

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



DEAN MINAKAMI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
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Statement of
DEAN MINAKAMI

Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON HOUSING

January 31, 2025 at 9:15 a.m.
State Capitol, Room 430

In consideration of
H.B. 1318
RELATING TO AFFORDABLE HOUSING.

Chair Evslin, Vice Chair Miyake, and members of the Committee.

HHFDC **supports** HB 1318, which removes from the definition of "public lands" for lands set aside by the Governor to the counties for the purpose of affordable housing. It also allows the Board of Land and Natural Resources to issue residential leases for affordable housing with an aggregate of initial terms and extensions up to ninety-nine years.

This bill would streamline the approval process and facilitate the delivery of affordable housing on lands set aside to the counties.

Thank you for the opportunity to testify on this bill.

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

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

Testimony of
DAWN N.S. CHANG
Chairperson

Before the House Committee on
HOUSING

Friday, January 31, 2025
9:15 AM

State Capitol, Conference Room 430 & Videoconference

In consideration of
HOUSE BILL 1318
RELATING TO AFFORDABLE HOUSING

House Bill 1318 proposes to remove from the definition of "public lands" lands set aside by the Governor to the counties for the purpose of affordable housing. The bill also proposes to allow the Board of Land and Natural Resources (Board) to issue residential leases for affordable housing with an aggregate of initial terms and extension up to ninety-nine years. **The Department of Land and Natural Resources (Department) offers the following comments on this measure.**

The Department notes that approximately 98% of State-owned lands are ceded, so the Department believes that the counties should be bound by the same public trust fiduciary duties and obligations as the Board in its management of ceded lands under its management. Therefore, the Department requests that the proposed amended to Section 171-2, Hawaii Revised Statutes (HRS) in section 1 of the measure be revised to read as follows:

(17) Lands set aside by the governor to the counties for the purpose of affordable housing, provided that such lands shall be managed pursuant to the same public trust fiduciary duties and obligations as the Board;

Additionally, as to section 2 of the bill, the Board no longer issues residential leases pursuant to Section 171-73, HRS, but rather has provided lands to the counties and housing agencies such as HHFDC that have the requisite expertise and experience to develop and manage housing projects. In such instances, the counties (or other housing agency) would issue and manage the residential lease, not the Board. Therefore, the Department believes that it is more important that the counties have the statutory

authorization to issue residential leases for an extended term for the lands under their jurisdiction, and that the proposed exception from public lands in Section 171-2, HRS in section 1 of the measure should be sufficient.

Thank you for the opportunity to comment on this measure.



OFFICE OF HAWAIIAN AFFAIRS

COMMENTS ON HOUSE BILL 1318
RELATING TO AFFORDABLE HOUSING
House Committee on Housing
Hawai'i State Capitol

January 31, 2025

9:15 a.m.

Conference Room 430

Dear Chair Evslin, Vice Chair Miyake and Members of the House Committee on Housing:

The Office of Hawaiian Affairs (OHA) provides these COMMENTS on HB1318. As written, HB1318 presents a significant risk of alienating or effectively alienating public and “ceded” lands, in violation of the legal obligations of the state with regards to the unresolved claims of Native Hawaiians to these lands. **OHA offers recommended amendments below to ensure that Native Hawaiian claims to lands set aside by the Governor to the counties for the purposes of affordable housing, and lands leased by the Board of Land and Natural Resources (BLMR) for affordable housing, are not alienated.**

OHA appreciates that the counties may benefit from greater flexibility and autonomy over the management and disposition of lands that may potentially fall within their control for affordable housing purposes. OHA understands that this measure would accordingly remove lands set aside by the Governor to the counties for the primary purpose of developing affordable housing from Board of Land and Natural Resources’ oversight and management under Chapter 171, through an amendment to the definition of “public lands” in HRS §171-2.

To ensure that lands set aside to the counties are treated consistently with other state lands removed from BLNR jurisdiction – particularly with respect the protection of our beneficiaries’ claims - OHA requests that this measure **expressly** reaffirm that current legislative approval requirements for the sale or alienation of any state lands, as found in HRS §171-64.7, also apply to the lands which may be set aside to the counties for affordable housing purposes.

