

DAVID Y. IGE
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
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Honolulu, Hawaii 96813
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IN REPLY REFER TO:

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON HOUSING

February 4, 2021 at 9:00 a.m.
State Capitol, Room 423

In consideration of
H.B. 77
RELATING TO LANDS CONTROLLED BY THE STATE.

The HHFDC ***strongly supports*** H.B. 77, a bill that would exempt certain leasehold condominium units and house lots from the §171-64.7, HRS legislative approval requirement.

The process of obtaining legislative approval of the sale of the leased fee interest in state-owned land is a costly and burdensome process that takes individual homeowners over a full calendar to complete before the sale can be closed, assuming that the Legislature approves the proposed sale.

The intent of Act 176, Session Laws of Hawaii 2009, as codified in §171-64.7, Hawaii Revised Statutes, was to "establish a more comprehensive process for the sale of state-owned land, and to reserve a larger role for the legislature to assure that key information about certain sales or exchanges of land is shared with the legislature." This intent has little application to individual condominium units and house lots in developments constructed several decades ago, and in which the majority of their neighbors had already acquired the leased fee interest in their homes. Therefore, it makes sense to exempt homes in these developments.

Thank you for the opportunity to testify.



HB77
RELATING TO LANDS CONTROLLED BY THE STATE
Ke Kōmike Hale o ke Kuleana Hale Noho

Pepeluali 4, 2021

9:00 a.m.

Lumi 423

The Administration of the Office of Hawaiian Affairs (OHA) will recommend that the Board of Trustees (BOT) offer the following **COMMENTS** on HB77, which would exempt the sales of leased fee interests for certain leasehold parcels by the Hawai'i Housing Finance and Development Corporation (HHFDC) from the prior notice and legislative approval requirements under Hawai'i Revised Statutes (HRS) § 171-64.7. **OHA respectfully offers the below amendments to better ensure the protection of public and potentially "ceded" lands, to which Native Hawaiians maintain unrelinquished claims, from inappropriate alienation.**

As drafted, HB77 would circumvent the prior notice and legislative approval process established by the Legislature via Act 176, Session Laws of Hawai'i (SLH) 2009, and Act 169, SLH 2011, for the sale of the fee interest in certain parcels of land leased by the HHFDC. Act 176 requires a two-thirds majority approval by both houses of the Legislature before any public lands controlled by the State can be sold. In addition, pursuant to Act 169, state departments must prepare and submit legislative resolutions containing detailed information regarding their anticipated land transactions, and share these resolutions with OHA at least three months prior to the opening of the legislative session. These Acts are now codified in HRS § 171-64.7(c). **Notably, the three months' detailed notice in Act 169 provides OHA with sufficient time to determine, among other things, whether the lands contemplated for sale are "ceded" and, if so, whether the contemplated sale falls within one of the narrow exceptions to OHA's opposition to the sale of "ceded" lands.**

OHA generally opposes any alienation or sale of "ceded" lands, originally taken without compensation to, or consent by, the Native Hawaiian people during the illegal overthrow of the Hawaiian Kingdom, pending the resolution of Native Hawaiians' unrelinquished claims to these lands. In response to Act 176 (2009) and Act 169 (2011), the OHA BOT adopted a "Ceded Lands" policy which states:

OHA reaffirms its policy to protect the ceded lands corpus until the unrelinquished claims of Native Hawaiians are resolved, and OHA shall oppose the alienation of any ceded lands by the State of Hawai'i, except in the following limited situations ... (1) OHA shall not oppose a resolution submitted to the Hawai'i State Legislature pursuant to Act 176 (2009) and Act 169 (2011) for the sale of fee simple interest of apartments, townhouses, and houses for home ownership, where... [3] sales of the fee simple interest were approved by the responsible state housing agency prior to the filing of the lawsuit *OHA v. Hawaii Finance and Development Corporation*, Civil

No. 94-4207-11, First Circuit Court, State of Hawai‘i, November 4, 1994. (emphasis added).

Accordingly, OHA would not oppose the fee sales of “ceded” lands as described in in this measure, to the extent that such sales would fall within the scope of the exceptions to the BOT policy to oppose the sale of “ceded” lands – notably, exception (3) described above.

Requested Amendment

Nonetheless, OHA does have concerns regarding potential misinterpretations or misapplications of the language in this measure, which may result in the sale of “ceded” lands that do not fit within the spirit and intent of the BOT policy and its exceptions. Accordingly, OHA respectfully requests the amendment offered below; such language would be in line with the intent of HRS § 171-64.7’s three month notice requirement for OHA to review the sale of any public lands, and would allow OHA to independently confirm that any sales occurring without the otherwise required legislative supermajority approval are consistent with the proposed new statutory language.

