JOSH GREEN, M.D. GOVERNOR I KE KIA'ĂINA

SYLVIA LUKE LIEUTENANT GOVERNOR | KA HOPE KIA'ÄINA





STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I DEPARTMENT OF LAND AND NATURAL RESOURCES KA 'OIHANA KUMUWAIWAI 'ĀINA

> P.O. BOX 621 HONOLULU, HAWAII 96809

Testimony of DAWN N. S. CHANG Chairperson

Before the Senate Committee on WAYS AND MEANS

Thursday, April 6, 2023 10:00 AM State Capitol, Conference Room 211

In consideration of HOUSE BILL 908, HOUSE DRAFT 2, SENATE DRAFT 1 RELATING TO THE LAND CONSERVATION FUND

House Bill 908, House Draft 2, Senate Draft 1 proposes to strengthen the buying power of the Legacy Land Conservation Program by raising the maximum amount of annual conveyance tax revenue deposited into the Land Conservation Fund (LCF) from \$5.1 million to \$9.8 million. The Department of Land and Natural Resources (Department) strongly supports the Senate Draft 1 proposal to increase the maximum amount of annual conveyance tax revenue to \$9.8 million, provided that its passage does not replace or adversely impact priorities indicated in the Executive Supplemental Budget request, and offers a critical amendment that would further enhance the State's ability to help protect resources and preserve lands for conservation purposes.

For Fiscal Years 2021, 2022, and 2023, conveyance tax revenue deposited into the LCF has declined to the lowest level in the LCF's eighteen-year history. LCF buying power in today's real estate market falls short of the legislated mandate "to establish permanent adequate funding for land conservation" (Act 156, Session Laws of Hawaii 2005), then pegged at 10% of annual conveyance tax revenue, uncapped.

In 2015, the Legislature first capped the maximum amount of annual conveyance tax revenue at a level other than 10% (\$6.8 million). During the COVID-19 Pandemic, \$15 million was transferred from the LCF to the General Fund, and the spending ceiling was further decreased to an all-time low of \$5.1 million as a temporary measure to weather economic downturn. The \$5.1 million is further reduced by the annual \$1.5 million Turtle Bay debt service payment, which leaves **only \$3.3 million per year statewide for land acquisition**. Now is the time to reverse

DAWN N.S. CHANG CHAIRPERSON BOARD OF LAND AND NATURAL RESOURCES COMMISSION ON WATER RESOURCE MANAGEMENT

> LAURA H.E. KAAKUA FIRST DEPUTY

M. KALEO MANUEL DEPUTY DIRECTOR - WATER

AOUATIC 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 this trend, and once again meet the legislative mandate "to establish permanent adequate funding for land conservation" (Act 156, Session Laws of Hawaii 2005).

An annual \$3.3 million for land acquisition does not come close to meeting the statewide need. The recent recommendation from the Legacy Land Conservation Commission to the Board of Land and Natural Resources, supported nearly \$7 million in Fiscal Year (FY) 2023 grant funding, total, for four applications that ranked closely together in the above average/exemplary range. The LCF does not have the cash balance needed to fund the recommended projects.

The Department of Taxation reports that FY 2022 conveyance tax revenue totaled over \$188.4 million, and that FY 2023 conveyance tax revenue reached over \$50.1 million by the end of December 2022 (second quarter). If FY 2023 revenue collections continue at the current pace and are distributed in FY 2023 under the \$9.8 million cap proposed by Senate Draft 1 of this measure, then the cash balance of the LCF would receive an immediate \$3.7 million boost for investing in future land acquisitions, and the portion of FY 2024 appropriations that could be awarded for competitive management grants to aid some of the forty-plus state, county, and private properties in the LCF portfolio would be \$490,000 rather than \$255,000. Therefore, the Department requests that the Senate Ways and Means Committee consider amending SECTION 3, page 1, line 16 of this measure to read as follows:

SECTION 3. This Act shall take effect [on June 30,3000.] upon approval.

