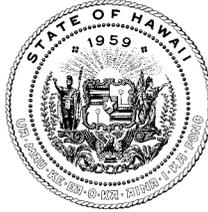


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
WILLIAM J. AILA, JR  
Chairperson**

**Before the Senate Committee on  
WAYS AND MEANS**

**Friday, March 2, 2012  
9:30 AM  
State Capitol, Conference Room 211**

**In consideration of  
SENATE BILL 3011, SENATE DRAFT 1  
RELATING TO PUBLIC LANDS**

Senate Bill 3011, Senate Draft 1 proposes to direct the Department of Land and Natural Resources (Department) to transfer title in certain designated agricultural lands under the Department's jurisdiction to the Agribusiness Development Corporation (ADC). The Department has concerns about the current version of the bill, and offers the following comments.

The parcels listed in the bill appear to be designated by incorrect Tax Map Key (TMK) numbers. The Department understands the intent of the bill is to transfer state lands located in Kunia, Oahu to ADC. The TMKs for the relevant parcels should read as follows: (1) 9-4-012:001, (1) 9-4-012:002, and (1) 9-4-012:003.

Additionally, the bill may be unnecessary. The Board of Land and Natural Resources (BLNR) and the Board of Agriculture (BOA) have already approved a set-aside of these lands for agricultural purposes to the Department of Agriculture (DOA) by executive order pursuant to Act 90 of the Session Laws of the State of Hawaii, 2003.<sup>1</sup> The Department of the Attorney General prepared the executive order and it was submitted to the Governor's Office in February 2012. Once the Governor signs the executive order, the lands will be under DOA's management and control pursuant to Section 171-11, Hawaii Revised Statutes (HRS).

Senate Bill 3011, Senate Draft 1 continues to conflict with Act 90. Act 90 directed the Department to transfer non-agricultural park lands to DOA. Non-agricultural park lands include lands that are within the agricultural land use district. A substantial amount of land has already

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<sup>1</sup> See also, the Chairperson of the BOA and the Executive Director of the ADC's opposition testimony to the original version of this bill.

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**GUY H. KAULUKUKUI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
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

been transferred to DOA pursuant to Act 90, and the parcels identified above are in the process of being transferred to DOA in accordance with Act 90. If Senate Bill 3011, Senate Draft 1 were to be enacted, it would impose inconsistent statutory obligations on the Department with no guidance on how to resolve the conflict.

Further, land transfers from the Department to another agency are generally made pursuant to Section 171-11, HRS, on executive orders. Just as have been adequate and done in the past, land management transfers to ADC should be in the form and in accordance with Section 171-11, HRS, and not by a deed or similar conveyance.



**SB3011 SD1**  
**RELATING TO PUBLIC LANDS**  
Senate Committee on Ways and Means

March 2, 2012

9:30 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB3011 SD1, which would require DLNR to transfer title to public agricultural lands under its jurisdiction to the Agribusiness Development Corporation.

The Agribusiness Development Corporation was created as a rapid-response agency to stabilize deteriorating plantation water systems and transition vacant plantation lands to use for diversified agriculture. It enjoys broad exemptions from existing processes when disposing of and developing upon land. Specifically, it is not subject to HRS 171-64.7, which requires a 2/3 majority vote of the legislature to sell certain public lands and requires OHA be notified of such land disposals.

HRS 171-64.7 was enacted as a result of a ceded lands settlement between the state and OHA to ensure that Public Land Trust lands for which OHA is entitled a pro rata portion of revenues would not be diminished without the opportunity for public comment, the legislature's approval, and the notification of OHA. Removing agricultural lands from the purview of this law would circumvent the system created to ensure state accountability for public trust lands while diminishing a source from which OHA is constitutionally entitled to a pro rata portion. In short, this bill would effectively controvert the state's trust obligation to Native Hawaiians.

Therefore, OHA urges the committee to HOLD SB3011 SD1. Mahalo for the opportunity to testify on this important measure.