



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

S.B. NO. 2338, S.D. 1, RELATING TO HOUSING.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Thursday, March 5, 2026

TIME: 10:15 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Klemen Urbanc,
Deputy Attorney General, at 808-587-2978)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

The bill amends section 201H-2, Hawaii Revised Statutes (HRS), to rename the Hawaii Housing Finance and Development Corporation (HHFDC) Executive Assistant position as Deputy Executive Director, establish the position of Finance Director, raise the Executive Director's salary cap to match the Governor's salary, set the Deputy Executive Director's salary cap at ninety-five percent of the Executive Director's salary, and require HHFDC to measure personnel performance. The bill also amends sections 201H-2 and 356D-2, HRS, to provide HHFDC and the Hawaii Public Housing Authority (HPHA) with "autonomy in personnel matters", respectively, and to limit any employment contracts by HHFDC and HPHA, respectively, to terms of no more than two years, unless a longer term is approved by the Legislature through concurrent resolution.

Although the bill amends sections 201H-2 and 356D-2, HRS, to provide that HHFDC and HPHA have "autonomy in personnel matters, including establishing and filling positions and setting salaries", respectively (page 4, lines 4-6, and page 6, lines 13-15), it does not define the specific scope of that autonomy or clarify how it interacts with existing statutory provisions governing HHFDC and HPHA personnel, including

section 26-35(a)(4), HRS. For example, sections 201H-2 and 356D-2, HRS, continue to specify that certain HHFDC and HPHA positions are exempt from chapter 76, HRS, and that other HHFDC and HPHA employees may be hired either subject to, or not subject to, chapter 76, HRS, depending on the nature of the services performed (page 4, line 8, through page 5, line 20, and page 6, line 17, through page 7, line 15). The bill does not clarify whether the new autonomy provision is intended to expand HHFDC and HPHA's ability to hire additional employees outside of chapter 76, HRS, beyond what is already authorized. The bill also does not address whether, or to what extent, HHFDC and HPHA personnel decisions may be subject to collective bargaining requirements under chapter 89, HRS. We recommend clarifying the scope of HHFDC and HPHA's "autonomy in personnel matters," including how it is intended to interact with the civil service provisions of chapter 76, HRS, and any applicable collective bargaining requirements under chapter 89, HRS.

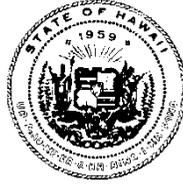
In addition, the bill may be subject to constitutional challenge under the separation of powers doctrine by requiring legislative approval of any HHFDC and HPHA employment contracts exceeding two years. The separation of powers doctrine "is not expressly set forth in any single constitutional provision, but, like the federal government, [Hawaii's government] is one in which the sovereign power is divided and allocated among three co-equal branches." *Biscoe v. Tanaka*, 76 Hawai'i 380, 383, 878 P.2d 719, 722 (1994) (brackets and internal quotes omitted). "The doctrine provides that a department . . . may not exercise powers not so constitutionally granted, which from their essential nature, do not fall within its division of governmental functions, unless such powers are properly incidental to the performance by it of its own appropriate functions." *Hawaii Insurers Council v. Lingle*, 120 Hawai'i 51, 70, 201 P.3d 564, 583 (2008) (citations and internal quotes omitted). "Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions." *Rampton v. Barlow*, 23 Utah 2d 383, 388, 464 P.2d 378, 381 (Utah 1970).

Although the Legislature may pass laws that limit the duration of certain employment contracts, whether contracts for specific employees may extend past two years is an executive, not a legislative, function. We therefore suggest amending the bill on page 5, line 20, through page 6, line 1, and page 7, lines 15-17, to either delete the two-year limit entirely or delete the phrase, "[u]nless approved by the legislature by concurrent resolution,"

If the Committee chooses to retain the limit on employee contracts, we also recommend clarifying that the bill applies prospectively and does not affect employment contracts lawfully executed before its effective date.