The statutory requirements of HRS §171-64.7 are critical to maintaining the “ceded” lands corpus, and were enacted as a condition precedent to the settlement agreement in the OHA v. Housing and Community Development Corporation of Hawai’i lawsuit, brought in response to the State’s actions to sell and otherwise alienate “ceded” lands. The legislative approval requirements in HRS § 171-64.7 ensure a high level of accountability and transparency in any proposed alienation of the state’s limited land base, including lands that could be removed from the “ceded” lands corpus prior to the resolution of Native Hawaiians’ unrelinquished claims.

In addition, OHA has serious concerns regarding the potential for lands set aside to the counties, as well as lands held by the BLNR, to be leased for up a century at a time, if not longer. Such extremely long-term leases have led and may continue to lead to the eventual or effective alienation of public lands, including “ceded” lands. Notably, long-term leases such as the 99-year leases that could be authorized under this measure absent amendment, have been considered tantamount to the sale of a fee interest in tribal lands on the continent, as “the land base is effectively lost for generations to come.”¹ **Therefore, should the Committee choose to move this measure, OHA respectfully asks that:**

1. Parallel language to that found on page 4, lines 8-9 be added into a new subsection (a)(13) of HRS § 171-64.7, to ensure consistent procedural requirements for any land sale or fee disposition, to read as follows:

“(13) Lands that are set aside by the governor to the counties for affordable housing.”

2. The language found on page 4, lines 8-9 be further amended to clarify that “ceded” lands be limited to lease terms consistent with the existing limitations under existing law, to read as follows:

“(17) Lands that are set aside by the governor to the counties for affordable housing, provided that lands classed as government or crown lands previous to August 15, 1895, or previously exchanged for such lands, shall be subject to the initial and aggregate lease term limitations found in this chapter.”

and

3. The new proposed statutory language found on page 5, lines 9-13, authorizing lease and lease extensions for an aggregate of 99 years, be amended to apply only to non-“ceded” lands, to read as follows:

“Residential leases of lands not classed as government or crown lands previous to August 15, 1895, or previously exchanged for such lands, may be made by the board of land and natural resources for affordable housing for an initial term of fifty-five years with the privilege of extension; provided that the aggregate of the initial terms and extension shall not exceed ninety-nine years.”

¹ Mary Christina Wood, *Protecting the Attributes of Native Sovereignty: A New Paradigm for Federal Actions Affecting Tribal Resources*, 1995 UTAH L. REV. 109, 145-46 (1995).

Mahalo nui for considering this testimony. OHA respectfully but strongly urges the Committee to adopt the amendments described above necessary to protect Native Hawaiian land claims.

KAUA'I COUNTY HOUSING AGENCY

ADAM ROVERSI, DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

Testimony of Adam P. Roversi
Director, Kaua'i County Housing Agency

Before the
House Committee on Housing
Friday, January 31, 2025, at 9:15 a.m.
Conference Room 430 & Videoconference

In consideration of
House Bill 1318 Relating to Affordable Housing

Honorable Chair Luke A. Evslin, Vice Chair Tyson K. Miyake, and Members of the Committee:

The Kaua'i County Housing Agency **strongly supports** HB 1318, relating to Affordable Housing that changes the definition of "public lands," by excluding state lands set aside to the Counties for the purpose of affordable housing. Additionally, the bill extends the permissible period for residential leases of affordable housing to 99-years.

Kauai County worked with the State Land Division for many years to identify unused scattered state residential parcels in existing residential communities to be developed as affordable housing. By and large the identified parcels were uncared for and overgrown, subject to regular illegal dumping of rubbish, and often the site of homeless encampments.

Beginning in 2020, in a series of executive orders, these cooperatively identified parcels were set aside to the County for the development of affordable housing under the County's existing affordable residential leasehold program. This collection of unused state lands has the capacity to provide at least twenty new affordable homes in existing communities where zoning and infrastructure are already in place.

However, the County has been unable to productively develop these parcels as the current statutory framework, despite the executive order transferring the parcels to County control, requires the County to seek Board of Land and Natural Resources approval for every lease, mortgage, easement, right of entry, or other action relating to these properties. This procedural burden makes the development of the parcels untenable.

Excluding such parcels from the definition of public lands, removes these procedural burdens while at the same time ensuring that valuable state lands may be productively utilized for much needed affordable housing for generations to come.

Thank you for the opportunity to testify in **strong support** and for your consideration.

