



**STATE OF HAWAII**  
**DEPARTMENT OF HAWAIIAN HOME LANDS**

P O BOX 1879  
HONOLULU, HAWAII 96805

September 15, 2014

The Honorable Rhea S. Suh  
Assistant Secretary for Policy  
Management and Budget  
U.S. Department of the Interior  
1849 C Street, N.W.  
Mail Stop 3543  
Washington, D.C. 20240

Dear Ms. Suh:

Section 4 of the Hawaii Admission Act provides that the Hawaiian Homes Commission Act, 1920, as amended (HHCA), shall be adopted as a provision of the Constitution of the State of Hawaii. It further provides that with certain exceptions, the HHCA thereafter shall be amended by the State "only with the consent of the United States" (73 Stat. 5). Section 204 of the Hawaiian Home Lands Recovery Act (P.L. 104-42) outlines the procedure to be followed by the State of Hawaii and the USDOJ for the approval of these amendments.

In accordance with this procedure, we are transmitting Act 173 (2014) that amends the HHCA passed by the 2014 Hawaii State Legislature and approved by Governor Neil Abercrombie. The amendments are accompanied by the following documents:

1. A copy of the proposed amendment;
2. A description of the nature of the change proposed by the amendment;
3. An opinion regarding whether the proposed amendment requires the approval of Congress;
4. A description of why the change proposed to be made by the amendment advances the interests of the beneficiaries;

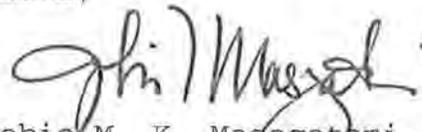
The Honorable Rhea S. Suh  
September 15, 2014  
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5. Testimony and any correspondence from the Director of the Department of Hawaiian Home Lands, Hawaiian Homes Commissioners, and Homestead Associations, in support of, or opposition to, the proposed amendment;
6. An analysis of the law and policy of the proposed amendment by the Department of Hawaiian Home Lands and the Hawaiian Homes Commission;
7. Documentation of number of hearings held on the measure, and a copy of all testimony provided or submitted at each hearing;
8. Copies of committee reports and other legislative history, including prior versions of the proposed amendment;
9. Final vote totals by the Commission and the legislature on the proposed amendment forwarded by the Department of the Interior; and
10. Summaries of any outreach or consultations conducted with the beneficiaries regarding the proposed amendment.

It is the opinion of the State of Hawaii Attorney General that this amendment does not require the consent of Congress as it falls within one of the enumerated exceptions provided for under Section 4 of the Hawaii Admission Act.

We appreciate your review and appropriate action on this amendment. Please contact me at (808) 620-9501, or the DHHL Policy and Program Analyst, Ms. Dre Kalili at (808) 620-9486, should you or your staff have any questions or need additional documentation on this amendment.

Aloha,



Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission

*Amendment to the Hawaiian Homes Commission Act, 1920, as amended - Act 173 (2014)*

**LEGAL AND POLICY ANALYSIS FOR PROPOSED AMENDMENTS TO THE HHCA**

**Proposed Amendment to the HHCA**

In general, the Hawaiian Homes Commission Act, 1920, as amended, provides that “any retained available lands not required for leasing under section 207(a)” or any improvements thereon may be disposed by the department “to the public, including native Hawaiians, on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands in chapter 171, Hawaii Revised Statutes.” §204.

Act 173, Session Laws of Hawai‘i 2014, proposes to allow the department, in addition to the dispositions made pursuant to chapter 171, Hawaii Revised Statutes, to “lease by direct negotiation and at fair market rents, and for a term not to exceed five years, any improvements on Hawaiian home lands, or portions thereof, that are owned or controlled by the department.”

Proposed added language to §204(a)(2):...“provided further that in addition to dispositions made pursuant to chapter 171, Hawaii Revised Statutes, the department may lease by direct negotiation and at fair market rents, and for a term not to exceed five years, any improvements on Hawaiian home lands, or portions thereof, that are owned or controlled by the department.”

**Description of the Advancement of the Interests of Beneficiaries**

The well-being of the Hawaiian home lands trusts is in the interest of trust beneficiaries, and the growth of trust resources through revenue generation contributes to the well-being of the trust. This proposed amendment increases the department’s flexibility and ability to manage physical improvements on its lands and to generate revenue from these lands during an interim period until long-term planning can be completed. This proposed amendment helps the department generate revenue to supplement trust resources available to support programs for all beneficiaries, including the development of homestead lots, loans, and other rehabilitation programs.

**1. Challenge/Issue that the Proposed Amendment Addresses**

The department currently owns physical improvements on its available lands, such as buildings and warehouses, and as certain general leases and licenses expire, the department will become the owner of more of these improvements. In some cases, the lands and improvements thereon are returned to the department’s inventory unexpectedly, and the department does not currently have a means to dispose of these improvements, or space within an improvement, promptly and on a short-term basis. The authority to lease space through direct negotiations allows the department greater flexibility to manage these improvements and to generate revenue from these lands during an interim period until long-term planning can be completed.

**2. Is the Proposed Amendment Limited to Administration and Powers and Duties of Officers Other Than Those Charged with the Administration of the HHCA, as Further Defined in Section 4 of the Admissions Act?**

Please refer to the opinion from the State of Hawaii Department of the Attorney General dated August 4, 2014, "United States Consent to Act 173, 2014 Hawaii Session Laws."

**3. Does the Proposed Amendment Reduce or Impair the Hawaiian Home-Loan Fund, the Hawaiian Home-Operating Fund, or the Hawaiian Home-Development Fund?**

No.

**4. Does the Proposed Amendment Increase the Encumbrances Authorized to be Placed on Hawaiian Home Lands by Officers Other than Those Charged with the Administration of the HHCA?**

No.

**5. Does the Proposed Amendment Change the Requirement That All Proceeds and Income From the Available Lands Shall be Used Only In Carrying Out the Provision of the HHCA?**

No.

**6. Does the Proposed Amendment Change the Qualifications of Lessees?**

No.

**7. Does the Proposed Amendment Increase the Benefits to Lessees of Hawaiian Home Lands?**

Yes. This proposal helps the department generate revenue to supplement trust resources available to support programs for lessees of Hawaiian home lands, including loans programs and other rehabilitation programs.

**8. How Does the Proposed Amendment Advance or Otherwise Impact Current Hawaiian Homestead Lessees (native Hawaiians and Native Hawaiians) of Hawaiian Home Lands?**

There is a general positive impact on current Hawaiian homestead lessees as this proposal helps the department generate revenue to supplement trust resources available to support programs for all native Hawaiian beneficiaries, including the development of homestead lots, loans, and other rehabilitation programs.

**9. How Does the Proposed Amendment Advance or Otherwise Impact HHCA Beneficiaries (native Hawaiians) Currently On a Waiting List For a Hawaiian Homestead Lease?**

There is a general positive impact on current Hawaiian homestead applicants as this proposal helps the department generate revenue to supplement trust resources available to support

programs for all native Hawaiian beneficiaries, including the development of homestead lots, loans, and other rehabilitation programs.

