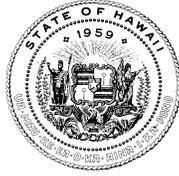


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GOVERNOR
STATE OF HAWAII
*Ke Kia'āina o ka Moku'āina 'o
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SYLVIA J. LUKE
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KALI WATSON
CHAIRMAN, HHC
Ka Luna Ho'okele

KATIE L. DUCATT
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Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawaii'i

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TESTIMONY OF KALI WATSON, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS
HEARING ON FEBRUARY 6, 2024 AT 1:01PM IN CR 224

SB 2397, RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

February 6, 2024

Aloha Chair Shimabukuro, Vice Chair Fevella, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits comments on this bill which would 1) exclude 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 for personal gain and 2) establish 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.

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: [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 has 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 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. Please follow the link for the approved minutes for Item C-1, which was the initial report of the PIG to the full Commission on this issue during its regular meeting of September 18, 2023: <https://dhh.hawaii.gov/wp-content/uploads/2023/10/09-SEPTEMBER-18-19-2023-HHC-Approved-Minutes.pdf>. It is the practice of the DHHL to bring all decision-making related to lease transfers to the Commission 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 HHCA 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 Commission 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 DHHL report findings to the Commission by May 2024.

Thank you for your consideration of our testimony.

SB-2397

Submitted on: 2/4/2024 11:32:01 PM

Testimony for HWN on 2/6/2024 1:01:00 PM

Submitted By	Organization	Testifier Position	Testify
De Mont Kalai Manaole	Testifying for Hoomana Pono, LLC	Support	In Person

Comments:

We **STRONGLY SUPPORT** this bill. Please check out this link on YouTube:

<https://www.youtube.com/live/moB8gOAwHyk?si=BmvfJgzYxYRMeTJt>

This scheme is reprehensible for those of us who have been on the waitlist for decades. Many Nā Kūpuna have been waiting their turn to get off the Waitlist, yet, some slick thinking guy comes up with a plan to make money off of our Hawaiian Home Lands, and letting those who have **BIG MONEY**, jump in front of the line? 'A'ole!!!

The whole intent of the "Dollar a year" lease is to allow for Trust Beneficiaries to get on the land.

The HHCA is **NOT** a "Get Rich Scheme" for slick Home Flipping investors.

Please pass this bill.

SB-2397

Submitted on: 2/2/2024 7:58:40 PM

Testimony for HWN on 2/6/2024 1:01:00 PM

Submitted By	Organization	Testifier Position	Testify
Krista Vessell	Individual	Oppose	Written Testimony Only

Comments:

While I support the banning of lessees who sell their homesteads from putting themselves back on the DHHL waitlist, I VEHEMENTLY oppose: "the commission shall have the right of first refusal by requiring the lessee to surrender the lease to the department whenever the lessee seeks to sell or transfer the lessee's interest in the lease for personal gain." The sale of a lease may be a lessee's only possible means of entering financial security. They may have been left with a property that is too costly to afford and will burden them, or multiple beneficiaries cannot agree on what is to be done with the property. DO NOT take away people's ability to make decisions that will benefit their families just because they were left a DHHL property.

That being said, preventing a lessee who has sold a property from getting back on the waitlist, receiving a lease, selling it, and repeating the process is a very good way to prevent a handful of people from gaming a system that is supposed to provide housing for kānaka maoli. Each lessee should have the ability and the right to use a homestead as a stepping stone towards self sufficiency in whatever way they legally can, even if it means selling it.

SB-2397

Submitted on: 2/2/2024 8:24:52 PM

Testimony for HWN on 2/6/2024 1:01:00 PM

Submitted By	Organization	Testifier Position	Testify
Keke Manera	Individual	Oppose	Written Testimony Only

Comments:

To whomever introduced this bill, you have no business preventing any lessees from being able to sell or transfer their leases. I can understand preventing people who sold then trying to get back on the waitlist to play real estate games but preventing a lessee from selling a property they were designated beneficiary & entitled to and that it could be the only way they could help lift themselves up out of poverty is not your business to stop them from doing so. I do not support SB2397 - OPPOSE SB2397

February 4, 2024

Testimony for SB 2397 Relating to Department of Hawaiian Homes (“DHHL”)

He Mele komo a he mele aloha no na kupuna o ke au i hala Aloha mai kakou.

Aloha,

My name is Cindy Freitas and I’m a Native Hawaiian descended of the native inhabitants of Hawai’i prior to 1778 and born and raised in Hawai’i.

I am also a practitioner who still practice the cultural traditional customary practices that was instill in me by my grandparents at a young age from mauka (MOUNTAIN TO SEA) to makai in many areas.

I’m in OPPOSITION on SB 2397 for the following reasons:

The DHHL has done little to address the ever-lengthening waitlist for lease awards of Hawaiian Homelands and as also mismanagement of the TRUST, have languished on the waitlist some for DECADES.

Subsequent amendments to the blood quantum requirement in 1986, 1997 and 2005 led to a reduction of blood quantum requirement for land successors today at 25% to succeed a homestead lease. This is called a ripple effect of colonization and annexation.

Blood quantum is a concept created by white settlers that refers to the amount of so-called ‘Indian blood’ that an individual possesses. Blood quantum appears as a fraction and is ‘calculated’ based on an individual’s family tree...a stand in device for lineage imposed by the U.S. federal government to disempower Indigenous people and separate them from their lands, resources, culture, identities, languages, and futures.

Due to the blood quantum every year we are face with our own family who will be a successors to the lease but after that it can not be pass down unless the next person has a 50% blood and that will not happen due to our blood line is deteriorating rapidly for many.

Again the Department of Hawaiian Home Land are misleading the fact that DHHL monitor the awards to those who did not received a leases and those who have received will remains on the bottom of the waitlist until everyone received one lease in their life time.

The fiduciary duties of DHHL is to monitor the records and nothing else.

Therefore I oppose this SB 2397 for the above reasons.

Mahalo,

____/s/____

Cindy Freitas

SB-2397

Submitted on: 2/5/2024 9:16:48 PM

Testimony for HWN on 2/6/2024 1:01:00 PM

Submitted By	Organization	Testifier Position	Testify
Patty Kahanamoku-Teruya	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Shimabukuro and Vice Chair Fevella, I Patty Kahanamoku-Teruya former DHHL Commissioner for O'ahu support SB2397.

As a former Commissioner and served on the Permitted Interaction Group (PIG), in 2024 in discussion we determined that the department has administrative rules that they are not complying with. The department were to track these transactions and bring them to the Commissioners for decision making.

I urge the department to comply the administrative rules they put together.

Mahalo,

Patty Kahanamoku-Teruya

SB-2397

Submitted on: 2/6/2024 7:30:07 AM

Testimony for HWN on 2/6/2024 1:01:00 PM

Submitted By	Organization	Testifier Position	Testify
Gene Ross K. Davis	Individual	Support	Written Testimony Only

Comments:

Aloha

I support bill SB2397

Mahalo nui, Rosie