



SB1190 SD2 HD1
RELATING TO PUBLIC LANDS
House Committee on Consumer Protection & Commerce
House Committee on Judiciary

March 20, 2019

2:00 p.m.

Room 329

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB1190 SD2 HD1, which authorizes the Hawai'i Housing Finance and Development Corporation (HHFDC) to sell leasehold units in condominiums on public lands, including "ceded" and public land trust lands, for lease terms of up to seventy-five years. OHA greatly appreciates the amendments in the current draft of this measure, reflecting OHA's recommendations to better safeguard the "ceded" lands corpus against inappropriate alienation and potential violations of the state's fiduciary obligations under the public trust and public land trust.

OHA expressed concerns in previous versions of this measure, which might have inadvertently allowed for the sale or alienation of public and "ceded" lands without the procedural safeguards found in Chapter 171, and authorized extremely long leases of public lands that may have further facilitated their inappropriate disposition and potential alienation. Although OHA appreciates that the HHFDC may benefit from greater flexibility and autonomy over the management and disposition of lands that may potentially fall within its control, by excepting lands set aside or leased to HHFDC from the definition of "public lands" in HRS §171-2, the original version of this measure would have resulted in confusion over whether such lands may be sold without the legislative approval requirements of HRS §171-64.7. **OHA objects to the sale of "ceded" lands except in limited circumstances, and notes that the legislative approval requirements for the sale of state lands in HRS § 171-64.7 were enacted to ensure a high level of accountability and transparency in any proposed alienation of the state's limited land base, and to protect "ceded" lands from being sold prior to the resolution of Native Hawaiians' unrelinquished claims.** Moreover, the extremely long, multi-generational 99- year leases authorized by the original version of this bill could have substantially and unnecessarily inhibited future generations from ensuring the best use of public lands consistent with the state's fiduciary obligations under the public trust and public land trust, and may have fostered a sense of entitlement in lessees that could result and has in the past resulted in the alienation of public and "ceded" lands.

OHA therefore greatly appreciates the amendments made to this measure, which now reflects OHA's recommendations to explicitly require the application of HRS § 171-64.7 to all lands under HHFDC's control, and to limit lease lengths to seventy-five years, pursuant to federal housing program financing requirements. Such amendments maintain critical protections against the inappropriate alienation of the "ceded" lands corpus, while allowing lessees to qualify for federal financing assistance.

Mahalo a nui for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
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IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
HOUSE COMMITTEE ON JUDICIARY**

March 20, 2019 at 2:00 p.m.
State Capitol, Room 329

In consideration of
S.B. 1190, S.D. 2, H.D. 1
**RELATING TO LEASEHOLD CONDOMINIUMS ON LANDS CONTROLLED BY THE
STATE.**

The HHFDC ***offers the following comments*** on S.B. 1190, S.D. 2, H.D. 1. HHFDC prefers the flexibility to sell leasehold units in condominiums developed on state lands for a lease term of 99 years set forth in the bill as introduced.

Thank you for the opportunity to testify.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

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Statement of
MIKE MCCARTNEY
Director
Department of Business, Economic Development and Tourism
before the
**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
HOUSE COMMITTEE ON JUDICIARY**

Wednesday, March 20, 2019
2:00 PM
State Capitol, Conference Room 329

in consideration of
SB 1190, SD2, HD1
**RELATING TO LEASEHOLD CONDOMINIUMS ON
LANDS CONTROLLED BY THE STATE.**

Chairs Takumi and Lee, Vice Chairs Ichiyama and San Buenaventura, and
Members of the Committees on Consumer Protection & Commerce and Judiciary.

The Department of Business, Economic Development and Tourism (DBEDT)
offers the following comments on SB 1190, SD2, HD1, a bill authorizing HHFDC to
develop and sell leasehold units in condominiums developed on state lands that are set
aside to the HHFDC by the Governor and lands leased to the HHFDC by any state
department or agency with prior approval from the Legislature, in addition to lands to
which HHFDC holds title, for terms of up to 75 years. DBEDT prefers the flexibility of
the 99-year lease term as set forth in the original bill.