**10. How Does the Proposed Amendment Advance or Otherwise Impact HHCA native Hawaiians Beneficiaries Who Have Not Yet Applied For a Hawaiian Homestead Lease?**

There is a general positive impact on native Hawaiian beneficiaries who are neither applicants nor lessees as this proposal helps the department generate revenue to supplement trust resources available to support programs for all native Hawaiian beneficiaries, including the development of homestead lots, loans, and other rehabilitation programs.

**11. How Does the Proposed Amendment Advance or Otherwise Impact Interests Other Than Those of the HHCA native Hawaiian Beneficiaries and Hawaiian Homestead Lessees?**

The proposed amendment advances the interests of the department and its ability to manage these improvements and to generate revenue from these lands during an interim period until long-term planning can be completed. The proposed amendment may also impact the interests of organizations who may need temporary facilities and space for operations.

**12. How Does the Proposed Amendment Balance the Interests of HHCA native Hawaiian Beneficiaries and Hawaiian Homestead Lessees?**

The proposed amendment contributes to the well-being of the Hawaiian home lands trust, and this in turn benefits both the HHCA native Hawaiian beneficiaries and the Hawaiian homestead lessees. Balancing any competing interests among beneficiaries and lessees is the responsibility of the Hawaiian Homes Commission which will ultimately determine the allocation of the additional revenue resulting from the implementation of this proposed amendment.

**13. Does the Purpose/Benefit to Lessees of the Proposed Amendment Outweigh the Impact of the Change in Qualifications of Lessees on the Existing Class of HHCA Beneficiaries?**

This proposed amendment does not change the qualifications of lessees. This is not applicable to this proposed amendment.

**14. Does the Proposed Amendment Impair or Place at Risk the Corpus of the Trust?**

This proposed amendment does not impair or increase risks to the corpus of the trust.

**15. Alternatives Considered and Reasons Rejected**

None.

**16. Anomalies Created and Explained**

None.

**17. Additional Considerations and Discussion (optional)**

None.

**18. Is Congressional Approval of the Proposed Amendment Required?**

No. Please refer to the opinion from the State of Hawaii Department of the Attorney General dated August 4, 2014, "United States Consent to Act 173, 2014 Hawaii Session Laws."

NEIL ABERCROMBIE  
GOVERNOR



DEPT. OF HAWAIIAN  
HOME LANDS

DAVID M. LOUIE  
ATTORNEY GENERAL

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STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
425 QUEEN STREET  
HONOLULU, HAWAII 96813  
(808) 586-1500

RUSSELL A. SUZUKI  
FIRST DEPUTY ATTORNEY GENERAL

August 4, 2014

Jobie M. K. Masagatani  
Chairman  
Hawaiian Homes Commission  
91-5420 Kapolei Parkway  
Kapolei, Hawaii 96707

**Confidential and Privileged  
Attorney-Client Communication and  
Attorney Work-Product**

Re: United States Consent to Act 173, 2014 Hawaii Session Laws

Dear Ms. Masagatani:

This letter responds to your request that our office provide an opinion as to whether Act 173, 2014 Hawaii Sessions Laws ("Act 173")<sup>1</sup>, requires the consent of the United States. Act 173 amends paragraph (2) of section 204 of the Hawaiian Homes Commission Act, 1920 ("HHCA") by authorizing the Department of Hawaiian Home Lands ("DHHL") to lease improvements located on Hawaiian Home Lands through direct negotiation, if those lands are not needed for homestead leasing to native Hawaiians under HHCA § 207(a).

Section 4 of the Admission Act requires the consent of the United States for any amendment to the Hawaiian Homes Commission Act, 1920, as amended ("HHCA"), unless such amendment falls within several enumerated exceptions. Section 4 provides:

As a compact with the United States relating to the management and disposition of the Hawaiian home lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the Constitution of said State, as provided in section 7, subsection (b) of this Act, subject to amendment or repeal

<sup>1</sup>A copy of Act 173 is attached to this letter for your reference.

only with the consent of the United States, and in no other manner: Provided, That (1) sections 202, 213, 219, 220, 222, 224, and 225 and other provisions relating to administration, and *paragraph (2) of section 204*, section 206 and 212, and other provisions relating to the powers and duties of officers other than those charged with the administration of said Act, ***may be amended in the constitution, or in the manner required for State legislation***, but the Hawaiian home-loan fund, the Hawaiian home-operating fund, and the Hawaiian home-development fund shall not be reduced or impaired by any such amendment, whether made in the constitution or in the manner required for State legislation, and the encumbrances authorized to be placed on Hawaiian home lands by officers other than those charged with the administration of said Act, shall not be increased, except with the consent of the United States; (2) any amendment to increase the benefits to lessees of Hawaiian home lands may be made in the constitution, or in the manner required for State legislation, but the qualifications of lessees shall not be changed except with the consent of the United States; and (3) that all proceeds and income from the “available lands”, as defined by said Act, shall be used only in carrying out the provisions of said Act. (Emphasis added).

As discussed below, it is our opinion that Act 173 does not require the consent of the United States.

First, the Admission Act expressly authorizes State legislative amendments to paragraph (2), section 204 of the HHCA without the consent of the United States. *Id.* Because Act 173 amends this particular provision of the HHCA, consent of the United States is not required under the Admission Act.

Second, paragraph (2), section 204 of the HHCA in part authorizes DHHL to issue commercial leases pursuant to the provisions of Chapter 171, Hawaii Revised Statutes, which governs the disposition of other State lands. Act 173 further allows DHHL to issue five-year leases for improvements on Hawaiian home lands through direct negotiation, without having to conduct public auctions as mandated under Chapter 171. Act 173 therefore amends the process through which DHHL may issue certain non-homestead leases, and relates solely to the administration of the HHCA.

Third, because Act 173 simply amends the process by which DHHL may lease improvements for non-homesteading purposes, the Act does not impair the Hawaiian home-loan fund, Hawaiian home-operating fund, or Hawaiian home-development fund.

Jobie M.K. Masagatani

August 4, 2014

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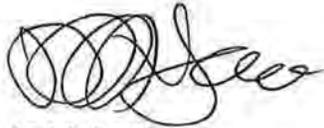
For the foregoing reasons, we believe that § 4 of the Admission Act does not require the consent of the United States for the amendments set forth in Act 173.

Sincerely yours,



Craig Y. Iha  
Deputy Attorney General

APPROVED:



David M. Louie  
Attorney General

Enclosure





EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

**GOV. MSG. NO. 1276**

July 1, 2014

The Honorable Donna Mercado Kim,  
President  
and Members of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 1, 2014, the following bill was signed into law:

HB2288 HD1 SD1 CD1

RELATING TO THE DEPARTMENT OF  
HAWAIIAN HOME LANDS  
**ACT 173 (14)**

A handwritten signature in black ink that reads "Neil Abercrombie".

