9, 1921, (42, 42 stat. 108) 67th Congress, 1920 and now as an Advocate & board member of the Kōmike O Kupuna 'Ainahoopulapula (KOKA), our Ikū Ha'i, Louie Hao and those native Hawaiian kupuna BENEFICIARIES on the 'aina and the more than 20,000 aged 65 years plus, who continue to languish on the DHHL WAITLIST, ...continues to seek the Transparency and Clarity from this Legislative body, whenever by legislation, any portion of the Hawaiian Homes Commission Act, 1920, as amended, the same 105 years old Organic document that was, as the only proviso of Statehood, by a COMPACT between this new State and the United States, in (PL 86-3, 73 stat. 4), INCORPORATED into the State Constitution, has any appearances of "being tinkered with" I/we will testify to seek clarification on a piece of legislation before this body, ma laila (therefore)...As I stated in my previous testimony on HB1141, submitted to the Senate Committee on Water and Land and incorporated here by reference, the Legislature should AMEND HB1141 to clearly state WHETHER or NOT it intends Act 236 to APPLY to the HHCA to AUTHORIZE 40-year lease extensions for lands having the status of Hawaiian Home Lands Trust that are supposed to BENEFIT the beneficiaries rather than the General Public, including businesses and corporations. If the Legislature DOES NOT INTEND ACT 236 TO APPLY TO THE HHCA, you MUST PROVIDE CLARITY to those with the opposite intent by AMENDING HB1141 section 3 or ADDING a new section to state "Act 236, 2021 Hawai'i Session Laws DOES NOT APPLY to the HHCA or to lands having the status of the Hawaiian Home Lands Trust."

This language could be added in a new section as well, or at the very minimum included in the Committees' report.

If the Legislature DOES INTEND FOR ACT 236 TO APPLY TO THE HHCA, the Legislature MUST AMEND Act 236 to EXPLICITLY state that it applies to the HHCA and the lands having the status of the Hawaiian Home Lands Trust, as required by the DEPARTMENT OF INTERIOR's Regulations. This would make the intent TRANSPARENT for Beneficiary Consultation and proper consideration by the House and Senate committees with Authority & Jurisdiction over Hawaiian Affairs. Attached for your reference are a letter from then-U.S. Congressman Kai Kahele summarizing the DOI's concerns as conveyed by DOI's Solicitor to the Hawai'i Attorney General. I am happy to provide you with the attachments to that letter as well. I also recommend that you read the Honolulu Civil Beat article, [State, Feds At Odds Over Extension Of Hawaiian Homeland Leases - Honolulu Civil Beat](#).

Clarification by the Legislature, especially by your Committees, would save stakeholders, including the State and HHCA beneficiaries, the time and expense of resolving the dispute through "other means", and potentially save Court Resources as well.

If the State, Hawaiian Homes Commission, and Department of Hawaiian Home Lands want to extend 65-year leases for non-homestead and non-beneficiary uses to 105-year leases, BE TRANSPARENT, CONSULT with us, the HHCA Beneficiaries, and COMPLY with the Admission Act, DOI's regulations, and the Required CONSENT of the United States.

I can be reached at (808) 937-8217

"May the Great Ones protect you for who you are"

Aloha no,

Patrick Kawaiolaa, Advocate and Board Member member KOKA



[2022.10.14 US Rep Kahele Letter...](#)

LATE

HB-1141-SD-1

Submitted on: 3/31/2025 9:12:36 PM

Testimony for JDC on 4/1/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Mapuana	Individual	Comments	Written Testimony Only

Comments:

The language in this bill should explicitly state

"it will Not Affect Hawaiian Home Trust Lands"