Mahalo for the opportunity to testify in strong support of this measure with the proposed amendment.



Testimony Before The Senate Committee on Ways and Means IN SUPPORT OF HB 908 HD2 SD1 April 6, 2023, 10:00AM, Room 211

My name is Kevin Chang and I am the Executive Director of <u>Kua'āina Ulu 'Auamo (or KUA)</u>. KUA works to empower grassroots rural and Native Hawaiian mālama 'āina groups to celebrate their places and pass on their traditions to better Hawai'i and achieve 'āina momona— an abundant, productive ecological system that supports community well-being.

KUA supports HB 908 HD2 SD1 as an incremental step towards 'āina momona. This bill would raise the Legacy Land Conservation Program's spending cap from its current level of \$5.1 million. The previous amount scratched on the last hearing for this bill was \$9.8 million and we understand the DLNR supported it. We believe the cap should at least be adjusted to current market levels.

KUA employs a community-driven approach that currently supports a statewide network of 36 mālama 'āina community groups collectively referred to as E Alu Pū (moving forward together), 40 fishpond projects and practitioners called the Hui Mālama Loko I'a, and a growing group of over 60 Limu practitioners and supporters called the Limu Hui. Members of these networks and future generations need a more skilled, objectively certified and resourced DOCARE and it is encouraging to see bills that will support this.

A primary function of KUA includes development of an 'auwai, a stream of resources, tools, bridges, relationships, and networks that help to cultivate and take our communities' work to greater levels of collective impact. One of these resource pathways has been the Legacy Lands Fund which allows the acquisition or protection of lands which community groups can outright own, co-steward or manage in collaboration with our state.

Today a number of our network participants have sought to, or have actually acquired land or served as co-stewards or conservation easement monitors/managers. A growing number of our communities have a vision to one day own or co-manage resources with our state. As they grow and their capacities to meet their visions, we expect more communities over time to seek the support of the Legacy Land Conservation Program (LLCP).

Over the past six or more years, the cap has remained at \$5.1 million while real estate prices have skyrocketed. Overtime this has meant that the LLCP routinely misses opportunities to support land conservation, even to go so far as causing applicants to split and/or delay their acquisition timelines over a number of years. Meanwhile our lands, in real rapid time, continue to be acquired by heavily resourced speculators who invest in lands, rarely upkeep or occupy them while simultaneously driving up taxes and the cost of living and property ownership for some of our most vulnerable rural communities who live near these areas.

The communities we work with are committed to ensuring the long-term health of our biocultural resources. They have depended on them for generations. We believe our environment, the foundation of our very existence, is about long-term investment and a vision of 'āina momona. To

get there it requires among other things the tools we need to build pathways, mindsets, relationships and resource flows for our communities to mālama 'āina. The LLCP program is one such pathway and resource flow that helps communities invest in the long-term vision of caring for 'āina.

Mahalo for this opportunity to testify in support.

Aloha 'Āina Momona.





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Livable Hawaii Kai Hui is a 501(c)(3) non-profit, community organization serving East Honolulu since 2004. We strive to promote sensible growth, respect for cultural & natural resources, and upholding the integrity of the East Honolulu **Sustainable Communities** Plan.

Hawaii State Senate Committee on Ways and Means Meeting on April 6, 2023 at 10 a.m. Conference Room 211 & Videoconference

RE: Support for HB908 and the Land Conservation Fund

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and WAM Committee Members,

Livable Hawaii Kai Hui strongly supports HB908. As a member of the Ka Iwi Coalition which led the movement to protect Kaiwi Coast from Maunalua to Makapu'u – we know firsthand the positive impact that can be made by the Land Conservation Fund and grants it supports through the Legacy Land Conservation Program.