NEIL ABERCROMBIE  
Governor, State of Hawaii

Approved by the Governor  
on JUL 1 2014  
HOUSE OF REPRESENTATIVES  
TWENTY-SEVENTH LEGISLATURE, 2014  
STATE OF HAWAII

**ACT 173**  
**H.B. NO.** 2288  
H.D. 1  
S.D. 1  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 204, Hawaiian Homes Commission Act,  
2 1920, as amended, is amended by amending subsection (a) to read  
3 as follows:

4 "(a) Upon the passage of this Act, all available lands  
5 shall immediately assume the status of Hawaiian home lands and  
6 be under the control of the department to be used and disposed  
7 of in accordance with the provisions of this Act, except that:

8 (1) In case any available land is under lease by the  
9 Territory of Hawaii, by virtue of section 73 of the  
10 Hawaiian Organic Act, at the time of the passage of  
11 this Act, such land shall not assume the status of  
12 Hawaiian home lands until the lease expires or the  
13 board of land and natural resources withdraws the  
14 lands from the operation of the lease. If the land is  
15 covered by a lease containing a withdrawal clause, as  
16 provided in section 73(d) of the Hawaiian Organic Act,  
17 the board of land and natural resources shall withdraw



1           such lands from the operation of the lease whenever  
2           the department gives notice to the board that the  
3           department is of the opinion that the lands are  
4           required by it for the purposes of this Act; and such  
5           withdrawal shall be held to be for a public purpose  
6           within the meaning of that term as used in section  
7           73(d) of the Hawaiian Organic Act.

8           (2) Any available land, including lands selected by the  
9           department out of a larger area, as provided by this  
10          Act, not leased as authorized by section 207(a) of  
11          this Act, may be returned to the board of land and  
12          natural resources as provided under section 212 of  
13          this Act, or may be retained for management by the  
14          department. Any Hawaiian home lands general lease  
15          issued by the department after June 30, 1985, shall  
16          contain a withdrawal clause allowing the department to  
17          withdraw the land leased at any time during the term  
18          of the lease for the purposes of this Act.

19                   In the management of any retained available lands  
20                   not required for leasing under section 207(a), the  
21                   department may dispose of those lands or any

1 improvements thereon to the public, including native  
2 Hawaiians, on the same terms, conditions,  
3 restrictions, and uses applicable to the disposition  
4 of public lands in chapter 171, Hawaii Revised  
5 Statutes; provided that the department may not sell or  
6 dispose of such lands in fee simple except as  
7 authorized under section 205 of this Act; provided  
8 further that the department is expressly authorized to  
9 negotiate, prior to negotiations with the general  
10 public, the disposition of Hawaiian home lands or any  
11 improvements thereon to a native Hawaiian, or  
12 organization or association owned or controlled by  
13 native Hawaiians, for commercial, industrial, or other  
14 business purposes, in accordance with the procedures  
15 set forth in chapter 171, Hawaii Revised Statutes [-];  
16 provided further that in addition to dispositions made  
17 pursuant to chapter 171, Hawaii Revised Statutes, the  
18 department may lease by direct negotiation and at fair  
19 market rents, and for a term not to exceed five years,  
20 any improvements on Hawaiian home lands, or portions



1           thereof, that are owned or controlled by the  
2           department.

3           (3) The department, with the approval of the Secretary of  
4           the Interior, in order to consolidate its holdings or  
5           to better effectuate the purposes of this Act, may  
6           exchange the title to available lands for land,  
7           privately or publicly owned, of an equal value. All  
8           lands so acquired by the department shall assume the  
9           status of available lands as though the land were  
10          originally designated as available lands under section  
11          203 of this Act, and all lands so conveyed by the  
12          department shall assume the status of the land for  
13          which it was exchanged. The limitations imposed by  
14          section 73(1) of the Hawaiian Organic Act and the land  
15          laws of Hawaii as to the area and value of land that  
16          may be conveyed by way of exchange shall not apply to  
17          exchanges made pursuant hereto. No such exchange of  
18          land publicly owned by the State shall be made without  
19          the approval of two-thirds of the members of the board  
20          of land and natural resources. For the purposes of

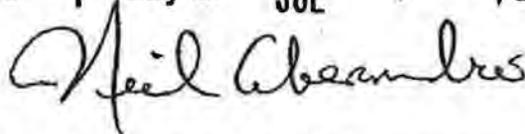


1           this paragraph, lands "publicly owned" means land  
2           owned by a county or the State or the United States."

3           SECTION 2. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 3. This Act shall take effect on July 1, 2014.

APPROVED this 1 day of JUL , 2014



GOVERNOR OF THE STATE OF HAWAII



# HB2288 HD1 SD1 CD1

Measure Title: RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.  
 Report Title: HHCA; DHHL; Disposition of Improvements  
 Description: Amends the Hawaiian Homes Commission Act to permit the Department of Hawaiian Home Lands to dispose of department-owned or department-controlled improvements, or space within an improvement, on Hawaiian home lands through direct negotiations. (HB2288 CD1)  
 Companion: [SB2838](#)  
 Package: Governor  
 Current Referral: HWN/WTL, WAM  
 Introducer(s): SOUKI (Introduced by request of another party)

<u>Sort by</u>	<u>Date</u>	Status	Text
	1/21/2014	H	Pending introduction.
	1/23/2014	H	Introduced and Pass First Reading.
	1/27/2014	H	Referred to OMH/WAL, FIN, referral sheet 6
	1/30/2014	H	Bill scheduled to be heard by OMH/WAL on Monday, 02-03-14 8:45AM in House conference room 325.
	2/3/2014	H	The committees on OMH recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 6 Ayes: Representative(s) Hanohano, Cullen, Evans, Kawakami, Lowen, Say; Ayes with reservations: none; Noes: none; and 3 Excused: Representative(s) C. Lee, Nishimoto, Fale.
	2/3/2014	H	The committees on WAL recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 7 Ayes: Representative(s) Evans, Lowen, Cullen, Hanohano, Kawakami, Say, Thielen; Ayes with reservations: none; Noes: none; and 3 Excused: Representative(s) C. Lee, Nishimoto, Fale.
	2/6/2014	H	Reported from OMH/WAL (Stand. Com. Rep. No. 191-14), recommending passage on Second Reading and referral to FIN.
	2/6/2014	H	Passed Second Reading and referred to the committee(s) on FIN with none voting aye with reservations; none voting no (0) and Yamane excused (1).
	2/24/2014	H	Bill scheduled to be heard by FIN on Wednesday, 02-26-14 11:15AM in House conference room 308.
	2/26/2014	H	The committees on FIN recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 16 Ayes: Representative(s) Luke, Nishimoto, Johanson, Cullen, Hashem, Ing, Jordan, Kobayashi, Lowen, Onishi, Takayama, Tokioka, Woodson, Yamashita, Fukumoto, Ward; Ayes with reservations: none; Noes: none; and 1 Excused: Representative(s) Morikawa.
	2/28/2014	H	Reported from FIN (Stand. Com. Rep. No. 862-14) as amended in HD 1, recommending passage on Third Reading.
	2/28/2014	H	Forty-eight (48) hours notice Tuesday, 03-04-14.
	3/4/2014	H	Passed Third Reading as amended in HD 1 with none voting aye with reservations; none voting no (0) and Representative(s) Ing excused (1). Transmitted to Senate.
	3/6/2014	S	Received from House (Hse. Com. No. 330).
	3/6/2014	S	Passed First Reading.
	3/6/2014	S	Referred to HWN/WTL, WAM.
	3/11/2014	S	The committee(s) on HWN/WTL has scheduled a public hearing on 03-19-14 1:00PM in conference room 225.
	3/19/2014	S	The committee(s) on HWN recommend(s) that the measure be PASSED, UNAMENDED. The votes in HWN were as follows: 4 Aye(s): Senator(s) Shimabukuro, Galuteria, Kidani, Slom; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Hee.
	3/19/2014	S	The committee(s) on WTL recommend(s) that the measure be PASSED, UNAMENDED. The votes in WTL were as follows: 8 Aye(s): Senator(s) Solomon, Galuteria, Dela Cruz, Ihara, Ruderman, Shimabukuro, L. Thielen, Slom; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Taniguchi.
	3/21/2014	S	Reported from HWN/WTL (Stand. Com. Rep. No. 3062) with recommendation of passage on Second Reading and referral to WAM.

