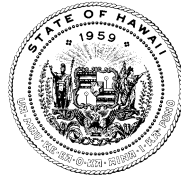


DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII

SHAN S. TSUTSUI  
LT. GOVERNOR  
STATE OF HAWAII



JOBIE M. K. MASAGATANI  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.  
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS,  
COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS &  
COMMITTEE ON HUMAN SERVICES AND HOUSING  
IN SUPPORT OF

**SB 785, RELATING TO AFFORDABLE HOUSING ON HAWAIIAN HOME LANDS**

February 13, 2015

Aloha Chair Shimabukuro, Chair Espero, Chair Chun Oakland, and Members  
of the Committees:

The Department of Hawaiian Home Lands (DHHL) supports this bill  
that makes permanent provisions for affordable housing credits to be  
requested by DHHL and received from each county for units developed on  
Hawaiian home lands, and amends HRS Section 46-15.1, HRS, to clarify  
provisions of this program.

The Department supports the intent of Section 1, and strongly  
supports the repeal of the sunset of this program provided for in  
Section 2 and Section 3. This language in Section 2 and Section 3 is  
identical to a bill that is part of the Governor's administrative  
package by request of our department.

Affordable housing credits have afforded the department greater  
opportunities to gain resources to develop homesteads and, thus, meet  
our mission to return native Hawaiians to our trust lands. Since Act  
141 was passed by the legislature in 2009, this program has been very

successful for DHHL, but it is set to repeal in 2015. By making this program permanent, DHHL can continue to form private-public partnerships through the exchange of credits creating resources for the department, and DHHL can earn these resources without requiring any state funds.

During the interim since the last legislative session, our department has executed a memorandum of agreement with the County of Kauai to smooth implementation of this program and to address concerns related to home rule previously raised by this county. We are also currently working on a memorandum of agreement with the City and County of Honolulu to achieve the same goal. While we acknowledge the two-for-one credit provision added to this statute incentivizes the development of rental units on Hawaiian home lands, it may cause unintended concern raised by the counties that we hope does not undermine our efforts to address and mitigate they have already expressed with the existing statutory language.

Thank you for your consideration of our testimony.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honoluluapp.org](http://www.honoluluapp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

KIRK CALDWELL  
MAYOR



GEORGE I. ATTA, FAICP  
DIRECTOR

ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

February 13, 2015

The Honorable Maile S.L. Shimabukuro, Chair  
and Members of the Committee on Hawaiian Affairs  
The Honorable Will Espero, Chair  
and Members of the Committee on Public Safety,  
Intergovernmental and Military Affairs  
The Honorable Suzanne Chun Oakland, Chair  
and Members of Committee on Human Services  
and Housing  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Shimabukuro, Espero, Chun Oakland, and Committee Members:

SUBJECT: Senate Bill No. 785  
Relating to Affordable Housing on Hawaiian Home Lands

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 785, which makes permanent the affordable housing credit program under the Department of Hawaiian Home Lands (DHHL), and requires the award of two credits for every one rental unit provided.

The City strongly supports an increase in the inventory of affordable housing units. The City also recognizes the challenges faced by DHHL in fulfilling its obligations to its beneficiaries. However, we testified in opposition to this program at its inception in 2009. This program costs the State of Hawaii nothing. In fact, it creates credit value that DHHL can sell to developers who have an obligation to fulfill affordable housing requirements imposed by the counties. It undermines the ability of the counties to provide new affordable housing to all its residents within county-defined income need groups, on a time schedule commiserate with private sector construction, and in geographic areas where the counties believe affordable housing is needed.

In the six years since this mandatory credit program was adopted as Act 141 (2009, Session Laws of Hawaii), the City and County of Honolulu awarded more than 700 affordable housing credits to DHHL. If this program continues, we expect about 300 more in the near future. These are high figures compared to the total amount of affordable housing otherwise delivered; in high-construction years, the private sector delivers about 600 affordable housing annually.

The requirement to award two credits for every single rental unit provided would further jeopardize the county's ability to address the affordable housing problem we are all facing. The

The Honorable Maile S.L. Shimabukuro, Chair  
and Members of the Committee on Hawaiian Affairs  
The Honorable Will Espero, Chair  
and Members of the Committee on Public Safety,  
Intergovernmental and Military Affairs  
The Honorable Suzanne Chun Oakland, Chair  
and Members of Committee on Human Services  
and Housing  
Hawaii State Senate  
Hawaii State Capitol  
RE: Senate Bill No. 785  
February 13, 2015  
Page 2

award of additional credits beyond the actual number of units provided only makes a bad situation worse. At the end of the day, we will have fewer residential units.

