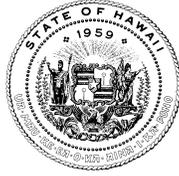


JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kia'āina o ka Moku'āina 'o
Hawaii*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia'āina o ka Moku'āina
'o Hawaii*



KALI WATSON
CHAIRMAN, HHC
Ka Luna Ho'okele

KATIE L. DUCATT
DEPUTY TO THE CHAIRMAN
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

Ka 'Oihana 'Āina Ho'opulapula Hawaii'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF KALI WATSON, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON JUDICIARY
HEARING ON FEBRUARY 23, 2024 AT 9:30AM IN CR 016

SB 2397, SD1, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

February 23, 2024

Aloha Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits comments on this bill which 1) excludes from any waiting list maintained by the DHHL any lessee or successor who sells or transfers their lease on a tract of Hawaiian Home Lands (HHL) for personal gain and 2) establishes that the Hawaiian Homes Commission (HHC) shall have a right of first refusal for the sale or transfer of a lessee's interest in the lease when the sale or transfer is for personal gain.

Act 179 (SLH 2018) required DHHL to conduct a study on the issue of HHL lessees selling or transferring their HHL lease to another native Hawaiian for a fee or for personal gain and then applying for a subsequent HHL lease. The study can be accessed here: [DHHL-Report-to-the-2020-Legislature-Relating-to-Act-179-2018.pdf \(hawaii.gov\)](#). The findings from this study indicated that less than half of 1% of pastoral and agricultural applications and 4% of residential applications have 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 HHL lease. Enacting legislation for such a small number could have unintended consequences for other beneficiaries.

Furthermore, DHHL's existing administrative rules already provide a priority and preference for award of leases. HAR Section 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 Section 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 Section 10-3-36(b)).

In addition to the study, a permitted interaction group (P.I.G.) committee was established in March 2023 to study and recommend strategies related to fairness in lease transfers. The minutes from the September 18 – 19, 2023 Hawaiian Homes Commission regular meeting, for Item C-1 (pages 5-6), documents the recommendation of the P.I.G., which was to collect more data on the issue (the PIG will reconvene in May 2024); it can be accessed here: <https://dttl.hawaii.gov/wp-content/uploads/2023/10/09-SEPTEMBER-18-19-2023-HHC-Approved-Minutes.pdf>. It is the practice of the DHTL to bring all decision-making related to lease transfers to the HHC for approval. The committee discussed several specific aspects of lease transfers, including when a buyer is a previous lessee, the lease transfer transaction is for cash, and the lease sale/transfer is to a non-familial relation.

It appears lease transfers that implicate questions of fairness tend to have common characteristics. Three characteristics were considered as being key to identifying unfairness in lessee transactions: 1. Buyer is a previous lessee; 2. Transaction is a sale; 3. Buyer is not a qualified family member under Hawaiian Homes Commission Act, 1920, as amended, section 209. The committee believes that using these criteria to establish an internal process whereby transactions meeting all three criteria would be considered by the HHC as an individual agenda item rather than part of the consent agenda may lead to the development of an administrative rule that can curb unfair lessee transactions. The final recommendation was that the DHTL report findings to the HHC by May 2024.

Although this measure has been previously introduced, any action by the Legislature is still premature as a final recommendation to the HHC isn't expected until May 2024 so this measure should be deferred until such report is considered by the HHC.

Thank you for your consideration of our testimony.

SB-2397-SD-1

Submitted on: 2/17/2024 12:25:13 AM

Testimony for JDC on 2/23/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
De Mont Kalai Manaole	Individual	Support	Written Testimony Only

Comments:

We continue to **STRONGLY SUPPORT** this bill, & seek an **AMENDMENT**, as mentioned in the **Senate Subcommittee Report** that:

The Department of Hawaiian Home Lands track sales and transfers by lessees and that the Hawaiian Homes Commission should consider approving sales or transfers before they occur.

This will go a long way to ensure compliance and obtain the data the Department needs to better manage and administer the Trust Lands. Mahalo.

SB-2397-SD-1

Submitted on: 2/20/2024 2:34:49 PM

Testimony for JDC on 2/23/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Rosie F Davis	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support SB 2397.

Mahalo nui, Rosie

Iolani Kuoha
P.O. Box 491
Hoolehua, HI 96729

February 20, 2024

Re: SB2397 SD1
RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

To Whom it may Concern:

I **support** SB2397 SD1 which excludes from any waiting list maintained by the Department of Hawaiian Home Lands any lessee or successor who sells or transfers their lease on a tract of Hawaiian home lands for personal gain. Establishes that the Hawaiian Homes Commission shall have a right of first refusal for the sale or transfer of a lessee's interest in the lease when the sale or transfer is for personal gain. (SD1)

If you have any questions or concerns, please don't hesitate to contact me via email; kuohaiolani1@gmail.com or mobile at (808)298-9686.

Mahalo,



Iolani Kuoha

Noah Freeman
P.O. Box 491
Hoolehua, HI 96729

February 20, 2024

Re: SB2397 SD1
RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

To Whom it may Concern:

I **support** SB2397 SD1 which excludes from any waiting list maintained by the Department of Hawaiian Home Lands any lessee or successor who sells or transfers their lease on a tract of Hawaiian home lands for personal gain. Establishes that the Hawaiian Homes Commission shall have a right of first refusal for the sale or transfer of a lessee's interest in the lease when the sale or transfer is for personal gain. (SD1)

If you have any questions or concerns, please don't hesitate to contact me via email; freemansfarm@live.com or mobile at (808)298-9686.

Mahalo,

A handwritten signature in black ink that reads "Noah Freeman". The signature is written in a cursive style and is positioned above the printed name.

Noah Freeman

Faith Tuipulotu
P.O. Box
Hoolehua, HI 96729

February 20, 2024

Re: SB2397 SD1
RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

To Whom it may Concern:

I **support** SB2397 SD1 which excludes from any waiting list maintained by the Department of Hawaiian Home Lands any lessee or successor who sells or transfers their lease on a tract of Hawaiian home lands for personal gain. Establishes that the Hawaiian Homes Commission shall have a right of first refusal for the sale or transfer of a lessee's interest in the lease when the sale or transfer is for personal gain. (SD1)

If you have any questions or concerns, please don't hesitate to contact me via email; aui@hawaii.edu or mobile at (808)298-9686.

Mahalo,

A handwritten signature in cursive script that reads "Faith Tuipulotu".

Faith Tuipulotu