3/21/2014	S	Report adopted; Passed Second Reading and referred to WAM.
3/25/2014	S	The committee(s) on WAM will hold a public decision making on 03-28-14 9:30AM in conference room 211.
3/28/2014	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 13 Aye(s): Senator(s) Ige, Kidani, Chun Oakland, Dela Cruz, English, Espero, Kahele, Keith-Agaran, Kouchi, Ruderman, Tokuda, Slom; Aye(s) with reservations: Senator(s) L. Thielen ; 0 No(es): none; and 0 Excused: none.
4/3/2014	S	Reported from WAM (Stand. Com. Rep. No. 3287) with recommendation of passage on Third Reading, as amended (SD 1).
4/3/2014	S	48 Hrs. Notice 04-08-14.
4/8/2014	S	Report adopted; Passed Third Reading, as amended (SD 1). Ayes, 25; Aye(s) with reservations: Senator(s) Ihara, L. Thielen . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
4/8/2014	H	Returned from Senate (Sen. Com. No. 628) in amended form (SD 1).
4/10/2014	H	House disagrees with Senate amendment (s).
4/11/2014	S	Received notice of disagreement (Hse. Com. No. 676).
4/14/2014	H	House Conferees Appointed: Hanohano, Evans, Cullen Co-Chairs; Say, Fale Members.
4/15/2014	S	Received notice of appointment of House conferees (Hse. Com. No. 684).
4/14/2014	S	Senate Conferees Appointed: Shimabukuro Chair; Solomon, Kidani Co-Chairs; Galuteria, Slom Members.
4/14/2014	H	Received notice of Senate conferees (Sen. Com. No. 675).
4/16/2014	H	Bill scheduled for Conference Committee Meeting on Thursday, 04-17-14 1:15PM in conference room 312.
4/17/2014	H	Conference Committee Meeting will reconvene on Tuesday 04-22-14 1:15PM in conference room 312.
4/22/2014	H	Conference Committee Meeting will reconvene on Wednesday 04-23-14 1:15PM in conference room 312.
4/23/2014	H	Conference Committee Meeting will reconvene on Thursday 04-24-14 1:15PM in conference room 312.
4/24/2014	H	The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 5 Ayes: Representative(s) Hanohano, Evans, Cullen, Say, Fale; Ayes with reservations: none; 0 Noes: none; and 0 Excused: none.
4/24/2014	S	The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS. The votes of the Senate Conference Managers were as follows: 3 Aye(s): Senator(s) Shimabukuro, Kidani, Galuteria; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Solomon, Slom.
4/25/2014	H	Reported from Conference Committee (Conf Com. Rep. No. 70-14) as amended in (CD 1).
4/25/2014	H	Forty-eight (48) hours notice Tuesday, 04-29-14.
4/25/2014	S	Reported from Conference Committee as amended CD 1 (Conf. Com. Rep. No. 70-14).
4/25/2014	S	48 Hrs. Notice (as amended CD 1) 04-29-14.
4/29/2014	H	Passed Final Reading as amended in CD 1 with none voting aye with reservations; none voting no (0) and Representative(s) Cachola, Carroll, Ito excused (3).
4/29/2014	S	Passed Final Reading, as amended (CD 1). 24 Aye(s); Aye(s) with reservations: Senator(s) Ihara . 1 No(es); Senator(s) L. Thielen. 0 Excused: none.
4/30/2014	H	Received notice of Final Reading (Sen. Com. No. 720).
5/1/2014	S	Received notice of passage on Final Reading in House (Hse. Com. No. 751).
5/5/2014	H	Transmitted to Governor.
7/3/2014	H	Act 173, on 7/1/2014 (Gov. Msg. No. 1276).
7/3/2014	S	Act 173, 7/1/2014 (Gov. Msg. No. 1276).

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | ConAm = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

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## A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 204, Hawaiian Homes Commission Act,  
2 1920, as amended, is amended by amending subsection (a) to read  
3 as follows:

4           "(a) Upon the passage of this Act, all available lands  
5 shall immediately assume the status of Hawaiian home lands and  
6 be under the control of the department to be used and disposed  
7 of in accordance with the provisions of this Act, except that:

8           (1) In case any available land is under lease by the  
9           Territory of Hawaii, by virtue of section 73 of the  
10           Hawaiian Organic Act, at the time of the passage of  
11           this Act, such land shall not assume the status of  
12           Hawaiian home lands until the lease expires or the  
13           board of land and natural resources withdraws the  
14           lands from the operation of the lease. If the land is  
15           covered by a lease containing a withdrawal clause, as  
16           provided in section 73(d) of the Hawaiian Organic Act,  
17           the board of land and natural resources shall withdraw  
18           such lands from the operation of the lease whenever

1 the department gives notice to the board that the  
2 department is of the opinion that the lands are  
3 required by it for the purposes of this Act; and such  
4 withdrawal shall be held to be for a public purpose  
5 within the meaning of that term as used in section  
6 73(d) of the Hawaiian Organic Act.

7 (2) Any available land, including lands selected by the  
8 department out of a larger area, as provided by this  
9 Act, not leased as authorized by section 207(a) of  
10 this Act, may be returned to the board of land and  
11 natural resources as provided under section 212 of  
12 this Act, or may be retained for management by the  
13 department. Any Hawaiian home lands general lease  
14 issued by the department after June 30, 1985, shall  
15 contain a withdrawal clause allowing the department to  
16 withdraw the land leased at any time during the term  
17 of the lease for the purposes of this Act.

18 In the management of any retained available lands not  
19 required for leasing under section 207(a), the  
20 department may dispose of those lands or any  
21 improvements thereon to the public, including native  
22 Hawaiians, on the same terms, conditions,

1 restrictions, and uses applicable to the disposition  
2 of public lands in chapter 171, Hawaii Revised  
3 Statutes; provided that the department may not sell or  
4 dispose of such lands in fee simple except as  
5 authorized under section 205 of this Act; provided  
6 further that the department is expressly authorized to  
7 negotiate, prior to negotiations with the general  
8 public, the disposition of Hawaiian home lands or any  
9 improvements thereon to a native Hawaiian, or  
10 organization or association owned or controlled by  
11 native Hawaiians, for commercial, industrial, or other  
12 business purposes, in accordance with the procedures  
13 set forth in chapter 171, Hawaii Revised Statutes[-];  
14 provided further that in addition to dispositions made  
15 pursuant to chapter 171, Hawaii Revised Statutes, the  
16 department may lease by direct negotiation and at fair  
17 market rents, any improvements on Hawaiian home lands,  
18 or portions thereof, that are owned or controlled by  
19 the department for a term not to exceed five years.