The goal should not be to redirect the resources and/or opportunities from one branch of government at the expense of another. We all need to work together in addressing the affordable housing shortage.

As you may know, the City is focusing on encouraging affordable housing in the rail corridor. This DHHL program dampens the county's ability to do so, in that credits for housing in Nanakuli can be substituted for housing that would have been delivered in the corridor. Moreover, the DHHL credits represent single-family dwellings, and the City is promoting denser, "infill," multi-family projects.

We do have ongoing conversations with DHHL about the opportunities that transit-oriented development (TOD) represents to DHHL in fulfilling its mission, whether as an independent housing developer or in partnership with other developers and landowners. We are encouraged by these conversations in recent months. To allow the credit program to continue would appear to be a disincentive to TOD.

Lastly, please note that DHHL can already participate in our affordable housing program without this credit law. They would receive the same benefits that private housing developers receive. Namely, for qualifying units, the DHHL would receive a higher benefit ratio than one credit for one housing unit. The credit value is increased for larger units and those that are kept in the affordable sales range for a longer period of time. Units that are located in the rail corridor can also receive bonus credits.

In summary, we believe Act 142 benefits the DHHL at the cost of the counties' programs. It infringes on home rule and the counties' ability to administer their affordable housing programs. If Act 142 cannot be held, we ask that you amend it by making it an optional program, subject to compliance with county programs.

Thank you for this opportunity to testify.

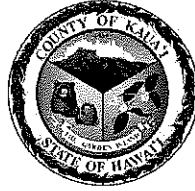
Very truly yours,



George I. Atta, FAICP

**Bernard P. Carvalho, Jr.**  
Mayor

**Nadine K. Nakamura**  
Managing Director



**Kamuela Cobb-Adams**  
Housing Director

**KAUA'I COUNTY HOUSING AGENCY**

County of Kaua'i, State of Hawai'i

Pi'ikoi Building 4444 Rice Street Suite 330 Lihu'e Hawai'i 96766  
TEL (808) 241-4444 FAX (808) 241-5118

February 10, 2015

The Honorable Senator Maile S.L. Shimabukuro, Chair  
and Members of the Committee on Hawaiian Affairs  
The Honorable Senator Suzanne Chun Oakland, Chair  
and Members of the Committee on Human Services  
The Honorable Senator Will Espero, Chair  
and Members of the Committee on Public Safety,  
Intergovernmental and Military Affairs  
State Senate  
Hawai'i State Capitol  
415 South Beretania Street  
Honolulu, Hawai'i 96813

**SUBJECT: TESTIMONY IN OPPOSITION TO SENATE BILL NO. 785 RELATING TO  
AFFORDABLE HOUSING ON HAWAIIAN HOME LANDS**

Dear Chair Shimabukuro, Chair Chun Oakland, Chair Espero and Committee Members:

The Kaua'i County Housing Agency (KCHA) is in **strong opposition** to Senate Bill No. 785. The bill makes permanent provisions for affordable housing credits on Hawaiian home lands and allows credits to be issued for rental units developed by the Department of Hawaiian Home Lands (DHHL) on a two-credit per one-unit basis.

During the interim since the last legislative session, KCHA and DHHL have worked hard to address and mitigate concerns relating to the issuance of affordable housing credits to DHHL. A memorandum of agreement (MOA) between KCHA and DHHL has been executed and aligns with the County's affordable housing policy, Ordinance No. 860. The MOA creates mutually acceptable terms between the County and DHHL to implement the issuance of affordable housing credits that can be viewed as *pono* by all Kaua'i residents.

The two-for-one credit provision added to this statute causes concern and creates a favorable advantage to DHHL for developing rental units that will not be offered to other developers. The two-for-one credit provision is not addressed in the County's executed MOA and allowing such a provision would be contrary to Kaua'i County Ordinance No. 860.



*An Equal Opportunity Employer*

The Honorable Senator Maile S.L. Shimabukuro, Chair  
and Members of the Committee on Hawaiian Affairs  
The Honorable Senator Suzanne Chun Oakland, Chair  
and Members of the Committee on Human Services  
The Honorable Senator Will Espero, Chair  
and Members of the Committee on Public Safety,  
Intergovernmental and Military Affairs  
State Senate  
Hawai'i State Capitol  
RE: Senate Bill No. 785  
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To maintain the integrity of the Kaua'i County affordable housing policy and the executed MOA, I humbly request that you **defer action on Senate Bill No. 785**. Thank you for the opportunity to testify on this important matter.