Thank you for the opportunity to provide these comments.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
POST OFFICE BOX 17907
HONOLULU, HAWAII 96817

IN REPLY PLEASE REFER TO:

26:OED

Statement of the
Hawaii Public Housing Authority

Before the
Senate Committee on Ways and Means

Thursday, March 5, 2026
10:15 AM – Room 211, Hawaii State Capitol

In consideration of
SB 2338, SD1
RELATING TO HOUSING

Honorable Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Senate Committee on Ways and Means:

The Hawaii Public Housing Authority (HPHA) offers the following **comments** on Senate Bill (SB) 2338, SD1. This measure increases the salary cap of the Executive Director of Hawaii Housing Finance and Development Corporation to an amount that does not exceed the Governor's salary. Renames the Executive Assistant to the Deputy Executive Director and increases that position's salary cap to 95% of the Executive Director salary. Establishes the position of Finance Director of the Hawaii Housing Finance and Development Corporation. Requires HHFDC to consider additional measures of personnel performance. Prohibits HHFDC and Hawaii Public Housing Authority employment contracts that exceed 2 years, unless approved by the Legislature. Provides HHFDC and HPHA with autonomy in personnel matters.

For the benefit of the public and members of the Committee, HPHA respectfully clarifies that the Authority's statutory mandate and day-to-day responsibilities extend well beyond the administration of two programs.

The HPHA is the State's only public housing authority that owns, operates, develops, and redevelops housing. HPHA provides direct housing services to thousands of residents, manages and modernizes a statewide portfolio of federally subsidized and publicly owned housing assets, administers federal and state funded rental assistance programs, oversees a large and geographically dispersed workforce throughout the State, and carries continuous operational, development, and federal compliance responsibilities under the oversight of the U.S. Department of Housing and Urban Development (HUD). HPHA undertakes the full continuum of housing activities—from planning and acquisition to construction, redevelopment, long-term ownership, operations, and resident services.



In addition to operating existing federal and state public housing programs, HPHA plans, develops, acquires, rehabilitates, modernizes, and redevelops housing under both federal and state authorities. This includes participation in mixed-finance and mixed-income development and the use of federal repositioning programs such as the Rental Assistance Demonstration (RAD) and Faircloth-to-RAD. HPHA is involved in all stages of development—not only financing, but also planning, resident relocation, procurement under federal rules, construction oversight, coordination of financing sources, and continued ownership and operation following redevelopment. Many of these projects extend over five to ten years or longer.

HPHA operates under continuous federal oversight by HUD and is subject to regular performance assessments, physical inspections, financial audits, civil rights and fair housing reviews, and potential oversight by the HUD Office of Inspector General. Compliance failures can result in serious consequences, including funding loss or federal intervention, underscoring the importance of strong governance, experienced leadership, and institutional stability.

HPHA manages a large, geographically dispersed workforce statewide, including property management staff, maintenance and skilled trades, compliance personnel, development professionals, resident services coordinators, and administrative staff. The Authority must address labor relations, workforce safety, emergency response, procurement, and operational continuity across multiple islands, further distinguishing HPHA from agencies with primarily programmatic or policy-based functions.

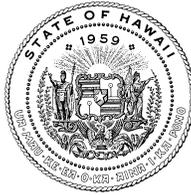
Nationally, there are approximately 3,300 public housing authorities, the vast majority of which are local or regional in scope. HPHA is one of only three statewide public housing authorities in the nation and is the only public housing authority in Hawaii that owns and operates public housing. HPHA also operates at the intersection of state and federal housing systems, including housing that is developed and operated using tax credit financing and other state and federal resources, while retaining long-term ownership, operational accountability, and compliance responsibilities.

Finally, as the Committee considers this measure, HPHA also notes that the Authority operates under a binding Annual Contributions Contract with HUD, under which the Board is held fully accountable for management, operations, and compliance. Given the breadth, scale, and complexity of HPHA's responsibilities described above, it is important that governance authority and accountability remain aligned when establishing executive and administrative structures, so that the Board can effectively discharge its fiduciary responsibilities.