- 20 (3) The department, with the approval of the Secretary of  
21 the Interior, in order to consolidate its holdings or  
22 to better effectuate the purposes of this Act, may

1 exchange the title to available lands for land,  
2 privately or publicly owned, of an equal value. All  
3 lands so acquired by the department shall assume the  
4 status of available lands as though the land were  
5 originally designated as available lands under section  
6 203 of this Act, and all lands so conveyed by the  
7 department shall assume the status of the land for  
8 which it was exchanged. The limitations imposed by  
9 section 73(1) of the Hawaiian Organic Act and the land  
10 laws of Hawaii as to the area and value of land that  
11 may be conveyed by way of exchange shall not apply to  
12 exchanges made pursuant hereto. No such exchange of  
13 land publicly owned by the State shall be made without  
14 the approval of two-thirds of the members of the board  
15 of land and natural resources. For the purposes of  
16 this paragraph, lands "publicly owned" means land  
17 owned by a county or the State or the United States."

18 SECTION 2. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20

21

22

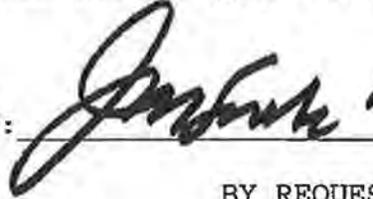
H.B. NO. 2288

1 SECTION 3. This Act shall take effect upon its approval.

2

3

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "J. Smith", is written over a horizontal line.

4

BY REQUEST

JAN 21 2014

# H.B. NO. 2288

**Report Title:**

HHCA; DHHL; Disposition of Improvements

**Description:**

Amends the Hawaiian Homes Commission Act to permit the Department of Hawaiian Home Lands to dispose of department-owned or department-controlled improvements, or space within an improvement, on Hawaiian home lands through direct negotiations.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

PURPOSE: Permits the department to dispose of department-owned or department-controlled improvements, or space within an improvement, on Hawaiian home lands through direct negotiations.

MEANS: Amend section 204(a) of the Hawaiian Homes Commission Act, 1920, as amended.

JUSTIFICATION: The department currently owns improvements such as buildings and warehouses, and as certain general leases expire, the department will become the owner of more improvements. The authority to lease space through direct negotiations would allow the department greater flexibility to generate revenue on its lands.

Impact on the public: There is a positive impact on the public, specifically native Hawaiians, as this proposal helps the department generate revenue so it will have resources to support programs for native Hawaiian lessees and applicants, including the development of homestead lots, loans, and other rehabilitation programs.

Impact on the department and other agencies: This bill will provide a means to help the department generate resources to develop and award more homestead lots, provide more loans, and deliver other rehabilitation programs.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: HHL 602.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.

Honolulu, Hawaii  
February 6, 2014

RE: H.B. No. 2288

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Sir:

Your Committees on Ocean, Marine Resources, & Hawaiian Affairs and Water & Land, to which was referred H.B. No. 2288 entitled:

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

beg leave to report as follows:

The purpose of this measure is to amend the Hawaiian Homes Commission Act to allow the Department of Hawaiian Home Lands to dispose of Department-owned or Department-controlled improvements or portions thereof on Hawaiian homelands through direct negotiations and at fair market rents for a term not to exceed five years.

The Department of Hawaiian Home Lands, Community Alliance on Mental Health, and an individual provided testimony in support of this measure.

As affirmed by the records of votes of the members of your Committees on Ocean, Marine Resources, & Hawaiian Affairs and Water & Land that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2288 and recommend that it pass Second Reading and be referred to the Committee on Finance.



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

  
CINDY EVANS, Chair

  
FAYE P. HANOHANO, Chair



State of Hawaii  
House of Representatives  
The Twenty-seventh Legislature

HSCR 191-14

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

Bill/Resolution No.: <b>HB 2288</b>	Committee Referral: <b>OMH/WAL, FIN</b>	Date: <b>2-3-2014</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input 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)				
OMH Members	Ayes	Ayes (WR)	Nays	Excused
1. HANOHANO, Faye P. (C)	✓			
2. CULLEN, Ty J.K. (VC)	✓			
3. EVANS, Cindy	✓			
4. KAWAKAMI, Derek S.K.	✓			
5. LEE, Chris				✓
6. LOWEN, Nicole E.	✓			
7. SAY, Calvin K.Y.	✓			
8. NISHIMOTO, Scott Y.				✓
9. FALE, Richard Lee				✓
<b>TOTAL (9)</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>3</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: 0.8em;">committee acronym(s)</div>				
Vice Chair's or designee's signature:				
<b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				





STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE HOUSE COMMITTEES ON  
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS AND  
WATER & LAND  
IN SUPPORT OF

**HB 2288, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS**

February 3, 2014

Chair Hanohano, Chair Evans, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) is in strong support of this bill which enables the department to dispose of improvements that it owns or controls, or space within these improvements, on Hawaiian home lands through direct negotiations. This bill is part of the Governor's administrative package by request of our department.

The department currently owns buildings and warehouses on our lands and as certain general leases expire the department will become the owner of even more of these improvements. The department has the authority to dispose of these improvements pursuant Chapter 102, Hawaii Revised Statutes, but it is currently not feasible to lease space for just a short term. The ability to dispose of these improvements, or space therein, through direct negotiations for a term less than five year would allow the department greater flexibility to generate revenue on its lands.

Thank you for your consideration of our testimony.

**cullen3**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 02, 2014 10:11 AM  
**To:** omhstestimony  
**Cc:** Awai76@aol.com  
**Subject:** Submitted testimony for HB2288 on Feb 3, 2014 08:45AM

**HB2288**

Submitted on: 2/2/2014

Testimony for OMH/WAL on Feb 3, 2014 08:45AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ellen Awai	Individual	Support	Yes

Comments: As a Native Hawaiian and an advocate, I support this HB2288. I believe that the lands that are not occupied should be given back to the Hawaiian Homelands. Too many buildings sit wasting away with no one maintaining them, some no one even know who owns. Many individuals in our islands are without homes and wasting their lives on our streets with no jobs. This action is important in improving our environment and economy by getting them involved. This would assist many Native Hawaiians and other locals to a system that they could understand and probably even flourish. Please support HB2288!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

Honolulu, Hawaii

February 28, 2014

RE: H.B. No. 2288  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Sir:

Your Committee on Finance, to which was referred H.B. No. 2288 entitled:

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

begs leave to report as follows:

The purpose of this measure is to provide the Department of Hawaiian Home Lands (Department) greater flexibility in generating revenues from its land holdings by allowing the Department to dispose of department-owned or department-controlled improvements or portions thereof on Hawaiian home lands through direct negotiations and at fair market rents for a term not to exceed five years.