Sincerely,



Kamuela Cobb-Adams  
Housing Director

cc: County of Kaua'i Boards and Commission  
Senator Ronald D. Kouchi  
Representative Derek S.K. Kawakami  
Representative Dee Morikawa  
Representative James Kunane Tokioka



**Sovereign Councils**  
of the



**Hawaiian Homelands  
Assembly**

PO Box 2881  
Waianae, HI 96792  
Ph: 808.620.9070  
Fax: 1.877.651.8177

**Executive Leadership**

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*Chair, O'ahu*  
**Kammy Purdy**  
*Vice-Chair, Molokai*  
**Lorraine Rapozo**  
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*Legislative Affairs, Chair*  
**Robin Danner**  
*Public Policy, Chair*  
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*Kahu*

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**Kali Watson**  
*Economic Develop & Housing*  
**Myron Brumaghim**  
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*Education*  
**Helen O' Connor**  
*Health*  
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**Branscom Richmond**  
*Film & Media Industry*

**Administration**

**Annie Au Hoon**  
*Administrator*

February 10, 2015

To: **Sen. Maile Shimabukuro, Chair**  
**Sen. Brickwood Galuteria, Vice Chair & Members of the**  
**Committee on Hawaiian Affairs**  
**Sen. Will Espero, Chair**  
**Sen. Rosalyn Baker, Vice Chair & Members of the**  
**Committee on Public Safety, Intergovernmental & Military Affairs**  
**Sen. Suzanne Chun Oakland, Chair**  
**Sen. Josh Green, Vice Chair & Members of the**  
**Committee on Human Services & Housing**

From: **Kali Watson**  
**Chairman of Statewide Economic/Housing Committees**  
**SCHHA**  
**Honolulu, Hawaii 96792**

Re: **Hearing on SB 785 Relating to Affordable Housing On Hawaiian**  
**Home Lands**

February 13, 2015 at 1:20 pm  
Conference Room 224, State Capitol

**TESTIMONY IN SUPPORT**

Dear Chairpersons & Vice Chairs of HWN, PSM & HSH and Members:

Thank you for the opportunity to provide testimony in support to SB 785 relating to affordable housing credits. This bill makes permanent affordable housing credits generated by projects built on DHHL lands, which can then be used by private developers to satisfy their affordable housing requirements imposed by the various counties across the State. This allows DHHL and affordable housing developers on DHHL lands to generate money for their existing and future projects. While regular residential units developed by DHHL generate one credit per each residential unit, double credits are generated for rental units. Such additional incentives for rental units make sense since there are many native Hawaiians that can't qualify or own the expensive homes being built by DHHL. Moreover, with over 26,000 people on DHHL's waiting lists, such private sector subsidies are desperately needed to help support the building of more affordable housing for native Hawaiians, for both homeowners and renters.

The Sovereign Councils of the Hawaiian Homelands Assembly, formerly the State Council of Hawaiian Homestead Associations was founded more than 28 years ago to unite homestead communities and to advocate for the beneficiaries of the Hawaiian Homes Commission Act of 1921. The SCHHA is the oldest statewide advocacy organization representing the interests of more than 30,000 beneficiaries and families residing in the communities of the Hawaiian Home Land Trust. Its mission is to promote the self-determination of native Hawaiians and the well being of homestead communities.

I urge you to please pass this measure, SB 785.

Chairman  
Statewide Economic/Housing Committees



Center for Hawaiian Sovereignty Studies  
46-255 Kahuhipa St. Suite 1205  
Kane'ohe, HI 96744  
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Kenneth R. Conklin, Ph.D. Executive Director  
e-mail [Ken\\_Conklin@yahoo.com](mailto:Ken_Conklin@yahoo.com)  
Unity, Equality, Aloha for all



To: SENATE COMMITTEES ON  
HAWAIIAN AFFAIRS  
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS  
HUMAN SERVICES AND HOUSING

For hearing Friday, February 13, 2015

Re: SB 785 RELATING TO AFFORDABLE HOUSING ON HAWAIIAN HOME  
LANDS.

Makes permanent Act 141, Session Laws of Hawaii 2009, which  
requires the counties to issue affordable housing credits to DHHL.  
Makes permanent Act 98, Session Laws of Hawaii 2012, which requires  
the counties to issue affordable housing credits for each residential  
unit developed by DHHL. Allows credits to be issued for rental units  
developed by DHHL on a two-credit per one-unit basis and to satisfy  
affordable housing obligations imposed by the counties, regardless of  
the date of enactment thereof.



AND Re: SB 1100 RELATING TO AFFORDABLE HOUSING ON HAWAIIAN HOME LANDS.