In 2014, Livable Hawaii Kai Hui was awarded one such grant to conserve the Kaiwi Mauka Lands in perpetuity. Not only did the grant fund a substantial portion of the acquisition (completed in 2016), it provided much needed momentum for our campaign to build public support.

Though this bill doesn't go as far as SB2533 (2022), which proposed to remove reference to a dollar amount in the Land Conservation Fund allocation in favor of a constant 10% share of revenue, we support HB908 and its intent to nearly double the dollar amount option to \$9,800,000.

By passing HB908, this Committee can show its support for conservation efforts.

Mahalo.

izabely C. Railly Elizabeth Reilly

Founder/President

Dylan Ramos **Communications & Operations**

Livable Hawaii Kai Hui P.O. Box 25493 Honolulu, Hawaii 96825

HB-908-SD-1 Submitted on: 4/4/2023 7:51:11 PM Testimony for WAM on 4/6/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Testifying for Hawaii Reef and Ocean Coalition	Support	Written Testimony Only

Comments:

SUPPORT!



HAWAI'I LAND TRUST

Senate Committee on Ways and Means

Date: April 6, 2023 Time: 10:00 a.m. Place: Conference Room 211

Re: SUPPORT – HB 908, HD2, SD1, Relating to the Land Conservation Fund

Aloha e Luna Hoʻomalu Dela Cruz, Hope Luna Hoʻomalu Keith-Agaran, a me nā Lālā o ke Kōmike.

Hawai'i Land Trust SUPPORTS HB 908, HD2, SD1, which would increase the amount of conveyance tax to be deposited into the Land Conservation Fund to the lesser of 10% or \$9.8M.

I ola ka 'āina, i ola kākou nei. Healthy lands support a thriving community. Unfortunately, much of Hawai'i's critical natural and cultural ecosystems face existential challenges. Adequate funding is essential to protect these resources and, thereby, elevate community wellbeing.

A lack of funding and other capacity constraints forces Hawai'i Land Trust and other land conservation organizations to regularly turn away or delay aquisitions that could otherwise be secured as perpetual, community-serving assets. We support increasing the Land Conservation Fund's allocation so that we and other organizations may better serve Hawai'i and its people.

Mahalo for this opportunity to testify,

'Olu Campbell President and Chief Executive Officer

Lisa Grove Chair, Board of Directors



April 6, 2023

The Honorable Donovan M. Dela Cruz, Chair

Senate Committee on Ways and Means State Capitol, Conference Room 211 & Videoconference

RE: House Bill 908, HD2, SD1, Relating to the Land Conservation Fund

HEARING: Thursday, April 6, 2023, at 10:00 a.m.

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS[®] ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR provides **comments** on House Bill 908, HD2, SD1, which amends the maximum amount of conveyance tax revenues allocated to the Land Conservation Fund. Effective 6/30/3000.

The Conveyance Tax applies to not only residential property such as single-family homes and condominiums, but to the conveyance of multi-family rentals, land for residential subdivisions, mixed-income and multi-use properties, commercial properties, resort properties, and agricultural lands. With inflation hitting a 40-year high and rising interest rates, Hawaii's real estate market slowed with a 22.64% decrease in sales from the previous year for single-family homes and 20.06% decrease for condominiums.¹

As such, the problem linking funding to the Conveyance Tax is that when the real estate market is down, there may not be enough funds to pay for the programs and the special funds it covers. The Conveyance Tax is then often targeted for increase to cover these programs; however, when the market is up, there are excess funds over and above the program's needs. This becomes a cyclical issue, and unreliable in forecasting for these program's needs.

Finally, while the Land Conservation Fund is valuable, it should be noted that it can request appropriations and funds through the regular budgetary process, which would be a more reliable source of funds for the aforementioned reasons.

Thank you for your consideration of our comments. Mahalo for the opportunity to testify.

REALTOR[®] is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS[®] and subscribe to its strict Code of Ethics.