The Department of Hawaiian Home Lands testified in support of this measure.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2030, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2288, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2288, H.D. 1.

Respectfully submitted on  
behalf of the members of the  
Committee on Finance,



SYLVIA LUKE, Chair



**Record of Votes of the Committee on Finance**

<b>Bill/Resolution No.:</b> HB 2288	<b>Committee Referral:</b> QMH/WAL, FIN	<b>Date:</b> 2/26/2014
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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)

FIN Members	Ayes	Ayes (WR)	Nays	Excused
1. LUKE, Sylvia (C)	/			
2. NISHIMOTO, Scott Y. (VC)	/			
3. JOHANSON, Aaron Ling (VC)	/			
4. CULLEN, Ty J.K.	/			
5. HASHEM, Mark J.	/			
6. ING, Kaniela	/			
7. JORDAN, Jo	/			
8. KOBAYASHI, Bertrand	/			
9. LOWEN, Nicole E.	/			
10. MORIKAWA, Dee				/
11. ONISHI, Richard H.K.	/			
12. TAKAYAMA, Gregg	/			
13. TOKIOKA, James Kunane	/			
14. WOODSON, Justin H.	/			
15. YAMASHITA, Kyle T.	/			
16. FUKUMOTO, Beth	/			
17. WARD, Gene	/			
<b>TOTAL (17)</b>	16			1

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

Vice Chair's or designee's signature: \_\_\_\_\_

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

NEIL ABERCROMBIE  
GOVERNOR  
STATE OF HAWAII



JOBIE M. K. MASAGATANI  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

BARRELL T. YOUNG  
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE HOUSE COMMITTEE ON FINANCE  
IN SUPPORT OF

**HB 2288, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS**

February 26, 2014

Chair Luke, Vice-Chair Nishimoto, Vice-Chair Johanson, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) is in strong support of this bill which enables the department to dispose of improvements that it owns or controls, or space within these improvements, on Hawaiian home lands through direct negotiations. This bill is part of the Governor's administrative package by request of our department.

The department currently owns buildings and warehouses on our lands and as certain general leases expire the department will become the owner of even more of these improvements. The department has the authority to dispose of these improvements pursuant Chapter 102, Hawaii Revised Statutes, but it is currently not feasible to lease space for just a short term. The ability to dispose of these improvements, or space therein, through direct negotiations for a term less than five year would allow the department greater flexibility to generate revenue on its lands.

Thank you for your consideration of our testimony.

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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 204, Hawaiian Homes Commission Act,  
2 1920, as amended, is amended by amending subsection (a) to read  
3 as follows:

4           "(a) Upon the passage of this Act, all available lands  
5 shall immediately assume the status of Hawaiian home lands and  
6 be under the control of the department to be used and disposed  
7 of in accordance with the provisions of this Act, except that:

8           (1) In case any available land is under lease by the  
9           Territory of Hawaii, by virtue of section 73 of the  
10           Hawaiian Organic Act, at the time of the passage of  
11           this Act, such land shall not assume the status of  
12           Hawaiian home lands until the lease expires or the  
13           board of land and natural resources withdraws the  
14           lands from the operation of the lease. If the land is  
15           covered by a lease containing a withdrawal clause, as  
16           provided in section 73(d) of the Hawaiian Organic Act,  
17           the board of land and natural resources shall withdraw  
18           such lands from the operation of the lease whenever



1 the department gives notice to the board that the  
2 department is of the opinion that the lands are  
3 required by it for the purposes of this Act; and such  
4 withdrawal shall be held to be for a public purpose  
5 within the meaning of that term as used in section  
6 73(d) of the Hawaiian Organic Act.

- 7 (2) Any available land, including lands selected by the  
8 department out of a larger area, as provided by this  
9 Act, not leased as authorized by section 207(a) of  
10 this Act, may be returned to the board of land and  
11 natural resources as provided under section 212 of  
12 this Act, or may be retained for management by the  
13 department. Any Hawaiian home lands general lease  
14 issued by the department after June 30, 1985, shall  
15 contain a withdrawal clause allowing the department to  
16 withdraw the land leased at any time during the term  
17 of the lease for the purposes of this Act.

18 In the management of any retained available lands  
19 not required for leasing under section 207(a), the  
20 department may dispose of those lands or any  
21 improvements thereon to the public, including native  
22 Hawaiians, on the same terms, conditions,



1 restrictions, and uses applicable to the disposition  
2 of public lands in chapter 171, Hawaii Revised  
3 Statutes; provided that the department may not sell or  
4 dispose of such lands in fee simple except as  
5 authorized under section 205 of this Act; provided  
6 further that the department is expressly authorized to  
7 negotiate, prior to negotiations with the general  
8 public, the disposition of Hawaiian home lands or any  
9 improvements thereon to a native Hawaiian, or  
10 organization or association owned or controlled by  
11 native Hawaiians, for commercial, industrial, or other  
12 business purposes, in accordance with the procedures  
13 set forth in chapter 171, Hawaii Revised Statutes[-];  
14 provided further that in addition to dispositions made  
15 pursuant to chapter 171, Hawaii Revised Statutes, the  
16 department may lease by direct negotiation and at fair  
17 market rents, and for a term not to exceed five years,  
18 any improvements on Hawaiian home lands, or portions  
19 thereof, that are owned or controlled by the  
20 department.

- 21 (3) The department, with the approval of the Secretary of  
22 the Interior, in order to consolidate its holdings or



1 to better effectuate the purposes of this Act, may  
2 exchange the title to available lands for land,  
3 privately or publicly owned, of an equal value. All  
4 lands so acquired by the department shall assume the  
5 status of available lands as though the land were  
6 originally designated as available lands under section  
7 203 of this Act, and all lands so conveyed by the  
8 department shall assume the status of the land for  
9 which it was exchanged. The limitations imposed by  
10 section 73(1) of the Hawaiian Organic Act and the land  
11 laws of Hawaii as to the area and value of land that  
12 may be conveyed by way of exchange shall not apply to  
13 exchanges made pursuant hereto. No such exchange of  
14 land publicly owned by the State shall be made without  
15 the approval of two-thirds of the members of the board  
16 of land and natural resources. For the purposes of  
17 this paragraph, lands "publicly owned" means land  
18 owned by a county or the State or the United States."

19 SECTION 2. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 3. This Act shall take effect on July 1, 2030.



**Report Title:**

HHCA; DHHL; Disposition of Improvements

**Description:**

Amends the Hawaiian Homes Commission Act to permit the Department of Hawaiian Home Lands to dispose of department-owned or department-controlled improvements, or space within an improvement, on Hawaiian home lands through direct negotiations. Effective July 1, 2030. (HB2288 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



STAND. COM. REP. NO. **3062**

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 2288  
H.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committees on Hawaiian Affairs and Water and Land, to which was referred H.B. No. 2288, H.D. 1, entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to amend the Hawaiian Homes Commission Act to permit the Department of Hawaiian Home Lands to lease department-owned or department-controlled improvements, or space within an improvement, on Hawaiian homelands through direct negotiation, at fair market rent, and for a term of up to five years.