Thank you for the opportunity to provide this testimony and for your continued commitment to Hawaii's housing needs.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



DEAN MINAKAMI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

677 QUEEN STREET, SUITE 300

HONOLULU, HAWAII 96813

FAX: (808) 587-0600

Statement of

DEAN MINAKAMI

Hawaii Housing Finance and Development Corporation

Before the

SENATE COMMITTEE ON WAYS AND MEANS

March 05, 2026 at 10:15 a.m.

State Capitol, Room 211

In consideration of

SENATE BILL 2338 SENATE DRAFT 1 RELATING TO HOUSING.

Chair Dela Cruz, Vice Chair Moriwaki, and members of the Committee.

HHFDC **supports with comments** Senate Bill 2338 Senate Draft 1, which seeks to increase the salary cap for HHFDC's Executive Director to an amount not exceeding the Governor's salary and adjust the Deputy Executive Director's salary cap to 95% of the Executive Director's salary.

HHFDC Board Chair Gary Mackler submitted testimony on behalf of the Board, which supports this bill. We stand on his testimony and would like to provide the following comments.

Regarding the bill's intent on "autonomy" in personnel matters, HHFDC does not seek complete independence from the State. Instead, the intent is not to require DBEDT's approval on a limited range of personnel actions, including the hiring, setting, and adjusting of salaries. As such, we propose the following changes:

SECTION 2. Section 201H—2, Hawaii Revised Statutes, is 2 amended by amending subsections (a) and (b) to read as follows:

“(a) There is established the Hawaii housing finance and development corporation to be placed within the department of business, economic development, and tourism for administrative purposes only[--]; provided that the corporation shall be exempt from section 26-35(a)(4) with respect to all employees covered by subsection (b).

(b) The corporation shall employ, exempt from chapter 76 and ~~section 26-35(a)(4)~~, an executive director and an executive assistant. The executive director shall be paid a

salary not to exceed the salary of the director of business, economic development, and tourism.

Thank you for considering our testimony.

Statement of
GARY MACKLER, CHAIR
Hawaii Housing Finance and Development Corporation
Board of Directors
Before the

COMMITTEE ON WAYS AND MEANS

March 5, 2026 at 10:15 a.m.
State Capitol, Room 211

In consideration of
SENATE BILL 2338, SD1
RELATING TO HOUSING

Chair Dela Cruz, Vice Chair Moriwaki, and members of the Committee.

On February 12, 2026, the HHFDC Board of Directors discussed and unanimously approved a For Action in **support** of Senate Bill 2338 which seeks to 1) increase the salary cap for HHFDC's Executive Director to align maximum compensation with the Hawaii Public Housing Authority (HPHA) Executive Director, 2) retitle the position of HHFDC's Executive Assistant to Deputy Executive Director and, 3) provide HHFDC with autonomy in personnel matters including establishing and filling positions and setting salaries.

For reference, a copy of the For Action is attached. As noted, the complexity of HHFDC's core responsibilities and expanded responsibilities requires that we recruit and retain talented executives to effectively manage the Corporation.

Thank you for considering this testimony.

FOR ACTION

I. REQUEST

Discussion and Action on Companion Bills, Relating to Housing: Senate Bill 2338 and House Bill 1714, Proposing to Revise Personnel and Compensation Policies

II. FACTS

- A. Senate Bill 2338 (SB2338) and its companion, House Bill 1714 (HB1714), propose the following:
1. Align the maximum compensation of the Hawaii Housing Finance and Development Corporation (HHFDC) Executive Director and the Hawaii Public Housing Authority (HPHA) Executive Director.
 2. Retitle the position of HHFDC Executive Assistant to Deputy Executive Director and increase the maximum salary.
 3. Provide HHFDC with autonomy in personnel matters including establishing and filling positions and setting salaries.
- B. The stated intent of SB2338 and HB1714 is that “increasing certain salary caps will help the State compete with the private sector for highly skilled individuals and increase the supply of affordable housing in Hawaii.”