Makes permanent Act 141, Sessions Laws of Hawaii 2009, which requires the county to issue affordable housing credits to the Department of Hawaiian Home Lands. Makes permanent Act 98, Session Laws of Hawaii 2012, which requires the counties to issue affordable housing credits for each residential unit developed by the Department of Hawaiian Home Lands.

## TESTIMONY IN OPPOSITION

A developer who applies for a permit to develop a piece of land by building houses, townhouses, or apartment buildings is often required, as a condition for being granted the permit, to sign an agreement with the county government to set aside a percentage of the housing units as "affordable" housing. That means that for a specified period of years those designated units can be sold only to owner-occupants, or used for rental housing, at prices or rents significantly below what those housing units would otherwise command in the free market.

Some of the alleged purposes of the affordable housing requirement are to ensure that people with low incomes, or ethnicities that might be discriminated against, can nevertheless afford a decent place to live in a multiracial neighborhood, and that ghettos or slums with high crime rates will be avoided by having low-income families dispersed in middle-class neighborhoods.

The concept of government-enforced affordable housing requirements for developers to get permits seems to be inspired by Robin Hood: Take from the rich and give to the poor. Take a landowner's right to develop his land, consistent with normal zoning requirements for safety and environmental protection, and confiscate a portion of the wealth he could expect from developing it in order to provide below-market prices for housing for low-income people. Social justice!

From the perspective of a developer, a requirement to provide affordable housing as a condition of getting a development permit closely resembles paying a bribe -- the main difference is that the bribe is paid in the form of legally allowed and well-publicized extortion of reduced profit rather than being paid secretly as cash in an envelope handed over in a dark alley; and that the extortionist is the elected county government rather than a Mafia hoodlum. Either way, force is being used.

Developers are allowed to buy or sell affordable housing credits among each other in a sort of marketplace, somewhat analogous to air-pollution credits or carbon credits. Thus a developer who builds a larger number of affordable housing units than required under terms of his permit can sell his surplus credits to a developer whose permit requires more affordable units than he wishes to actually build.

SB785 and SB1100 would badly distort the normal marketplace of affordable housing credits, turning it into a Frankenstein's monster. The Department of Hawaiian Homelands (DHHL) operates a very abnormal collection of neighborhoods where land can only be leased but never owned in fee simple, and where racial segregation is practiced because someone must have at least 50% Hawaiian native blood in order to be granted a lease (or 25% to inherit a lease). Furthermore DHHL is not a normal developer hoping to make a profit; rather, DHHL is heavily subsidized by owning land it was given for free and by receiving operating funds from the government; and DHHL's mission is to develop roads and utilities to enable leaseholders to build housing units at below-market cost in a planned community with rules enforced by a heavy-handed bureaucracy.

Every housing unit developed on DHHL property is likely to satisfy county requirements to be considered "affordable." So under terms of SB785 and SB1100, DHHL would accumulate a huge inventory of credits for affordable housing, which DHHL could then sell to normal free-market developers. SB785 and SB1100 would drop an enormous

windfall profit into DHHL, which seemingly materializes out of thin air. But we all know nothing comes for free. So who would pay for DHHL's windfall profit?

It seems obvious that a few of the expected outcomes of SB785 and SB1100 would be as follows. Normal (i.e., for-profit) developers would purchase all the affordable housing credits they need from DHHL and would therefore have no reason to actually build affordable housing. Each county, as a whole, outside the DHHL ghettos, would become increasingly gentrified due to lack of new affordable housing, so that young people from lower and middle class backgrounds would be under economic pressure to leave Hawaii even more-so than at present. Money that developers might normally pay to counties in lieu of the affordable housing requirement for a permit would now be paid to DHHL instead, forcing counties to raise taxes or reduce services for those unfortunate folks lacking the required native blood quantum.

I'm not an expert on economics or real estate. Surely the legislature can find experts to advise you on the consequences of SB785 and SB1100. Something seems terribly wrong with this legislation. Please get expert advice from people who have no affiliation with DHHL, OHA, or other racial entitlement institutions.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [HWNTestimony](#)  
**Cc:** [morris.haole@mauicounty.us](mailto:morris.haole@mauicounty.us)  
**Subject:** Submitted testimony for SB785 on Feb 13, 2015 13:20PM  
**Date:** Wednesday, February 11, 2015 11:06:52 AM

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**SB785**

Submitted on: 2/11/2015

Testimony for HWN/PSM/HSB on Feb 13, 2015 13:20PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Morris Haole Jr.	Individual	Support	No

Comments: This measure will allow more flexibility in creating much needed affordable housing in our state.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)