Your Committees received testimony in support of this measure from the Department of Hawaiian Home Lands.

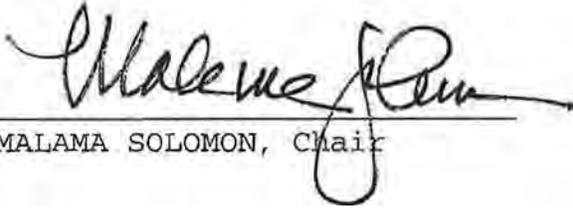
Your Committees finds that authorizing the Department of Hawaiian Home Lands to lease buildings and warehouses on its land through direct negotiations for up to five years per lease term would allow the Department greater flexibility to generate revenue on its land. One member of your Committees expressed concerns that this measure may allow the Department of Hawaiian Home Lands to lease buildings and warehouses through direct negotiations indefinitely, so long as the lease is renewed every five years. The Department of Hawaiian Home Lands assured your Committees that the Department's intent is not to authorize long-term leases by direct negotiation. Rather, this measure will allow the



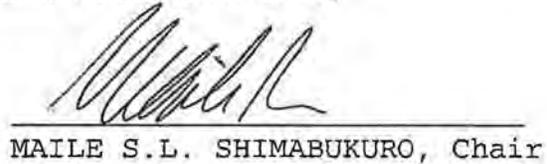
Department to generate revenue in the short term until it secures a long-term tenant.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Water and Land that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2288, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committees on Hawaiian Affairs  
and Water and Land,



MALAMA SOLOMON, Chair



MAILE S.L. SHIMABUKURO, Chair







# HB 2288

RELATING TO THE DEPARTMENT OF  
HAWAIIAN HOME LANDS.



STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS &  
COMMITTEE ON WATER AND LAND  
IN SUPPORT OF

**HB 2288 HD 1, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS**

March 19, 2014

Aloha Chair Shimabukuro, Chair Solomon, and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) is in strong support of this bill which enables the department to dispose of improvements that it owns or controls, or space within these improvements, on Hawaiian home lands through direct negotiations. This bill is part of the Governor's administrative package by request of our department.

The department currently owns buildings and warehouses on our lands and as certain general leases expire the department will become the owner of even more of these improvements. The department has the authority to dispose of these improvements pursuant Chapter 102, Hawaii Revised Statutes, but it is currently not feasible to lease space for just a short term. The ability to dispose of these improvements, or space therein, through direct negotiations for a term less than five year would allow the department greater flexibility to generate revenue on its lands.

Thank you for your consideration of our testimony.

STAND. COM. REP. NO.

3287

Honolulu, Hawaii

APR 03 2014

RE: H.B. No. 2288  
H.D. 1  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred H.B. No. 2288, H.D. 1, 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 lease any department-owned or -controlled improvements, or space within an improvement, on Hawaiian home lands through direct negotiations and at a fair market rent for a period of not more than five years.

Your Committee received written comments in support of this measure from the Department of Hawaiian Home Lands.

Your Committee finds that the Department of Hawaiian Home Lands owns many buildings and warehouses whose general leases are set to expire and that it is not feasible for the Department of Hawaiian Home Lands to enter into short-term leases for the space. Your Committee believes that this measure will allow the Department of Hawaiian Home Lands greater flexibility in generating sufficient revenue to carry out the purposes of the Hawaiian Homes Commission Act of 1920, as well as accelerate the development of Hawaiian homestead lands for the benefit of native Hawaiians.

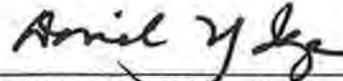
HB2288 SD1 SSCR LRB 14-2335.doc



Your Committee has amended this measure by changing the effective date to July 1, 2050, to facilitate further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2288, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2288, H.D. 1, S.D. 1.

Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,



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DAVID Y. IGE, Chair





NEIL ABERCROMBIE  
GOVERNOR  
STATE OF HAWAII



JOBIE M. K. MASAGATANI  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

DARRELL T. YOUNG  
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS  
IN SUPPORT OF

**HB 2288 HD 1, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS**

March 28, 2014

Aloha Chair Ige, Vice-Chair Kidani, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) is in strong support of this bill which enables the department to dispose of improvements that it owns or controls, or space within these improvements, on Hawaiian home lands through direct negotiations. This bill is part of the Governor's administrative package by request of our department.

The department currently owns buildings and warehouses on our lands and as certain general leases expire the department will become the owner of even more of these improvements. The department has the authority to dispose of these improvements pursuant Chapter 102, Hawaii Revised Statutes, but it is currently not feasible to lease space for just a short term. The ability to dispose of these improvements, or space therein, through direct negotiations for a term less than five year would allow the department greater flexibility to generate revenue on its lands.

Thank you for your consideration of our testimony.

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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 204, Hawaiian Homes Commission Act,  
2 1920, as amended, is amended by amending subsection (a) to read  
3 as follows:

4           "(a) Upon the passage of this Act, all available lands  
5 shall immediately assume the status of Hawaiian home lands and  
6 be under the control of the department to be used and disposed  
7 of in accordance with the provisions of this Act, except that:

8           (1) In case any available land is under lease by the  
9 Territory of Hawaii, by virtue of section 73 of the  
10 Hawaiian Organic Act, at the time of the passage of  
11 this Act, such land shall not assume the status of  
12 Hawaiian home lands until the lease expires or the  
13 board of land and natural resources withdraws the  
14 lands from the operation of the lease. If the land is  
15 covered by a lease containing a withdrawal clause, as  
16 provided in section 73(d) of the Hawaiian Organic Act,  
17 the board of land and natural resources shall withdraw  
18 such lands from the operation of the lease whenever



1 the department gives notice to the board that the  
2 department is of the opinion that the lands are  
3 required by it for the purposes of this Act; and such  
4 withdrawal shall be held to be for a public purpose  
5 within the meaning of that term as used in section  
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7 (2) Any available land, including lands selected by the  
8 department out of a larger area, as provided by this  
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15 contain a withdrawal clause allowing the department to  
16 withdraw the land leased at any time during the term  
17 of the lease for the purposes of this Act.

18 In the management of any retained available lands  
19 not required for leasing under section 207(a), the  
20 department may dispose of those lands or any  
21 improvements thereon to the public, including native  
22 Hawaiians, on the same terms, conditions,



1 restrictions, and uses applicable to the disposition  
2 of public lands in chapter 171, Hawaii Revised  
3 Statutes; provided that the department may not sell or  
4 dispose of such lands in fee simple except as  
5 authorized under section 205 of this Act; provided  
6 further that the department is expressly authorized to  
7 negotiate, prior to negotiations with the general  
8 public, the disposition of Hawaiian home lands or any  
9 improvements thereon to a native Hawaiian, or  
10 organization or association owned or controlled by  
11 native Hawaiians, for commercial, industrial, or other  
12 business purposes, in accordance with the procedures  
13 set forth in chapter 171, Hawaii Revised Statutes[-];  
14 provided further that in addition to dispositions made  
15 pursuant to chapter 171, Hawaii Revised Statutes, the  
16 department may lease by direct negotiation and at fair  
17 market rents, and for a term not to exceed five years,  
18 any improvements on Hawaiian home lands, or portions  
19 thereof, that are owned or controlled by the  
20 department.