III. DISCUSSION

- A. Presently, Hawaii Revised Statutes (HRS) section 201H-2 provides that the maximum salary of the HHFDC Executive Director shall be no more than that of the Director of the Department of Business, Economic Development and Tourism (DBEDT). Pursuant to Commission on Salaries 2025 Report to the Legislature, the DBEDT Director salary is set at \$214,608 for fiscal year 2027. Under SB2338 and HB1714, the maximum salary for the HHFDC and HPHA Executive Directors would be no higher than the Governor, which is \$226,620 for fiscal year 2027.

HRS section 201H-2 establishes the position of the Executive Assistant which is paid a salary not to exceed ninety percent of the Executive Director. SB2338 and HB1714 change the title of the Executive Assistant to Deputy Executive Director and establishes a salary not to exceed ninety-five percent of the Executive Director.

The legislature must separately approve an increase to HHFDC’s operating ceiling before higher salaries can take effect.

- B. Pursuant to HRS section 201H-2, HHFDC is administratively attached to DBEDT. As such, personnel matters such as describing positions, hiring staff, setting salaries, and adjusting compensation must be approved by DBEDT. SB2338 and HB1714 would provide HHFDC with autonomy from DBEDT with respect to personnel matters to enable the corporation to more efficiently hire and

manage staff.

- C. Over the past 10 years, the production, scale and complexity of HHFDC's programs have grown significantly. Since Fiscal Year (FY) 2015, the number of housing units developed under HHFDC's programs have more than doubled, from less than 700 per year to 1,460 units delivered in FY 2025. This growth reflects rising demand for affordable housing, increasingly complex financing structures, greater volume of projects using HHFDC's programs, heightened competition for financing and tax credits, increased bond issuances, and a substantially larger portfolio of units to monitor. In addition to these core responsibilities, HHFDC has taken on expanded functions that require specialized expertise, including:
1. Hale Kama'aina Single Family Mortgage Loan Program: A new initiative to help local residents achieve homeownership by offering a competitive, fixed-rate 30-year mortgage for first-time homebuyers.
 2. Down Payment Loan Assistance Program: Relaunched to provide low-interest loans for upfront housing costs, complementing the Hale Kama'aina Single Family Mortgage Loan Program.
 3. Bond Volume Cap Recycling Program: Preserves and reuses expiring Private Activity Bond authority, potentially recycling \$100 million annually to support up to 500 additional affordable units.
 4. Rent-to-Own Program: A new initiative establishing a path for homeownership for local households in projects to be built by the corporation.
 5. Dwelling Unit Revolving Fund Equity Pilot (DEP) Program: Allows HHFDC to invest in for-sale units by purchasing equity shares, reducing buyers' costs and expanding homeownership opportunities.
 6. Mixed-Income Project Financing: Structuring deals that integrate affordable and market-rate units, balancing financial feasibility with policy goals.
 7. ProLink Housing Software Implementation: Modernizes loan management and compliance reporting with a cloud-based platform for real-time tracking and streamlined developer interactions.
 8. Processing Environmental Assessment Exemptions: Ensuring compliance with Hawaii's environmental regulations while expediting affordable housing projects.
 9. Disaster Recovery. Implemented the national award-winning Hawaii Fire Relief Housing Program and continues to operate the Hale O Laie facility to provide housing for survivors of the Lahaina wildfire.

These responsibilities demand leadership with deep knowledge of housing finance, development, regulatory compliance, and innovative program development. Currently, HHFDC's salary limitations put us at a disadvantage compared with the private sector. This disparity makes it difficult to recruit and retain top talent who can manage these responsibilities effectively.

IV. RECOMMENDATION

That the HHFDC Board of Directors support Senate Bill 2338 and House Bill 1714 and authorize the HHFDC Board Chair to submit testimony on behalf of the Board.

Prepared by: Dean Minakami, Executive Director 

Approved by the Board of Directors as

Circulated Amended

On February 12, 2026

Office of the Executive Director

Please take necessary action.



Executive Director