¹ Hawai'i REALTORS[®]. (2022). *Statewide Housing Data*. <u>https://www.hawaiirealtors.com/wp-</u> content/uploads/2023/01/2022-Annual-Statewide-Statistics-Report.pdf

Submitted on: 4/5/2023 8:43:49 AM Testimony for WAM on 4/6/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Pezzulo	Testifying for Hiipaka LLC (Waimea Valley)	Support	Written Testimony Only

Comments:

I, Richard Pezzulo, as Executive Director of Hi'ipaka, LLC, a not for profit native Hawaiian serving community based organization advocate for the conservation of land in Hawai'i. We have found Waimea Valley to be an important stewardship resource that allows for perpetuation of the unique Hawaiian cultural and ecological heritage of this State. Increasing the annual maximum contribution to \$9,800,000 will help to Malama Hawai'i and preserve the environment. Our organization supports amending the amount of conveyance tax to be deposited into the land conservation fund.



Tel (808) 537-4508 Fax (808) 545-2019 nature.org/HawaiiPalmyra

Testimony of The Nature Conservancy Supporting HB 908 HD2 SD1, Relating to the Land Conservation Fund.

Committee on Ways and Means April 6, 2023, 10:00 am Conference Room 211 and via Videoconference

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Nature Conservancy (TNC) supports HB 908 HD2 SD1, Relating to the Land Conservation Fund, which increases the maximum amount of conveyance tax to be deposited into the Land Conservation Fund.

The Land Conservation Fund supports the Legacy Land Conservation Program, which funds grants to State and County governments and non-profit land conservation organizations to acquire land and protect valuable resources for public benefit. Protecting these lands offers wide benefits for the people of Hawai'i, including reforestation efforts that help mitigate the impacts of climate change by providing freshwater for our islands and habitat for threatened and endangered plant and animal species. Protection and management also reduces runoff, drought, and wildfires that directly impact communities and our ecosystems. Increasing the cap on the Land Conservation Fund will support much needed land protection efforts as Hawai'i battles these impact of climate change.

As real estate prices rise, increasing the cap on the Land Conservation Fund will help meet the demand for and cost of acquiring land for public and ecological benefit. Under the current cap, the Legacy Land Conservation Program regularly is unable to meet all the need. Additionally, the Land Conservation Fund provides vital matching funds necessary to access federal money under the Land and Water Conservation Fund, which provides \$900 million annually for land conservation programs nationally.

Mahalo for your support of Hawai'i's natural resources and the opportunity to provide testimony in support of raising the cap on the Land Conservation Fund in HB 908 HD2 SD1.

The Nature Conservancy of Hawai'i and Palmyra is a non-profit organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 nature preserves and work in over 50 coastal communities to help protect and restore the nearshore reefs and fisheries of the main Hawaiian Islands. We forge partnerships with government, private parties, and communities to people.

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126 Queen Street, Suite 305

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SUBJECT: CONVEYANCE, Increase Earmark to Land Conservation Fund

BILL NUMBER: HB 908 SD 1

INTRODUCED BY: Senate Committee on Water & Land

EXECUTIVE SUMMARY: Amends the ceiling amount of conveyance tax to be deposited into the land conservation fund from \$5.1 million to \$9.8 million.

SYNOPSIS: Amends section 247-7(1), HRS, to provide that 10% of the tax collections or \$9.8 million, whichever is less, shall be paid into the land conservation fund.

EFFECTIVE DATE: June 30, 3000.

STAFF COMMENTS: The conveyance tax was enacted by the 1966 legislature after the repeal of the federal law requiring stamps for transfers of real property. It was enacted for the sole purpose of providing the department of taxation (which at the time also administered the real property tax) with additional data for the determination of market value of properties transferred. This information was also to assist the department in establishing real property assessed values and at that time the department stated that the conveyance tax was not intended to be a revenue raising device.

