



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2020**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2265, RELATING TO HAWAIIAN HOMELANDS.

**BEFORE THE:**

SENATE COMMITTEE ON HAWAIIAN AFFAIRS

**DATE:** Tuesday, January 28, 2020 **TIME:** 1:15 p.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Ryan K. P. Kanakaole, Deputy Attorney General

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Chair Shimabukuro and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

This bill establishes and appropriates funds for a “micro enterprise assistance program” to issue grants and loans to qualified native Hawaiians, native Hawaiian-controlled homestead associations, and tax exempt community development corporations of Hawaiian homestead associations. The bill accomplishes this by adding a section to chapter 210D, Hawaii Revised Statutes (HRS), and making appropriations for the program.

Chapter 210D, HRS, governs the Community-Based Economic Development Technical and Financial Assistance Program, which is administered by the Department of Business, Economic Development, and Tourism (DBEDT). Chapter 210D also sets forth criteria for awarding loans and grants under that program. The program created by this bill, however, is to be administered by DHHL rather than DBEDT. Some of the requirements for loans and grants under chapter 210D are also inconsistent with the stated purposes of the program created by this bill.

To address these concerns, we suggest codifying the program and revolving fund in the Hawaiian Homes Commission Act of 1920, rather than chapter 210D, HRS.

If the intent is to keep the program under chapter 210D, HRS, we suggest amending page 1, line 13, to page 2, line 9, of the bill to read as follows:

(b) ~~[Moneys in]~~ Notwithstanding any provision in this chapter to the contrary, the micro enterprise assistance program on Hawaiian home lands revolving fund shall be ~~[used]~~ administered by the department of Hawaiian home lands to provide grants and loans to the following recipients through the implementation of the micro enterprise assistance program:

- (1) Qualified native Hawaiians as defined by the Hawaiian Homes Commission Act of 1920 and pursuant to ~~[title]~~ article XII of the state constitution;
- (2) Native Hawaiian-controlled homestead associations with members who are qualified native Hawaiians as defined by the Hawaiian Homes Commission Act of 1920 and pursuant to ~~[title]~~ article XII of the state constitution; and
- (3) Hawaiian homestead associations' designated tax exempt community development corporations.

We also note that this bill establishes the “micro enterprise assistance program” but does not provide a description or purpose for the program. As such, we further suggest amending the bill to provide a description and purpose.

Thank you for the opportunity to provide these comments.



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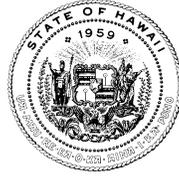
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Thank you for the opportunity to provide these comments.

DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII

JOSH GREEN  
LT. GOVERNOR  
STATE OF HAWAII



WILLIAM J. AILA, JR.  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES  
DEPUTY TO THE CHAIRMAN

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

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS  
HEARING ON JANUARY 28, 2020 AT 1:15PM IN CR 016

**SB 2265, RELATING TO HAWAIIAN HOMELANDS**

January 27, 2020

Aloha Chair Shimabukuro, Vice Chair Kahele, and members of the Committee:

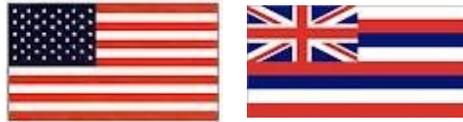
The Department of Hawaiian Home Lands (DHHL) submits comments on this bill that establishes the micro enterprise assistance program on Hawaiian home lands revolving fund to provide grants and loans through the implementation of the micro enterprise assistance program to qualified native Hawaiians, native Hawaiian-controlled homestead associations, and homestead association community development corporations.

The Department appreciates the overall motivation behind this measure, which seeks to provide grants and loans to deliver the micro enterprise assistance program on Hawaiian Home Lands. The Department of the Attorney General (AG) submitted testimony on a similar measure last year and while this bill has been revised to address some of the concerns raised by the AG, it may be more appropriate to amend section 213 of the Hawaiian Homes Commission Act to establish this revolving fund rather than section 210D of the Hawaii Revised Statutes, which pertains to community-based development.

