



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-SECOND LEGISLATURE, 2023**

---

**ON THE FOLLOWING MEASURE:**  
H.B. NO. 280, RELATING TO PROPERTY.

**BEFORE THE:**  
HOUSE COMMITTEE ON HOUSING

**DATE:** Wednesday, February 1, 2023      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 312

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Miranda C. Steed, Deputy Attorney General

---

Chair Hashimoto and Members of the Committee:

The Department of the Attorney General (Department) understands and appreciates the intent of this bill but respectfully requests that the bill be held..

The purpose of the bill is to prohibit nonresident alien property ownership in Hawai'i to reduce artificial inflation in the housing market linked to non-resident foreign property ownership. The bill defines the following as nonresident aliens and prohibits them from acquiring, owning, or holding any interest in residential property in this State: (1) any individual who is a foreign national and not a United States citizen or legal resident of the United States; (2) any business formed under the laws of a country or political subdivision of a country other than the United States; (3) any business having more than some percentage of its stocks, securities, or other ownership held or owned by persons or entities described in (1) or (2); or, (4) any trust having more than twenty-percent of the value in assets held by persons or entities described in (1) or (2). If a nonresident alien acquires, owns, or holds interest in residential property, the State shall file an action in circuit court to revert and escheat the property to the State. The bill outlines specific exceptions to the prohibition in section -3, beginning on page 4. The exceptions in -3(b), for property acquired after the enactment of this bill, has a proviso that requires conveyance of property so acquired within five years after title is perfected. If, after the five years, the property has not been disposed, the State shall file an action in circuit court to revert and escheat the property to the State and shall pay the full value

of the property to the prohibited person or entity, less any expense incurred by the State in obtaining an appraisal of the property.

The Department has numerous concerns regarding the constitutionality of this bill and the potential for this bill, as written, to cause the State to incur substantial monetary liability. Among other things, the Department has concerns grounded in the Commerce Clause of article I, section 8, clause 3 of the U.S. Constitution; the Privileges and Immunities Clause of the Fourteenth Amendment to the U.S. Constitution; the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and article I, section 5 of the Hawai'i Constitution; and the Takings Clause of the Fifth Amendment to the U.S. Constitution and article I, section 20 of the Hawai'i Constitution. These provisions, among other things, would require the State to satisfy onerous ends-means legal analyses and potentially require the State to pay fair market value for the taking of residential property to an unknown number of individuals.

The Department requests that the bill be held at this time. Thank you for the opportunity to provide testimony.

Thank you for the opportunity to provide testimony.



**LATE**

**HB280**  
RELATING TO PROPERTY  
House Committee on Housing

February 1, 2023

9:30 AM

Room 312

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees a position in **SUPPORT** of HB280, which would prohibit nonresident aliens and businesses and trusts significantly controlled by nonresident aliens from acquiring certain residential property in the State.

Established by our state's Constitution,<sup>1</sup> OHA is a semi-autonomous agency of the State of Hawai'i mandated to better the conditions of Native Hawaiians. Guided by a board of nine publicly elected trustees, all of whom are currently Native Hawaiian, OHA fulfills its mandate through advocacy, research, community engagement, land management, and the funding of community programs. Hawai'i state law recognizes OHA as the principal public agency in the state responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians.<sup>2</sup> Furthermore, state law directs OHA to advocate on behalf of Native Hawaiians.<sup>3</sup>

**OHA wishes to emphasize that Native Hawaiians are being forced out of the Hawaiian Islands – their own homeland – as a direct result of those same external market forces, identified by this measure, that artificially inflate the cost of living.** The majority of Native Hawaiian families, in Hawai'i, are unable to make ends meet,<sup>4</sup> with 63% of Native Hawaiians reporting that they are finding it difficult to get by.<sup>5</sup> Native Hawaiians have the lowest household income.<sup>6</sup> Native Hawaiians have the highest poverty rates for individuals and families.<sup>7</sup> Native Hawaiians make less money,<sup>8</sup> with lower average earnings for both men and women.<sup>9</sup> Native Hawaiians have the highest rate of using public assistance and homeless

---

<sup>1</sup> HAW. CONST., art. XII, §5 (1978).

<sup>2</sup> Haw. Rev. Stat. § 10-3(3).

<sup>3</sup> Haw. Rev. Stat. § 10-3(4).

<sup>4</sup> Aloha United Way / United for ALICE, *ALICE in Hawai'i: 2022 Facts and Figures*, Nov. 2022, p.6.

<sup>5</sup> Id. at 9.

<sup>6</sup> Dept. of Business, Economic Development and Tourism, *Demographic, Social, Economic, and Housing Characteristics for Selected Race Groups in Hawaii*, Mar. 2018, p.3.

<sup>7</sup> Id. at 13.

<sup>8</sup> OHA Report, *Affordable Housing for Hawai'i and Native Hawaiians: Exploring Ideas and Innovation*, Aug. 2020, p.10.

