

STAND. COM. REP. NO. 47

Honolulu, Hawaii

FEB - 7 2023

RE: S.B. No. 738  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawaii

Sir:

Your Committee on Hawaiian Affairs, to which was referred  
S.B. No. 738 entitled:

"A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN  
HOME LANDS,"

begs leave to report as follows:

The purpose and intent of this measure is to allow the  
Department of Hawaiian Home Lands to:

- (1) Authorize beneficiaries, who are sixty years or older or terminally ill; to receive an undivided interest award and to designate a successor; and
- (2) Authorize any eligible heirs of beneficiaries to file successorship claims within a certain timeframe, including posthumous undivided interest awards.

Your Committee received testimony in support of this measure from Hui Kako'o 'Āina Ho'opulapula; Sovereign Council of Hawaiian Homestead Associations; Maui-Lāna'i Mokupuni Council; Pa'upena Community Development, Inc.; Malama Ka 'Aina Hana Ka 'Aina, Inc.; Ho'omana Pono, LLC; and one individual. Your Committee received testimony in opposition to this measure from two individuals. Your Committee received comments on this measure from the Department of Hawaiian Home Lands.



Your Committee finds that according to a survey conducted by the Department of Hawaiian Home Lands in 2022, more than twenty-eight thousand native Hawaiian beneficiaries are currently on the homestead lease waiting list. The Legislature further finds that when beneficiaries on the homestead lease waiting list pass away prior to receiving a lease award, the beneficiary also loses the ability to have their heirs succeed to a lease. Therefore, this measure authorizes beneficiaries, who are sixty years or older or terminally ill, to receive an undivided interest award and to designate a successor and authorize any eligible heirs of beneficiaries to file successorship claims within a certain timeframe.

Your Committee received comments from the Department of Hawaiian Home Lands expressing concerns regarding this measure. First, the Department testified that this measure would expand the undivided interest award program beyond its current use, which is to award undivided interest leases for particular areas under development. The Department also testified that allowing a person to advance on the waiting list ahead of other applicants due to that applicant's age or medical status would contravene section 10-3-7, Hawaii Administrative Rules, which provides that "[a]pplicants shall be considered for award in the order in which their completed applications were received by the [D]epartment." Finally, the Department testified that allowing any "eligible heir" to file a claim for an undivided interest was too broad, and that the Hawaiian Homes Commission Act, 1920, as amended, authorizes leases only for native Hawaiians defined as any descendant of not less than one-half part blood of the races inhabiting the Hawaiian islands prior to 1778.

Therefore, your Committee has amended this measure by:

- (1) Authorizing the Department of Hawaiian Home Lands to administer a Lease Award Program for beneficiaries on the waiting list, rather than an undivided interest award program; and
- (2) Clarifying that any qualified successor of a beneficiary may file a claim for a lease award in place of the deceased beneficiary.



As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 738, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 738, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Hawaiian Affairs,



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MAILE S.L. SHIMABUKURO, Chair



The Senate  
 Thirty-Second Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Hawaiian Affairs**  
**HWN**

Bill / Resolution No.:* <b>SB 738</b>	Committee Referral: <b>HWN, JDC/WAM</b>	Date: <b>01-31-2023</b>
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The Committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
  Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
SHIMABUKURO, Maile S.L. (C)	/			
FEVELLA, Kurt (VC)	/			
IHARA, Jr., Les				/
KEOHOKALOLE, Jarrett		/		
RICHARDS, III, Herbert M. "Tim"		/		
<b>TOTAL</b>	<b>2</b>	<b>2</b>	<b>-</b>	<b>1</b>

Recommendation:    
 Adopted    
 Not Adopted

Chair's or Designee's Signature:  


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**\*Only one measure per Record of Votes**