Thank you for the opportunity to testify.



**TESTIMONY TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION & COMMERCE,
AND JUDICIARY
State Capitol, Conference Room 329
415 South Beretania Street
2:00 PM**

March 20, 2019

RE: SENATE BILL NO. 1190 SD 2, HD 1, RELATING TO LEASEHOLD CONDOMINIUMS ON LANDS CONTROLLED BY THE STATE

Chairs Takumi and Lee, Vice Chairs Ichiyama and San Buenaventura, and members of the committees:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii is in **strong support of the original version of S.B. 1190**, which proposes to authorize Hawaii Housing Finance and Development Corporation to enter into ninety-nine (99) year leases of units in residential condominiums located on state lands.

Based on concerns raised at a prior hearing, the maximum lease term was amended to something considered more reasonable. Most residential developments on leasehold lands require extended lease terms to make projects economically feasible. As a major landowner at several rail stations along the transit corridor, the proposed bill would provide the state flexibility in negotiating with investors who would be building residential condominiums on the state-owned lands. At the end of the day, the real estate transaction is a lease, and not a conveyance in-fee. We believe the bill, as originally proposed, would broaden the interest among private developers to consider developments on state-owned lands.

Additionally, a longer lease term would insure that the unit would remain with one family for at least one generation. Requiring elderly owners to move at the end of a 75 year lease is something the state would want to avoid.

We are in strong support of the original language of S.B. 1190 SD 2, HD 1, and appreciate the opportunity to express our views on this matter.



**Testimony to the House Committees on Consumer Protection and Commerce,
and Judiciary
Wednesday, March 20, 2019 at 2:00 P.M.
Conference Room 423, State Capitol**

**RE: SB 1190 SD2, HD1 RELATING TO LEASEHOLD CONDOMINIUMS ON LANDS
CONTROLLED BY THE STATE**

Chairs Takumi and Lee, Vice Chairs Ichiyama and San Buenaventura, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports the original version of SB 1190 SD2 HD1**, which proposed to authorize Hawaii Housing Finance and Development Corporation to enter into ninety-nine (99) year leases of units in residential condominiums located on state lands.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Based on concerns raised at a prior Senate hearing, the maximum lease term was amended to something more "reasonable." Most residential developments on leasehold lands require extended lease terms to make projects economically feasible. As a major landowner at several rail stations along the transit corridor, the proposed bill would provide the State flexibility in negotiating with investors who would be building residential condominiums on the state owned lands. At the end of the day, the real estate transaction is a "Lease" and not a conveyance in fee. We believe the bill, as originally proposed, would broaden the interest among private developers to consider developments on State owned lands.

Additionally, a longer lease term would insure that the unit would remain with one family for at least one generation. Requiring elderly owners to move at the end of a 75 year lease is something the State would want to avoid.

Thank you for the opportunity to testify.

SB-1190-HD-1

Submitted on: 3/16/2019 3:17:09 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Port	Individual	Comments	Yes

Comments:

Roy Takumi, Chair of House Consumer Protection and Commerce Committee

Chris Lee, Chair of House Judiciary Committee

Aloha Chairman and Members of your Respective Committees

I was actively involved in the effort to eliminate Leasehold ownership in condominium properties. Therefore, I want to submit my concerns regarding the re-instatement of leasehold condominium properties even though the properties will be owned by the State of Hawaii.

The Hawaii State Legislature must make sure: 1) that any resales of condominium apartments do not result in large income gains by those leasehold owners in those condominium units; or 2) that condominium owners do not face the same fate as was suffered by individual owners who resided in privately held leasehold properties in the past.

Thank you for this opportunity to testify regarding my concerns pertaining to SB1190 SD2 HD1.

Richard Port, Former Chair

Democratic Party of Hawaii