<sup>9</sup> Dept. of Native Hawaiian Health, John A. Burns School of Medicine, *Assessment and Priorities for the Health*



**HB280**RELATING TO PROPERTY  
House Committee on Housing

---

services.<sup>10</sup> Native Hawaiians are overrepresented among the homeless in Hawai‘i.<sup>11</sup> OHA is deeply concerned with Native Hawaiians being driven out of Hawai‘i by economic instability stemming from socio-political-economic upheaval, which has largely disconnected Native Hawaiians from their ‘āina for more than a century. Today, more Native Hawaiians live outside of the Hawaiian Islands, far beyond the boundaries of their own homeland.<sup>12</sup>

OHA is hopeful that, while this measure is not a panacea, it is a necessary step in the right direction to address a runaway economy that is leaving so many vulnerable to its increasing volatility, while the most unprecedented impacts of the climate crisis loom just over the horizon.

OHA appreciates the opportunity to testify on this measure and respectfully urges this Committee to **PASS** HB280. Mahalo nui loa.

---

*and Well-Being in Native Hawaiians and Pacific Islanders*, 2020, p.12.

<sup>10</sup> Id.

<sup>11</sup> Partners In Care, *2022 Point In Time Count*, p.7.

<sup>12</sup> “Estimates from the American Community Survey showed that in 2011, there were about 296,400 Native Hawaiians in Hawai‘i and about 221,600 on the continental U.S. Just a decade later, those numbers flipped. In 2021, there were about 309,800 Native Hawaiians in Hawai‘i and about 370,000 in other states,” Hawaii Public Radio, *More Native Hawaiians Flock to mainland cities and leave Hawai‘i*, Jan. 23, 2023, *citing high costs*, citing the US Census Bureau’s American Community Survey 2021.

February 1, 2023

**The Honorable Troy Hashimoto, Chair**

House Committee on Housing

State Capitol, Conference Room 312 & Videoconference

**RE: House Bill 280, Relating to Property**

**HEARING: Wednesday, February 1, 2023, at 9:30 a.m.**

Aloha Chair Hashimoto, Vice Chair Aiu, 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 **strongly opposes** House Bill 280, which prohibits nonresident aliens and businesses and trusts that are significantly controlled by nonresident aliens from acquiring certain residential property in the State, except as otherwise provided by law.

In 2022, according to Title Guaranty's Buyer Statics report<sup>1</sup>, total foreign sales accounted for approximately 2% of all real estate transactions. The scale of those transactions would do little to address the cost of housing in the market. Additionally, international investment can also help with Hawaii's affordable housing challenges. For example, South Korean developer SamKoo built Kapiolani Residence and The Central in the Ala Moana area in which 60% of the units were designated as affordable for households earning between 80% to 120% of the Area Median Income.

According to the Department of Business Economic Development and Tourism's 2019 report on Housing Demand in Hawai'i, the state needs up to 45,497, housing units to meet demand in Hawai'i by 2030. Ultimately, we have a housing supply problem, and investment is needed to meet our State's housing challenges.

For the foregoing reasons, Hawai'i REALTORS® strongly opposes this measure. Mahalo for the opportunity to testify.

---

<sup>1</sup> Title Guaranty. (2022) Buyer Statistics. <https://www.tghawaii.com/wp-content/uploads/Buyer-Stats-Maui-Q3-2022.pdf>

**HB-280**

Submitted on: 1/30/2023 10:55:08 PM

Testimony for HSG on 2/1/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kathleen M Pahinui	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Chair Hashimoto and Committee Members -

I strongly support HB280 to prevent the sale of residential properties to those living outside of Hawaii. On the North Shore, in the past year, we have seen properties being sold sight unseen to offshore investors. This has raised our property assessments significantly and negatively impacts many of us living here. This is true across the state. Please help local people to buy and stay in Hawaii. Please don't let the investors buy us out and turn Hawaii into a place of haves and have nots.

Malama aina,

Kathleen M Pahinui

**HB-280**

Submitted on: 1/31/2023 9:29:06 AM

Testimony for HSG on 2/1/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ryan Kawailani Ozawa	Individual	Support	Written Testimony Only

Comments:

With the rapidly increasing cost of housing in Hawaii, we must ensure that residents have access to affordable housing options. Prohibiting real estate property ownership by nonresidents and foreigners is a drastic solution, but one that must be considered.

Foreign investors and nonresidents have had an enormous impact on the cost of housing around the world. Studies show that in some cities, almost half of all luxury properties are owned by offshore entities or individuals who don't live there. In some cases, these buyers pay cash for properties, forcing out residents who can't afford to compete with them. This influx of money also leads to increased real estate prices, further limiting affordability for local residents.

Given the economic impact outside forces are having on local housing affordability, it is clear something must be done.

Prohibiting real estate property ownership by nonresidents and foreigners could protect locals from being priced out of their own neighborhoods; however, it could also violate international trade laws or property rights laws if not implemented properly. Ultimately, any decision to limit foreign investments in real estate should be made thoughtfully and with all potential ramifications considered carefully before implementation.

Prohibiting real estate property ownership by nonresidents and foreigners is a drastic measure with potentially serious legal implications; however, it may be necessary to address the huge economic impact outside forces are having on local people's ability to afford homes. We need a fair solution that takes into account both constitutional and human rights considerations as well as protects locals from being priced out of their own neighborhoods due to an unrelenting influx of foreign funds into the market.