Prior to 1993, the conveyance tax was imposed at the rate of 5 cents per \$100 of actual and full consideration paid for a transfer of property. At the time all revenues from the tax went to the general fund. The legislature by Act 195, SLH 1993, increased the conveyance tax to 10 cents per \$100 and earmarked 25% of the tax to the rental housing trust fund and another 25% to the natural area reserve fund. As a result of legislation in 2005 and in 2009, the conveyance tax rates were substantially increased and bifurcated between nonowner-occupied residential properties and all other properties. Tax brackets were based on the amount of the value transferred. Until 2005, 50% of the receipts went into the general fund and the other half was split with the affordable rental housing program and the natural area reserve program. Beginning in 2005, another 10% was taken for the land conservation fund.

Act 84, SLH 2015, imposed a \$6.8 million cap on the earmark. In 2015, the Conference Committee explained the rationale for the cap on the earmark as follows:

Your Committee on Conference finds that budgetary planning and transparency are key components to ensuring the ongoing fiscal health of the State. Your Committee on Conference believes that, by establishing maximum amounts to be distributed to various non-general funds from the conveyance tax, this measure will make forecasts of general fund revenues more reliable, will increase legislative oversight of agencies and programs supported by the non-general funds, and will subject those agencies and programs to

Re: HB 908 SD1 Page 2

competition for limited public funds if the agencies or programs want more than the amount automatically distributed to their non-general funds.

Conf. Comm. Rep. No. 156 (2015).

The cap was reduced to \$5.1 million in the budget bill of 2020, Act 9, SLH 2020. This is the amount that is proposed to be raised to \$9.8 million by this bill.

Raising or removing the cap on the earmarked revenues should be done only with great caution. As with any earmarking of revenues, the legislature will be preapproving each of the programs fed by the fund into which the tax monies are diverted, expenses from the funds largely avoid legislative scrutiny, and the effectiveness of the programs funded becomes harder to ascertain. It is also difficult to determine whether the fund has too little or too much revenue.

If the legislature deems the programs and purposes funded by this fund to be a high priority, then it should maintain the accountability for these funds by appropriating the funds as it does with other programs. Earmarking revenues merely absolves elected officials from setting priorities. If the money were appropriated, lawmakers could then evaluate the real or actual needs of each program.

Digested: 4/5/2023



Submitted on: 4/5/2023 8:08:19 PM Testimony for WAM on 4/6/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Maunalua Fishpond	Testifying for Maunalua	Support	Written Testimony
Heritage Center	Fishpond Heritage Center		Only

Comments:

Testifying in strong support of this measure. This fund is one of the only lifelines available to communities to conserve Hawai'i's legacy lands before they are lost and paved over.

HB-908-SD-1 Submitted on: 4/4/2023 10:03:29 AM Testimony for WAM on 4/6/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

HB908 HD2 SD1.

HB-908-SD-1 Submitted on: 4/4/2023 6:05:11 PM Testimony for WAM on 4/6/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Beth Robinson	Testifying for Hawaii Life	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Members,

I am writing as Director, Conservation and Legacy Lands for Hawaii Life, a statewide real estate brokerage. I strongly support HB 908 HD2, SD1 Relating to the Land Conservation Fund, which amends the amount of conveyance tax to be deposited into the Land Conservation Fund.

I have sat through days of presentations of worthy and necessary conservation projects and watched the Land Conservation Commissioners make difficult decisions as they are only able to fund only a small number of them. These properties and conservation easements are purchased at market value, and the real estate market has skyrocketed in the past three years. The good news is that means more conveyance tax is available. But it also means higher prices for the properties being protected. Raising the cap on annual deposits to the Land Conservation Fund will help meet the need for the State to preserve essential wahi pana.

Mahalo for the opportunity to testify.

