

Honolulu, Hawaii

February 16, 2018

RE: H.B. No. 2473

H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committees on Housing and Ocean, Marine Resources, & Hawaiian Affairs, to which was referred H.B. No. 2473 entitled:

"A BILL FOR AN ACT RELATING TO HOUSING FOR NATIVE HAWAIIANS,"

beg leave to report as follows:

The purpose of this measure is to assist the Department of Hawaiian Home Lands (DHHL) in meeting the housing needs of its beneficiaries by:

- (1) Authorizing the construction and use of micro housing units on Hawaiian home lands managed by DHHL;
- (2) Authorizing the use of the Hawaiian Home Loan Fund and Hawaiian Home General Loan Fund for assistance in purchasing or renting micro housing units for use on Hawaiian home lands managed by DHHL and leased to native Hawaiian beneficiaries; and
- (3) Appropriating funds to the Hawaii Housing Finance and Development Corporation to:
  - (A) Construct micro housing units, subject to certain conditions; and



- (B) Building the general organizational capacity of native Hawaiian-controlled nonprofit housing developers.

The Hawaii Appleseed Center for Law and Economic Justice, Hawaiian Community Assets, Hawaiian Civic Club of Honolulu, Young Progressives Demanding Action-Hawaii, Life of the Land, Oahu County Committee on Legislative Priorities of the Democratic Party of Hawaii, Council for Native Hawaiian Advancement, Ho'omanopono Political Action Committee, and numerous concerned individuals testified in support of this measure. The Center for Hawaiian Sovereignty Studies testified in opposition to this measure. The Hawaii Housing Finance and Development Corporation, DHHL, Department of the Attorney General, and Office of Hawaiian Affairs provided comments.

Your Committees note the concerns raised by the Attorney General that under the Equal Protection clauses of Article 1, Section 5 of the Constitution of the State of Hawaii and the Fourteenth Amendment of the United States Constitution, the Hawaii Housing Finance and Development Corporation may not restrict its programs to members of a particular race. Furthermore, your Committees note that under Hawai'i law, the Hawaii Housing Finance and Development Corporation may not engage in racial discrimination through its affordable housing programs, including the financing of housing unit construction. As such, appropriating funds to the Hawaii Housing Finance and Development Corporation to construct micro housing units for a program available only to a particular race and to build the general organizational capacity of native Hawaiian-controlled nonprofit housing developers may run afoul of these constitutional and statutory concerns. Your Committees find that this measure must be amended to address these concerns.

Accordingly, your Committees have amended this measure by:

- (1) Deleting language authorizing the use of the Hawaiian Home Loan Fund and Hawaiian Home General Loan Fund for assistance in purchasing or renting micro housing units for use on Hawaiian home lands managed by DHHL and leased to native Hawaiian beneficiaries;
- (2) Appropriating the funds to construct micro housing units and build the general organizational capacity of native



Hawaiian-controlled nonprofit housing developers to DHHL as they may lawfully restrict the use of its funds to native Hawaiians and native Hawaiian-controlled entities;

- (3) Changing its effective date to January 1, 2050, to facilitate further discussion; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Housing and Ocean, Marine Resources, & Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2473, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2473, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on behalf of the members of the Committees on Housing and Ocean, Marine Resources, & Hawaiian Affairs,



KANIELA ING, Chair



TOM BROWER, Chair



**Record of Votes of the Committee on Housing**

<b>Bill/Resolution No.:</b> <i>HB 2473</i>	<b>Committee Referral:</b> <i>HSG/OMH, FIN</i>	<b>Date:</b> <i>2/13/18</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HSG Members	Ayes	Ayes (WR)	Nays	Excused
1. <b>BROWER, Tom (C)</b>	✓			
2. <b>NAKAMURA, Nadine K. (VC)</b>	✓			
3. <b>AQUINO, Henry J.C.</b>				✓
4. <b>HASHEM, Mark J.</b>	✓			
5. <b>QUINLAN, Sean</b>				✓
6. <b>SAN BUENAVENTURA, Joy A.</b>	✓			
7. <b>MCDERMOTT, Bob</b>				✓
<b>TOTAL (7)</b>	<b>4</b>	<b>—</b>	<b>—</b>	<b>3</b>
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
<b>Vice Chair's or designee's signature:</b> <i>Nadine K. Nakamura</i>				
<b>Distribution:</b> Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO				

**Record of Votes of the Committee on Ocean, Marine Resources, & Hawaiian Affairs**

Bill/Resolution No.: <b>HB 2473</b>	Committee Referral: <b>HSG/OMH.FIN</b>	Date: <b>2-13-18</b>
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The committee is reconsidering its previous decision on the measure.

The recommendation is to:     Pass, unamended (as is)     Pass, with amendments (HD)     Hold  
 Pass short form bill with HD to recommit for future public hearing (recommit)

OMH Members	Ayes	Ayes (WR)	Nays	Excused
1. ING, Kaniela (C)	✓			
2. DeCOITE, Lynn (VC)	✓			
3. CREAGAN, Richard P.	✓			
4. GATES, Cedric Asuega				✓
5. SAY, Calvin K.Y.	✓			
6. TAKAYAMA, Gregg	✓			
7. THIELEN, Cynthia	✓			
<b>TOTAL (7)</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>1</b>

The recommendation is:     Adopted     Not Adopted  
 If joint referral, \_\_\_\_\_ did not support recommendation.  
committee acronym(s)

Vice Chair's or designee's signature: *Jean Silver*

Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO