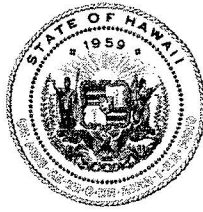
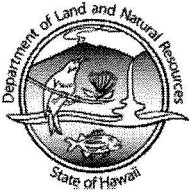


LINDA LINGLE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committee on
FINANCE**

**Tuesday, February 23, 2010
3:00 PM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 2561
RELATING TO LANDS CONTROLLED BY THE STATE**

House Bill 2561 proposes to restore the law with regard to non-ceded lands controlled by the State, to what it was prior to the passage of Act 176, Session Laws of Hawaii (SLH) 2009. The Department of Land and Natural Resources strongly supports this Administration measure as it would clarify that Act 176, SLH 2009, which imposes legislative oversight and approval on sales and gifts of certain state-owned lands, should apply only to those lands that were government or crown lands prior to August 15, 1895.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

WRITTEN TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE
TUESDAY, FEBRUARY 23, 2010
3:00 P.M.
ROOM 308

HOUSE BILL NO. 2561
RELATING TO LANDS CONTROLLED BY THE STATE

Chairperson Oshiro and Members of the Committee:

Thank you for the opportunity to comment on House Bill No. 2561. The department supports this bill, which restores the law regarding non-ceded lands that are controlled by the State, to what it was prior to the passage of Act 176, session Laws of Hawaii 2009. The bill's intent is to limit the legislative approval process to state-owned lands that were government or crown lands prior to August 15, 1895 which was the primary intent and impetus for Act 176. Legislative oversight and approval for sale or gift lands held by the Department of Agriculture or the Agribusiness Development Corporation makes the process lengthy, cumbersome and more costly.

The required process for legislative oversight and approval may result in the State not receiving full market price, incurring additional expenses, or reducing its net gain on the sale of land. Sale of land by the Department will not likely be completed in a timely manner and may result in a lower sales price as the Department may need to wait months to get approval to sell the land. In some cases the Department's costs may be higher as the delays in the sale may require the hiring of property managers to oversee and maintain the properties. In addition, the review process requires that an appraisal be obtained which may not be warranted in all cases.

The situation which is most likely to raise this concern is when property is acquired as a result of a loan default.

The Department's lands that were acquired as result of loan default are normally sold to replenish the agriculture loan fund and the required legislative oversight and approval may result in funding delays for future loans.

Linda Lingle
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON FINANCE

February 23, 2010, 3:00 p.m.
Room 308, State Capitol

In consideration of
H.B. 2561
RELATING TO LANDS CONTROLLED BY THE STATE.

The HHFDC **supports** H.B. 2561. This measure would allow HHFDC to sell certain **non-ceded** state lands in fee simple.

The HHFDC holds vacant land for housing development, as well as individual single-family homes and condominium units that were previously sold to eligible homebuyers but acquired through purchase at foreclosure sale or through exercise of its buyback rights. Act 176, Session Laws of Hawaii 2009, hinders HHFDC from promptly selling a repurchased dwelling unit to another first-time homebuyer, because compliance with its requirements is especially burdensome with respect to these individual homes and condominium units.

The HHFDC must currently conduct a community meeting, prepare an appraisal of the property for purposes of obtaining legislative approval to sell a home in fee simple, and continue to expend the carrying costs of owning an unoccupied residence, such as landscaping, maintenance, and security expenses. Passage of this measure would allow HHFDC to carry out its mission of providing workforce and affordable housing.

Thank you for the opportunity to testify.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

H.B. NO. 2561, RELATING TO LANDS CONTROLLED BY THE STATE.

BEFORE THE:

House Committee on Finance

DATE: Tuesday, February 23, 2010 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Mark J. Bennett, Attorney General, or
Charleen M. Aina, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General supports this measure.

The purpose of the measure is to restore the law relating to the sale or gifting of public lands that are not ceded lands to its pre-July 13, 2009, or pre-Act 176, Session Laws of Hawaii 2009, status, so that only sales or gifts of ceded lands must be pre-cleared pursuant to the pre-gift or pre-sale public notice, public meeting, and legislative oversight process now prescribed in section 171-64.7, Hawaii Revised Statutes.

