

**TESTIMONY**

**SB 580**

**LATE**

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**LATE TESTIMONY**

**Before the Senate Committee on  
WATER, LAND, AGRICULTURE AND HAWAIIAN AFFAIRS**

**Wednesday, February 4, 2009  
2:45 p.m.**

**State Capitol, Conference Room 229**

**In consideration of  
SENATE BILL 580  
RELATING TO FORFEITURE**

Senate Bill 580 relating to forfeiture clarifies that forfeiture laws apply to violations of conservation and resources statutes and rules and to protected caves, historic preservation and the Kaho'olawe island reserve. The Department of Land and Natural Resources (Department) supports this bill.

The Hawaii Supreme Court recently overturned our longstanding authority to utilize forfeiture as a method to ensure compliance with our natural, cultural and historic resources protection laws. The recommended amendments to existing forfeiture laws as identified in this bill will ensure that the forfeiture provision can once again be levied against chronic or egregious natural, cultural and/or historic resource related offenders.

Over time, the Department's Division of Conservation and Resources Enforcement, working closely with county prosecutors and the Department of the Attorney General (AGs), has judiciously used forfeiture to deter those considering violating state laws and to gain compliance from those actively violating the Department's statutes and administrative rules. As an example, a dive boat was seized as evidence after the owner of the boat and his friends were caught using clorox to catch over five hundred pounds of reef fish in an otherwise pristine area; a 4x4 pick up truck was seized as evidence and later forfeited after the owner was caught using the vehicle to spot and shoot game mammals at night in a restricted area; a large pickup truck was recovered as evidence after the owner was caught cutting and removing a number of ohia logs cut from trees located in a known Natural Area Reserve, in another case, a vehicle used to transport marijuana and other items associated with an illegal marijuana cultivation scheme on state land was forfeited to enhance our efforts to increase compliance with our laws protecting natural and cultural resources.

It is has been brought to the Department's attention that the Department of the Prosecuting Attorney of the City and County of Honolulu opposes passage of Senate Bill 580 for reasons identified in their testimony. The Department would like to clarify our current status on the issue of forfeiture with the following information. Based on the decision of the Hawaii Supreme Court, the Department intends to work closely with the AGs to amend various departmental administrative rules to ensure that our rules meet legal requirements identified in the recent Supreme Court Decision. In addition, the Department intends to work closely with the AGs and each of the four county prosecutors to continue to actively pursue forfeiture as a civil remedy to ensure compliance with our natural, cultural and historic resources protection laws. The Department believes that the remedies identified in this bill strengthens rather than diminishes our ability to use forfeiture as a law enforcement tool to ensure voluntary compliance of our resources protection laws.

LATE TESTIMONY

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 10:23 PM  
**To:** WTLTestimony  
**Cc:** ailaw001@hawaii.rr.com  
**Subject:** Testimony for SB580 on 2/4/2009 2:45:00 PM

Testimony for WTL 2/4/2009 2:45:00 PM SB580

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: William J. Aila Jr. & Melva Aila  
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Submitted on: 2/3/2009

**LATE TESTIMONY**

**Comments:**

We support HB 580 because once it is used in a natural or cultural resources case, it will provide a much needed deterrent and increase the protection of Natural and Cultural resources. Please pass this bill. Mahalo!

**TESTIMONY**  
**SB 580**  
**LATE**  
**(END)**