Beth Thoma Robinson Realtor(Broker)

Director, Conservation and Legacy Lands

Hawai'i LIfe

HB-908-SD-1 Submitted on: 4/5/2023 9:04:04 AM Testimony for WAM on 4/6/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
C. Kaui Lucas	Individual	Support	Written Testimony Only

Comments:

Chair Dela Cruz, Vice Chair Kieth-Agaran and Committee Members of WAM

The wisdom originally demonstrated in enacting the Legacy Land Conservation Commission program funded by straight up 10 % of conveyance tax revenue has been suppressed through a series of ever-lower caps: **the fund is now at an all-time low of \$5.1millon per year.**

Since 2019 I've had the privilege of serving as a Commissioner on the LLCC. **Few programs can claim the collateral benefits to communities and natural resources across Hawai'i, dollar-for-dollar.** My claim of value comes in part from witnessing the power an award can have on a community, as a board member of an awardee, the Maunalua Fishpond Heritage Center. It also stems from the rigorous application and vetting process I participate in as Commissioner. We have recently finished our process of application reviews, site visits, hearing testimony from applicants and the public, and commission decision making for our 2023 award recommendations to BLNR.

It was intensely frustrating to look out from a Molokai hillside, across lands devastated by deer, pigs, and goats. The nearshore makai waters, were silt-swollen and red, smothering reefs. We had traveled east on Kamehameha Hwy to the site, past piles of uprooted trees, fallen branches, flood-washed rocks, debris, and trash bulldozed by the County to the roadside to restore access on this critical transportation artery after a recent storm. **The damage is a direct result of derelict land stewardship.**

The collateral benefits to our communities may not be obvious. This program directly benefits 10s of thousands of Hawai'i's school children, who participate in the programs run by awardees. Each of the near 50 awardees contributes not only to creating areas of managed natural and cultural resource care, but ties committed individuals and groups to exercise educational outreach and protect managed public access. Locals and tourists alike passively benefit from the dedicated stewardship of sensitive ecosystems. Many community members serve without compensation, or minimal remuneration. This is a huge savings to the state.

By raising the funding cap to \$9.8 million from \$5.1 million HB908 HD1 would at least restore more effectiveness to a program hard hit by stripped funding, record-setting real estate price increases, and increased program costs.

Please pass HB908 HD2 SD1

me ka pono,

Kaui Lucas

Submitted on: 4/5/2023 9:52:55 AM Testimony for WAM on 4/6/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Thorne Abbott	Testifying for Coastal Planners, LLC	Support	Written Testimony Only

Comments:

Aloha

I fully support raising the amount of funds deposited into the Legacy Land Conservation Fund from \$5.1 to \$9.8 million and increasing the program's expenditures on conservation. Please increase and enhance our capacity to preserve unique ecologially important areas, important cultural sites, and valued agricultural lands. The program is an excellent example of public-private partnerships that yields benefits to the public and landowners who want to protect natural and cultural resources using a well-designed vetting process. Your constituents will benefit from having Hawaii's special places protected. And their keiki and current and future generations will appreciate the forethought. Please approve the bill!

Submitted on: 4/5/2023 9:58:59 AM Testimony for WAM on 4/6/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Beryl Blaich	Individual	Support	Written Testimony Only

Comments:

Aloha Chairman Dela Cruz, Vice Chair Keith-Agaran and members of the so important Senate Ways and Means Committee:

I am grateful that this straight forward and fiscally responsible bill has advanced this year. **I hope that it receives your full support**. This bill undergirds the State's capacity to continually further two critical needs for resident's well-being: development of rental housing and conservation of heritage lands.

Very much admiration to each of you for your commitment and work,

Respectfully,

Beryl Blaich

PO Box 1434, Kīlauea HI 96754

808-346-9589



HB-908-SD-1 Submitted on: 4/5/2023 10:02:09 AM Testimony for WAM on 4/6/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Waipakawiwoole Parker	Individual	Support	Written Testimony Only

Comments:

I support lifting the monetary cap on the annual amount of conveyance tax revenue deposited into the Land Conservation Fund.