As such, OHA respectfully requests the following language to replace that found on page 2, line 16 of this measure, to read as follows:

" or house lot; and

(D) The Hawaii housing finance and development corporation shall submit documentation to the Office of Hawaiian Affairs at least three months prior to the sale of a condominium unit or house lot under this paragraph, with the following information:

(1) The specific location and size in square feet, or in other precise measure, of the parcel of land to be sold;

(2) The purpose for which the land is being sold;

(3) A statement of whether the land is, or is not, land that was classed as government or crown lands previous to August 15, 1895, or

was acquired by the State in exchange for
such lands, and a detailed explanation of
how the Hawaii housing finance and
development corporation made this
determination; and

(4) Sufficient documentation to validate the
requirements of subparagraphs (A), (B), and
(C) of this paragraph."

Mahalo nui for the opportunity to testify on this measure.

**To: Representative Nadine K. Nakamura
Representative Troy N. Hashimoto**

From: Keith Kato

**Re: Hearing on HB77
Relating to Lands Controlled by the State
Thursday February 4, 2021 9:00 am
Conference Room 423, State Capital**

As the leasehold owner of the Nahoia Apartment Unit 133 I request the **approval of HB77** which relates to the sale of fee interest for condominium units such this apartment.

The property is being occupied by my retired brother and the acquisition of the fee interest will assure both he and I that he will be able to live affordably in his unit for the foreseeable future. Such stability and affordability is important to our peace of mind.

In light the large number of units that have been converted from lease to fee in the Nahoia Apartment complex it is only logical that the fee simple sale of the remaining units be allowed. The provisions of HB77(4) would make the process more efficient and less costly for HHFDC as well as the owner. For these reasons I request the approval of HB77.

Thank you for the opportunity to testify on this resolution.

HB-77

Submitted on: 2/2/2021 2:40:08 PM

Testimony for HSG on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karl Baker	Individual	Support	No

Comments:

February 2, 2021

To whom it may concern:

I would like to support the bill HB77 and allow the procedure to purchase fee interest in State Lands be streamlined if there has been ample past sales in the particular project. Currently the procees is so long and arduous and no one should have to endure this painstaking procedures.

Mahalo, Karl Veto Baker

LATE



**HOUSE COMMITTEE ON HOUSING
Hawaii State Capitol
415 South Beretania Street
Via Videoconference
9:00 AM**

February 4, 2021

RE: HB 77, RELATING TO LANDS CONTROLLED BY THE STATE

Chair Nakamura, Vice Chair Hashimoto, and members of the committee:

My name is Beau Nobmann, 2021 President of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii is in support of HB 77, which proposes to exempt the sale of leased-fee interest in certain affordable leasehold developments by the Hawaii Housing Finance and Development Corporation (HHFDC) from legislative approval.

Hawaii is currently in a severe housing and economic crisis. In order to alleviate some of this hardship, the issue of housing affordability needs to be addressed by building more units at all price points on State-owned lands. This bill would remove some of the bureaucratic obstacles when developing more housing on State-owned lands.

We are in support of HB 77, and appreciate the opportunity to provide comments on the matter.

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LATE

HB-77

Submitted on: 2/3/2021 3:11:04 PM

Testimony for HSG on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James Chun	Individual	Support	No

Comments:

Aloha,

I'm writing in support of HB77. I'm a leasehold apartment owner of Native Hawaiian descent who has experienced the painful process involved in purchasing the lease fee two times. The first time was when my sister was attempting to purchase the lease fee for her apartment. She did everything correctly, met all the deadlines, paid all the fees and associated costs and when the legislature met that year they were unable to approve her purchase because of a time constraint. Unfortunately for her she was unable to purchase the lease fee that year, lost out on thousands of dollars, and had to wait another year to try again, hoping and praying that the legislature could approve her purchase the second time.

I'm in a similar situation due to covid this year. I tried to purchase the lease fee starting in 2019. I met all the deadlines, submitted initial payments, and waited for approval from the legislature. Unfortunately, covid happened and the process to purchase the lease fee stopped and I lost out on money I already paid and hoped I could try again in 2021.

The passing of HB77 would be so beneficial to the people of Hawaii by eliminating a roadblock to true homeownership, especially at a time when affordable housing is harder and harder to find. Please do what is best for the people and remove this legislative hurdle and pass HB77.

Mahalo,

James Chun