This Committee may also want to consider the language inserted in the House Draft 1 version of the bill submitted last year that includes "Native Hawaiian community organizations with a demonstrated ability and history of making and administering loans and providing support to qualified native Hawaiians as defined by the Hawaiian Homes Commission Act of 1920" as a recipient of the micro enterprise assistance program.

Thank you for your consideration of our testimony.

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Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON HAWAIIAN AFFAIRS

For hearing Tuesday January 28, 2020

Re: SB 2265 RELATING TO HAWAIIAN HOMELANDS.

Establishes the micro enterprise assistance program on Hawaiian home lands revolving fund to provide grants and loans through the implementation of the micro enterprise assistance program to qualified native Hawaiians, native Hawaiian- controlled homestead associations, and homestead association community development corporations. Appropriates funds. Takes effect on 7/1/2050.

#### TESTIMONY IN OPPOSITION

This bill is extremely short, vague, and poorly written; yet there are 9 Senators already supporting it. So it must be taken seriously! But what's it really about?

The bill would establish a "micro enterprise assistance program" for DHHL beneficiaries or their associations or corporations. Presumably it refers to providing small grants or loans to small businesses.

Microloans as pioneered in Asia at first seemed like a wonderful idea, until they led to severe economic and personal crises for recipients.

In 2006 the Nobel Peace Prize was awarded to Muhammad Yunus and the Grameen Bank which he founded, for their creativity in setting up a program of very small loans to individual entrepreneurs, mostly female, in underdeveloped Asian countries afflicted with severe poverty. The recipients used the money to buy equipment and supplies to start up new companies, mostly in their own homes, where they might spin yarn, make clothing, etc. There were several million recipients who were almost all successful, repaid the loans in tiny weekly payments to local collectors who came to their doors, and often grew their businesses by reinvesting profits or taking out additional loans.

But as years went by problems emerged, as reported in "The Economist" weekly magazine dated August 15, 2019. "In parts of Sri Lanka's north and east, some women keep track of their microloans by the day of the week the collectors come. Others identify the lenders by the colours of their collectors' shirts. Monday loan blue shirt, Tuesday loan yellow shirt: small, unsecured loans promoted by the government after the decades-long civil war ended in 2009 have enmeshed many women in hopeless debt. A central-bank official says his employees have talked desperate borrowers out of killing themselves. At least 170 committed suicide last year. Nalani Wickremesinghe, from Baduraliya in the south, has taken loans from 11 companies ... The first was to pay for her husband's medical treatment. Then he fell at his workplace and is still bedridden. She has borrowed 500,000-600,000 rupees (\$2,800-3,400) in total ... She has already pawned, and lost, her gold jewellery. Struggling to feed her family, she has little option but to borrow again ..."

It's a shame this bill is so poorly written that readers have no way to know whether microloans as pioneered by Muhammad Yunus are actually being proposed for DHHL communities, nor whether the social disasters described in "The Economist" article might then afflict communities in Hawaii.

One element of this bill is totally unacceptable. Section 2 appropriates money for this program from the state general fund. But under terms of the bill all the recipients must be native Hawaiians, or homeowner associations or companies owned by native Hawaiians. Despite the long history of Hawaii providing tax dollars to racially exclusionary groups, such programs are unconstitutional under the 14th Amendment Equal Protection clause. But even if it were OK to have government-sponsored racial entitlements, let's remember that the Office of Hawaiian Affairs has more than \$600,000,000 in assets hoarded over the years, and it's long past time to spend that money for the purposes that it was set aside to serve. OHA, not the taxpayers, should pay for this program.



**LATE**

**Robin Puanani Danner, Chairman**  
**Sybil Lopez, Vice Chairman**  
1451 South King Street, Suite 448  
Honolulu, HI 96814  
info@hawaiianhomesteads.org

Date: January 28, 2020  
To: Senator Shimabukuro, Chair, Senate Committee on Hawaiian Affairs  
Fr: Robin Puanani Danner, SCHHA Chairman  
Re: Testimony on SB 2265 – Micro Enterprise

Founded in 1987, SCHHA is the oldest and largest coalition of Hawaiian Homestead Associations, and native Hawaiian beneficiaries eligible for lands under the Hawaiian Homes Commission Act of 1920 (HHCA). We serve and represent the interests of native Hawaiians on the waitlist, as well as homesteaders with home, farm, ranch or mercantile land leases under the HHCA.