Act 176 was enacted in the wake of the United States Supreme Court's decision in OHA v. HFDC, ___ U.S. ___, 129 S. Ct. 1436 (2009), to allow the Legislature to oversee the fee simple transfers of most of the land owned by the State or its agencies, and to exercise that function with knowledge and information provided by both the public and the state departments and agencies selling or giving the land to others.

Act 176 has extended the time state agencies like the Hawaii Housing Finance and Development Corporation have had to spend performing their statutorily assigned responsibilities. The corporation administers the State's affordable housing and lease to fee conversion programs. Sales of land are a key

aspect of both programs. The lease conversion program uses the State's ability to condemn, to obtain and subsequently sell the fee simple interest in that land to its former lessee. The affordable housing program exists to sell land in fee, and, from time to time, is required to sell land held as security to liquidate delinquent loans that the program is charged by statute to make in order to make affordable housing more widely available to the public. Act 176 has lengthened the time that other agencies that make loans secured by an interest in land must spend liquidating loans in order to replenish their loan funds.

Act 176 has also extended the time required to complete capital improvement projects that require land dedications to satisfy federal funding requirements, or participate in joint ventures with the counties or private developers.

For other state agencies, including the Department of Land and Natural Resources, Act 176's more extensive pre-sale or pre-gift screening process has delayed, and in some instances increased, the cost of satisfying obligations to sell land that were binding on the State prior to its July 13, 2009 effective date.

Passage of this bill will reduce the operational difficulties that many of the state agencies that are required to sell or convey non-ceded land to others in fee simple have encountered since Act 176 was enacted, without diminishing the purpose for which it was enacted, or affected ceded lands. We understand from the attached letter that on February 4, 2010, the Board of Trustees of the Office of Hawaiian Affairs voted to support passage of this measure.

Attachment



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

February 4, 2010

Representative Ken Ito
Chair, House Committee on Water, Land and Ocean Resources
State Capitol, Room
Honolulu, Hawaii'i 96813

RE: HB 2561

Dear Chair Ito:

As you will recall at your hearing on HB 2561 on Monday, February 1, 2010, we advised the Committee that the OHA Trustees had not had an opportunity to consider the merits of HB 2561. We further advised you that the Trustees would be meeting on February 4, 2010 and would be taking this matter up as part of their agenda. We would like to advise you that the OHA Board of Trustees did meet on February 4, 2010 and voted to support HB 2561.

We appreciate your deferring decision making on this bill until February 5, 2010. Please feel free to contact us at 594-1892 should you have any questions or comments regarding this matter.

Yours very truly,

A handwritten signature in black ink, appearing to read "Clyde W. Namu'o".

Clyde W. Namu'o
Chief Executive Officer

CWN:mka

c: Representative Sharon Har
Vice-Chair, Committee on Water, Land and Ocean Resources
OHA Board of Trustees



HB 2561
RELATING TO LANDS CONTROLLED BY THE STATE
House Committees on Finance

February 23, 2010

3:00 p.m.

Room: 308

The Office of Hawaiian Affairs **SUPPORTS** HB 2561, which would restore the law with regard to non-ceded lands controlled by the state, to what it was prior to the passage of Act 176, Session Laws of Hawaii 2009.

HB2561 does conflict with the exact terms of the Settlement Agreement between OHA and the State of Hawai'i regarding the ceded lands litigation that resulted in Act 176, SLH 2009 (*Office of Hawaiian Affairs, et al. v. Housing and Community Development Corporation of Hawaii et al.*). However, HB 2561 does not conflict with OHA's consistent position during the 15 years of litigation and legislative testimony. OHA sought to protect the unrelinquished claims of the Native Hawaiian people to ceded lands.

If HB2561 becomes law, HB2845, which OHA opposes unless amended, is no longer necessary.

Thank you for the opportunity to testify.



UNIVERSITY OF HAWAI'I SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Finance
February 23, 2010 at 3:00 p.m.

by

Howard Todo

Vice President for Budget & Finance/CFO, University of Hawai'i

HB 2561 – RELATING TO LANDS CONTROLLED BY THE STATE

Chair Oshiro, Vice Chair Lee and Members of the Committee:

The University of Hawaii System supports the passage of HB 2561. This measure would allow the University to be more flexible and proceed in a timely and efficient manner to take advantage of opportunities to raise revenues from the sale of certain non-ceded state lands, as market conditions and needs may warrant, without the lengthy legislative review and approval process currently required under Act 176, Session Laws of Hawaii 2009.

Thank you for the opportunity to testify.