

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 HOUSE COMMITTEE ON FINANCE  
HEARING ON APRIL 4, 2022 AT 2:30PM VIA VIDEOCONFERENCE**

**SB 2623, SD2, HD1, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT**

April 4, 2022

Aloha Chair Luke, Vice Chair Yamashita, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits comments on this bill that excludes from any waiting list maintained by DHHL any lessee or successor who sells or transfers their lease on a tract of Hawaiian home lands for personal gain.

Act 179 (2018) required DHHL to conduct a study on the issue of Hawaiian Home Lands lessees selling or transferring their Hawaiian Home Lands lease to another Native Hawaiian for a fee or personal gain and then applying for a subsequent Hawaiian Home Lands lease that can be accessed here: <https://dhhl.hawaii.gov/wp-content/uploads/2019/12/DHHL-Report-to-the-2020-Legislature-Relating-to-Act-179-2018.pdf>. The findings from this study indicated that less than half of 1% of pastoral and agricultural applications and 4% of residential applications had a prior lease. The vast majority of the transfers ranging from 68-93% were made to a family member without remuneration. The recommendation from the study was that legislative action was not needed given the small number of applicants (176) that transferred their lease for a fee or other personal gain and then applied for a subsequent Hawaiian home lands lease. Enacting legislation for such a small number could have unintended consequences to other beneficiaries. Furthermore, DHHL's existing administrative rules already provide a priority and preference for award of leases. HAR §10-3-7 states that "in making awards, the department shall give preference to an applicant who is not a lessee, or whose spouse is not a lessee." DHHL's administrative rules were also amended in 2017 to stipulate that "leases for vacant or undeveloped lots and undivided interests, or any interest therein, shall not be sold but may be transferred for no consideration or by succession" (HAR §10-3-36(a)). The rules provide that "lease transfers to qualified relatives of a lessee or to beneficiaries on a waitlist shall have priority for processing over transfers to beneficiaries not on a waitlist" (HAR §10-3-36(b)).

Thank you for your consideration of our testimony.

DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII

JOSH GREEN  
L.T. GOVERNOR  
STATE OF HAWAII



WILLIAM J. AILA, JR.  
CHAIRMAN  
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**STATE OF HAWAII  
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P. O. BOX 1879  
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December 26, 2019

The Honorable Ronald D. Kouchi,  
President and Members of the Senate  
Thirtieth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the House of  
Representatives  
Thirtieth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

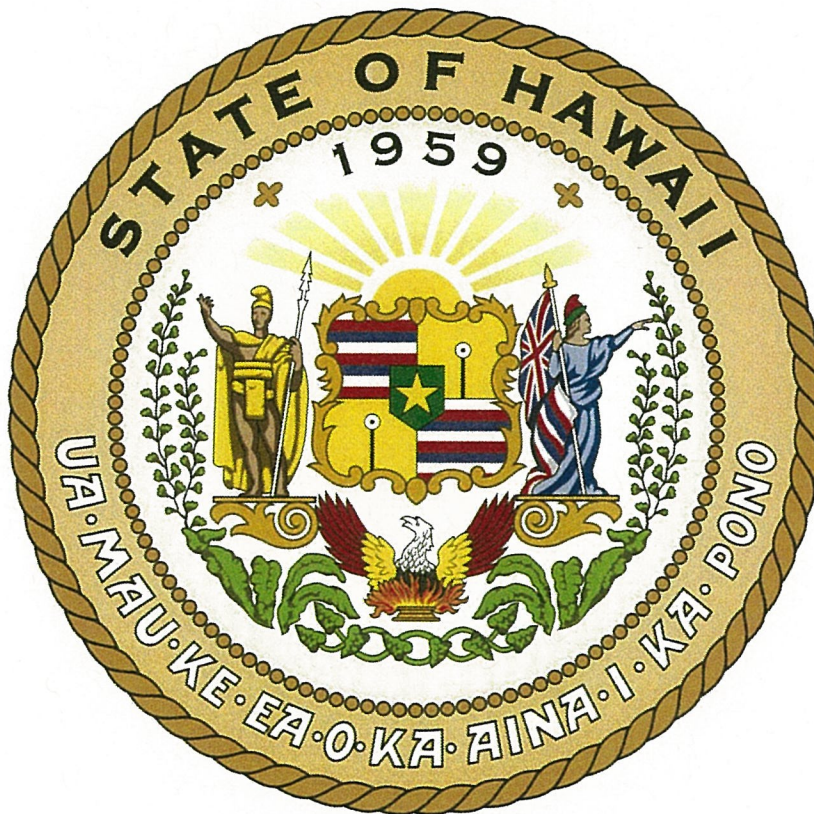
For your information and consideration, I am transmitting a copy of the Report to the 2020 Legislature as required by Act 179 (2018). In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at <http://dhhl.hawaii.gov/legislative-briefings/>.