Please register our support of SB2265. We comment however that this bill achieves the goal of HB1402 HB1SD1, introduced in the 2019 legislature by Representative Luke to advance economic development on the trust lands created by the U.S. Congress across the state, except, SB2265 directs resources and management to DHHL, instead of DBEDT. This change is concerning.

Indeed in 2019, DHHL testified that it does not have the capacity, nor the expertise to deliver on economic development programming. SB2265 seems to embrace a notion that only one state agency, DHHL, is legally authorized to fulfill the terms of the compact between the federal government and state government articulated in the 1959 Hawaii Admissions Act.

SCHHA raises its objection to this view, based on the plain language of the law, that the administration of our land trust is the duty of state government, the entirety of it. DHHL was created by state government in 1961, to act as the day-to-day administrator of the duties under the compact. That should not limit the access of native Hawaiians to the full breadth of expertise of state government to only DHHL, especially when farming, ranching and mercantile functions are significant functions of the HHCA.

On the issues raised by the new Attorney General in 2019, that somehow the HHCA is a “race-based program” that only a single agency of state government can implement, and therefore DBEDT is incapable, is incorrect. As is commonly understood and defended successfully many times by the AG in years past, the HHCA is not a “race-based” program, as an Act of Congress under its Plenary Power to address the condition of Native peoples that predate the United States Constitution, namely, native Hawaiians, American Indians and Alaska Natives. These groups have unique federally protected political relationships.

It is concerning that the Committee would deny native Hawaiians the full value and expertise of DBEDT in the area of economic development, based on a faulty notion that only DHHL can deliver on the compact between state government and the federal government. We request the Committee make clear, that native Hawaiians as defined by the HHCA, and included in the Hawaii Constitution, can and should be served through any state agency based on expertise and best impact.

Mahalo.

*Founded in 1987, SCHHA is the oldest and largest coalition of Hawaiian Homestead Associations and native Hawaiians exercising sovereignty on the trust lands enacted by Congress under the Hawaiian Homes Commission Act of 1920*

**SB-2265**

Submitted on: 1/23/2020 8:29:53 AM

Testimony for HWN on 1/28/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
kenneth kudo	Individual	Oppose	No

Comments:

I am totally against benefits going to native Hawaiians. They are no longer an oppressed, handicapped race. They constantly seek pity by grievance and complaints of oppression when in fact none are true. They do this to appear to be in need of exclusive benefits over all other races when in fact, all races today have equal needs. Since 1893, they have received equal rights and opportunities as all other races in Hawaii. Their complaint that their language has been banned is totally untrue. The only law banning language from schools came in 1896 setting standards for schools in Hawaii by establishing a common English language for use in schools. There was never any other ban. They complain about "illegal U.S. annexation" which again is totally untrue. Queen Liliuokalani was legally "ousted" by a Constitutional Monarchy in 1893 by members in government who had every right to do so. The Republic that was created requested U.S. annexation, and the U.S. government had every right to proceed with their internal procedure methods to acquire the necessary 2/3 Senate vote and President's approval, which they did by Joint Resolution. The annexation is approved and recognized as legal and legitimate by over 163 nations around the world. Despite this, Native Hawaiians today spread propaganda in schools creating a whole generation of anti-Americans causing civil disobedience, hate crimes, division, and if left unchecked, eventual destruction in and of Hawaii. Benefits being handed out to native Hawaiians is like a carrot before a donkey. It causes upright, productive Hawaiians into jack asses creating, following, and relying on undeserved free handouts paid for by the general public who receive nothing.

**SB-2265**

Submitted on: 1/26/2020 6:31:06 PM

Testimony for HWN on 1/28/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

My name is Benton Kealii Pang and I am in support of SB2265. This Bill establishes the micro-enterprise assistance program on Hawaiian home lands revolving fund to provide grants and loans through the implementation of the micro-enterprise assistance program to qualified native Hawaiians, native Hawaiian-controlled homestead associations, and homestead association community development corporations. Pass SB2265.

Benton Kealii Pang, Ph.D.