



HB2358 HD1 SD1
RELATING TO PUBLIC LANDS
Senate Committee on Ways and Means

April 4, 2018

10:30 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB2358 HD1 SD1, which seeks to exclude from the definition of “public lands” those lands set aside by the governor to the Hawai’i public housing authority (HPHA), as well as lands to which the HPHA holds title. OHA greatly appreciates amendments in the current draft of this measure, reflecting OHA’s recommendations to better safeguard the “ceded” lands corpus against inappropriate alienation.

OHA had opposed previous versions of this measure, which might have inadvertently allowed for the sale or alienation of public and “ceded” lands without the procedural safeguards found in Chapter 171. In prior testimony, OHA had requested an amendment to ensure that HPHA’s lands remain consistently protected against inappropriate alienation through the legislative approval process contained in HRS § 171-64.7, notwithstanding their exemption from the definition of “public lands” in HRS § 171-2.

OHA appreciates that the HPHA may benefit from greater flexibility and autonomy over the management and disposition of lands under its control, particularly given its critical mission to provide housing relief for Hawai’i’s most vulnerable populations. OHA understands that this measure would accordingly remove lands held by the HPHA from Board of Land and Natural Resources’ oversight and management under Chapter 171, through an amendment to the definition of “public lands” in HRS §171-2.

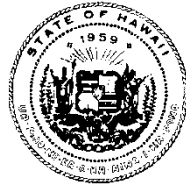
To ensure that HPHA lands are treated consistently with other state lands generally removed from BLNR jurisdiction (such as lands held by the Hawai’i Housing Finance and Development Corporation and other state entities), OHA had requested that this measure expressly reaffirm that current legislative approval requirements for the sale or alienation of any state lands, as found in HRS §171-64.7, also apply to HPHA lands. This statutory requirement is critical to maintaining the “ceded” lands corpus, and its enactment was a condition precedent to the settlement agreement in the OHA v. Housing and Community Development Corporation of Hawai’i lawsuit, brought in response to the State’s actions to sell and otherwise alienate “ceded” lands. **OHA objects to the sale of “ceded” lands except in limited circumstances, and notes that the legislative approval requirements for the sale of state lands in HRS § 171-64.7 were enacted to ensure a high level of accountability and transparency in any proposed alienation of the state’s limited land**

base, and to protect “ceded” lands from being sold prior to the resolution of Native Hawaiians’ unrelinquished claims.

OHA therefore greatly appreciates the amendments made to HB2358 HD1 SD1, which now reflects OHA’s recommendations to require legislative approval for the sale or gift of HPHA lands, which may include “ceded” lands, through the application of HRS § 171-64.7. Such a requirement would maintain critical protections against the inappropriate alienation of the “ceded” lands corpus.

Mahalo nui for the opportunity to testify on this measure.

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Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

SENATE COMMITTEE ON WAYS AND MEANS

Wednesday, April 4, 2018
10:30 AM - Room 211, Hawaii State Capitol

In consideration of
HB 2358, HD1, SD1
RELATING TO PUBLIC LANDS

Honorable Chair Dela Cruz, and Members of the Senate Committee on Ways and Means, thank you for the opportunity to provide testimony concerning House Bill (HB) 2358, HD1, SD1, relating to public lands.

The Hawaii Public Housing Authority (HPHA) **strongly supports** the enactment of HB 2358, HD1, SD1. This Administrative Bill is primarily a "housekeeping" measure that seeks to exempt HPHA lands from the definition of "public lands" under Hawaii Revised Statutes (HRS) section 171-2.

HPHA titled lands were previously exempted from section 171-2, HRS, when the lands were held by the HPHA's predecessor agencies the Housing and Community Development Corporation of Hawaii (HCDCH) and the Hawaii Housing Authority (HHA). After the HCDCH bifurcated into two separate agencies, an exemption for HPHA titled lands was inadvertently not included in the list of lands exempted from section 171-2, HRS.

HPHA is authorized to acquire, own, and hold real property under chapter 356D-8, HRS, and its federal low-income public housing properties are in a Federal Annual Contributions Contract with the United States of America. Therefore, its titled lands do not fall under the catchall jurisdiction of state "public lands" under the Department of Lands and Natural Resources (DLNR). Unless exempted from the definition of "public lands" under section 171-2, HRS, the Board of Land and Natural Resources (BLNR) could cause unnecessary delay with HPHA's redevelopment projects due to the need for the BLNR to review and take action on land leases for "public lands".

A 2006, the Legislative Reference Bureau published a report, *"Clarifying Statutory References in State Housing Agency Laws,"* stating that an amendment should be made based on the facts and history of both the HPHA and HHFDC.

Prior to 1987, §171-2 excluded from the definition of "public lands" those "lands to which the Hawaii housing authority in its corporate capacity holds title". Act 337, SLH 1987, that established the housing finance and development corporation, added a further exclusion in §171-2 for the corporation's properties. After 1997, when the two agencies merged into the housing and community development corporation of Hawaii, this section was further amended to change the reference to the housing and community development corporation of Hawaii to the (present) Hawaii housing finance and development corporation.

It would appear that this section should be amended to include both the Hawaii housing finance and development corporation and the Hawaii public housing authority, as both agencies are authorized to acquire, own, and hold real property.

"Clarifying Statutory References in State Housing Agency Laws," Report No. 5, 2006, Legislative Reference Bureau.

HHFDC lands have since been exempted under HRS Section 171-2. Accordingly, the HPHA lands should also be exempted from "public lands."

The HPHA appreciates the opportunity to provide the Senate Committee on Ways and Means with the HPHA's testimony regarding HB 2358, HD1, SD1. We thank you very much for your dedicated support.