Sincerely,

William J. Aila, Jr., Chairman  
Hawaiian Homes Commission

# **REPORT TO THE 2020 LEGISLATURE**

## **RELATING TO ACT 179 (2018)**



**Prepared by**

**State of Hawaii  
Department of Hawaiian Home Lands**

**December 2019**

## REPORT TO THE 2020 LEGISLATURE

### RELATING TO ACT 179 (2018) REQUIRING THE DEPARTMENT OF HAWAIIAN HOME LANDS TO CONDUCT A STUDY ON THE ISSUE OF HAWAIIAN HOME LANDS LESSEES SELLING OR TRANSFERRING THEIR HAWAIIAN HOME LANDS LEASE TO ANOTHER NATIVE HAWAIIAN FOR A FEE OR PERSONAL GAIN AND THEN APPLYING FOR A SUBSEQUENT HAWAIIAN HOME LANDS LEASE

#### BACKGROUND:

Act 179 (2018) states that the “legislature finds that certain native Hawaiians who are eligible for a lease pursuant to the Hawaiian Homes Commission Act, 1920, as amended, have acquired a lease, sold or transferred their interest in the lease, and then placed their name on the waitlist for a second lease of Hawaiian home lands.” Although the bill as originally introduced would “prohibit lessees who sell or transfer their interest in a Hawaiian home lands tract from being placed on the waiting list maintained by the department of Hawaiian home lands for an additional lease,” the legislature ultimately passed a measure requiring the Department of Hawaiian Home Lands (DHHL) to conduct a study on the issue of Hawaiian home lands lessees selling or transferring their Hawaiian home lands lease to another native Hawaiian for a fee or other personal gain and then applying for a subsequent Hawaiian home lands lease.

#### FINDINGS:

DHHL identified applicants on the waiting list who were previously awarded a pastoral, agriculture, or residential lease. The following findings are identified by category:

##### I. Pastoral

3,057 Pastoral Applications as of October 31, 2019.

Of that number, 15 applicants had a prior pastoral lease or less than half of 1%.

None of the 15 applicants sold or transferred their lease for a fee or other personal gain and then applied for a subsequent Hawaiian home lands lease.

#	Disposition	%
14	Land disposition not for fee of which 11 (79%) transferred to a family member	93%
1	Transfer lease for fee but application pre-dated transfer	7%

##### II. Agricultural

18,963 Agricultural Applications as of October 31, 2019.

Of that number, 79 applicants had a prior agricultural lease or less than half of 1%.

The dispositions are as follows:

#	Disposition	%
65	Land disposition not for fee of which 47 (72%) transferred to a family member	82%
1	Transfer lease for fee to a family member and subsequently applied	1%
10	Transfer lease for fee to a non-family member and 6 subsequently applied	13%
3	Additional information needed	4%

### III. Residential

23,047 Residential Applications as of October 31, 2019.

Of that number, 956 applicants had a prior residential lease or 4%.

The dispositions are as follows:

#	Disposition	%
654	Land disposition not for fee of which 416 (64%) transferred to a family member	68%
46	Transfer lease for fee to a family member and 37 subsequently applied	5%
136	Transfer lease for fee to a non-family member and 132 subsequently applied	14%
103	Unknown if property transferred for fee of which 89 transferred to a family member	11%
17	Additional information needed	2%

#### RECOMMENDATIONS:

Given the small number of applicants (176) that transferred their lease for a fee or other personal gain and then applied for a subsequent Hawaiian home lands lease, DHHL recommends the following:

1. Legislative action is not needed to address the issue of applicants transferring their lease for a fee or other personal gain and then applying for a subsequent Hawaiian home lands lease.
2. DHHL's existing administrative rules already provide a priority and preference for award of leases. HAR §10-3-7(b) states that "in making awards, the department shall give preference to an applicant who is not a lessee, or whose spouse is not a lessee."
3. DHHL's administrative rules were amended on March 31, 2017 to stipulate that "leases for vacant or undeveloped lots and undivided interests, or any interest therein, shall not be sold but may be transferred for no consideration or by succession" [HAR §10-3-36(a)]. The rules further provide that "lease transfers to qualified relatives of a lessee or to beneficiaries on a waitlist shall have priority for processing over transfers to beneficiaries not on a waitlist" [HAR §10-3-36(b)].