

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

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

**Friday, April 1, 2022
10:30 AM**

State Capitol, Conference Room 211 and Via Videoconference

**In consideration of
HOUSE BILL 2332, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO EASEMENTS**

House Bill 2332, House Draft 1, Senate Draft 1, proposes to allow for the exemption of the granting of easements on public lands from formal subdivision process and approval requirements, including requirements for surveying and formalizing easements. House Draft 1 of the measure allowed, rather than required, the granting of easements on public lands to be exempted from formal subdivision process and approval requirements, allowed the government agency that grants the easements to notify in writing the county with jurisdiction to process and approve the easements of the government agency's intent to invoke the exemption, changed the effective date to July 1, 2050, to encourage further discussion, and made technical, non-substantive amendments for the purposes of clarity, consistency and style. Senate Draft 1 proposes to limit the exemption of easements granted over public lands from formal county subdivision process and approval requirements to those affecting the transfer of undeveloped public lands between the Department of Land and Natural Resources and Department of Agriculture, pursuant to Act 90, Session Laws of Hawaii 2003 (Act 90). **The Department of Land and Natural Resources (Department) supports this measure and provides the following comments.**

As noted in the bill's preamble, this measure is intended in part to facilitate the transfer of non-agricultural park lands from the Department to the Department of Agriculture pursuant to Act 90 where both agencies have agreed to the transfer but the lack of a documented easement across the land impedes the transfer. The Department appreciates the bill potentially providing another tool to facilitate the Act 90 land transfer process. In some cases, a formal survey to delineate the easement corridor may still be in the best interests of the public, such as to establish public access to forest reserves or hunting areas. With respect to the subdivision requirement for easements, the Department's understanding is that, at the present time, only the City and County of Honolulu requires subdivision approval for easements.

Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE WAYS AND MEANS

**APRIL 1, 2022
10:30 A.M.**

CONFERENCE ROOM 211 and VIA VIDEOCONFERENCE

**HOUSE BILL NO. 2332, HD1, SD1
RELATING TO EASEMENTS**

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2332, HD1, SD1. This bill allows the granting of easements on public lands to be exempted from formal subdivision process and approval requirements, including requirements for surveying and formalizing easements. The Department of Agriculture (“Department”) supports the intent of the measure offers comments and a recommendation.

The Department supports any effort to optimize and expedite the transfer of agricultural lands from the Department of Land and Natural Resources (“DLNR”) to the Department pursuant to Act 90, Session Laws of Hawaii (2003), codified as Chapter 166E, Hawaii Revised Statutes.

Some of the hurdles hindering timely transfers identified by the Act 90 Working Group are the challenges encountered by public agencies in obtaining various types of easements due to subdivision approval requirements for easements and significant investment of time and resources for surveying and mapping. While easing of requirements for establishment of public easements on public lands is an excellent



means of facilitating implementation of interagency programs, priorities, and goals, the Department acknowledges there is a legitimate concern to retain accuracy in the location of easement boundaries for those encumbrances creating private rights of usage. Consequently, the Department respectfully recommends limiting the application of the proposed exemption to easements for a public purpose on public or other government owned lands.

Thank you for the opportunity to testify on this measure.

LATE

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
COMMITTEE ON WAYS AND MEANS
March 31, 2022

Esteemed Senators:

My name is Meyer Cummins and I am a land surveyor licensed to practice in the State of Hawaii with over 20 years of experience. I am testifying on behalf of the Hawaii Land Surveyors Association (HLSA) as a Board Director and Past President. The HLSA Board of Directors supports House Bill 2332 Senate Draft 1 (HB 2332 SD 1) as written, but with recommendations.

The Hawaii Land Surveyors Association, which represents the majority of the licensed surveyors in Hawaii, supports the current version of HB 2332 SD 1 because it limits the exemption of easements granted over public lands from formal county subdivision approval to those affecting undeveloped public lands transferred between DLNR and DOA, pursuant to Act 90, Session Laws of Hawaii 2003. Such limits will prevent the rampant abuse of public easement exemptions imperiling the protection of use rights and development rights in public lands predicated on proper surveys.

That said, HLSA believes that the bill does not go far enough to ensure accountability and responsible deliberation as to the appropriateness of exercising the exemption in each instance. HLSA believes that the agency granting an easement over public lands should request approval from the county agency responsible for subdivision compliance before the exemption is exercised to facilitate a discussion as to municipal and state interests in the matter with respect to the duties the government has to the protection of the public. Thus, HLSA recommends a redraft of the bill with the following provision:

- Government agencies granting easements over public lands affecting the transfer of undeveloped public lands between DLNR and DOA, pursuant to Act 90, Session Laws of Hawaii 2003, shall request an approval of the exercise of the exemption of said easements from the formal county subdivision approval process from the county agency responsible for subdivision compliance. The exemption from said formal process shall not be exercised without such county approval. If disapproval of the request is not made in a reasonable time, the exercise of the exemption shall be granted without further need of such approval.

I am available for questions or comments at your convenience.

Sincerely,
Meyer Cummins
Meyer Cummins, LPLS
(808) 294-3051