- 21 (3) The department, with the approval of the Secretary of  
22 the Interior, in order to consolidate its holdings or



1 to better effectuate the purposes of this Act, may  
2 exchange the title to available lands for land,  
3 privately or publicly owned, of an equal value. All  
4 lands so acquired by the department shall assume the  
5 status of available lands as though the land were  
6 originally designated as available lands under section  
7 203 of this Act, and all lands so conveyed by the  
8 department shall assume the status of the land for  
9 which it was exchanged. The limitations imposed by  
10 section 73(1) of the Hawaiian Organic Act and the land  
11 laws of Hawaii as to the area and value of land that  
12 may be conveyed by way of exchange shall not apply to  
13 exchanges made pursuant hereto. No such exchange of  
14 land publicly owned by the State shall be made without  
15 the approval of two-thirds of the members of the board  
16 of land and natural resources. For the purposes of  
17 this paragraph, lands "publicly owned" means land  
18 owned by a county or the State or the United States."

19 SECTION 2. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 3. This Act shall take effect on July 1, 2050.



**Report Title:**

HHCA; DHHL; Disposition of Improvements

**Description:**

Amends the Hawaiian Homes Commission Act to permit the Department of Hawaiian Home Lands to dispose of department-owned or department-controlled improvements, or space within an improvement, on Hawaiian home lands through direct negotiations. Effective 7/1/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



Honolulu, Hawaii

April 25, 2014

RE: H.B. No. 2288  
H.D. 1  
S.D. 1  
C.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 2288, H.D. 1, S.D. 1, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to amend the Hawaiian Homes Commission Act to allow the Department of Hawaiian Home Lands to dispose of department-owned or department-controlled improvements or portions thereof on Hawaiian home lands through direct negotiations and at fair market rents for a term not to exceed five years.

Your Committee on Conference has amended this measure by changing its effective date to July 1, 2014.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your

HB2288 CD1 HCCR HMS 2014-3328



Committee on Conference is in accord with the intent and purpose of H.B. No. 2288, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2288, H.D. 1, S.D. 1, C.D. 1.

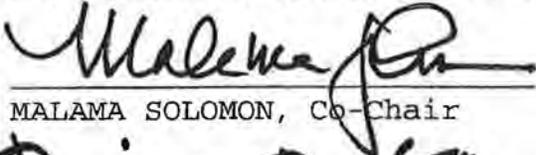
Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE



MAILE S.L. SHIMABUKURO, Chair



MALAMA SOLOMON, Co-Chair



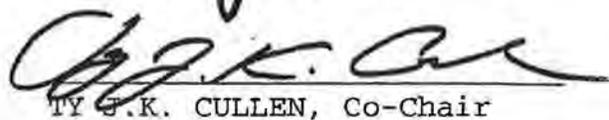
MICHELLE N. KIDANI, Co-Chair



FAYE P. MANOHANO, Co-Chair



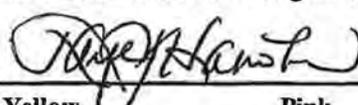
CINDY EVANS, Co-Chair



TY J.K. CULLEN, Co-Chair



Record of Votes of a  
Conference Committee

Bill / Concurrent Resolution No.: <b>HB 2288, HD 1, SD 1</b>					Date/Time: <b>April 24, 2014</b>					<b>1:24 pm</b>	
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).											
<input type="checkbox"/> The Committee is reconsidering its previous decision.											
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.						
Senate Managers		A	WR	N	E	House Managers		A	WR	N	E
SHIMABUKURO, Maile S.L., Chr.		✓				HANOHANO, Faye P., Co-Chr.		✓			
SOLOMON, Malama, Co-Chr.					✓	EVANS, Cindy, Co-Chr.		✓			
KIDANI, Michelle N., Co-Chr.		✓				CULLEN, Ty J.K., Co-Chr.		✓			
GALUTERIA, Brickwood		✓				SAY, Calvin K.Y.		✓			
SLOM, Sam					✓	FALE, Richard Lee		✓			
TOTAL		3			2	TOTAL		5			
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused				
Senate Recommendation is:					House Recommendation is:						
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted						
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:						
											
Distribution:		Original			Yellow		Pink		Goldenrod		
		File with Conference Committee Report			House Clerk's Office		Senate Clerk's Office		Drafting Agency		

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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 204, Hawaiian Homes Commission Act,  
2 1920, as amended, is amended by amending subsection (a) to read  
3 as follows:

4           "(a) Upon the passage of this Act, all available lands  
5 shall immediately assume the status of Hawaiian home lands and  
6 be under the control of the department to be used and disposed  
7 of in accordance with the provisions of this Act, except that:

8           (1) In case any available land is under lease by the  
9           Territory of Hawaii, by virtue of section 73 of the  
10           Hawaiian Organic Act, at the time of the passage of  
11           this Act, such land shall not assume the status of  
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13           board of land and natural resources withdraws the  
14           lands from the operation of the lease. If the land is  
15           covered by a lease containing a withdrawal clause, as  
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1 such lands from the operation of the lease whenever  
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4 required by it for the purposes of this Act; and such  
5 withdrawal shall be held to be for a public purpose  
6 within the meaning of that term as used in section  
7 73(d) of the Hawaiian Organic Act.

8 (2) Any available land, including lands selected by the  
9 department out of a larger area, as provided by this  
10 Act, not leased as authorized by section 207(a) of  
11 this Act, may be returned to the board of land and  
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13 this Act, or may be retained for management by the  
14 department. Any Hawaiian home lands general lease  
15 issued by the department after June 30, 1985, shall  
16 contain a withdrawal clause allowing the department to  
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18 of the lease for the purposes of this Act.

19 In the management of any retained available lands  
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21 department may dispose of those lands or any



1 improvements thereon to the public, including native  
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18 department may lease by direct negotiation and at fair  
19 market rents, and for a term not to exceed five years,  
20 any improvements on Hawaiian home lands, or portions



1           thereof, that are owned or controlled by the  
2           department.

- 3           (3) The department, with the approval of the Secretary of  
4           the Interior, in order to consolidate its holdings or  
5           to better effectuate the purposes of this Act, may  
6           exchange the title to available lands for land,  
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18          land publicly owned by the State shall be made without  
19          the approval of two-thirds of the members of the board  
20          of land and natural resources. For the purposes of



1           this paragraph, lands "publicly owned" means land  
2           owned by a county or the State or the United States."

3           SECTION 2. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 3. This Act shall take effect on July 1, 2014.



**Report Title:**

HHCA; DHHL; Disposition of Improvements

**Description:**

Amends the Hawaiian Homes Commission Act to permit the Department of Hawaiian Home Lands to dispose of department-owned or department-controlled improvements, or space within an improvement, on Hawaiian home lands through direct negotiations.  
(HB2288 CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*





*Amendment to the Hawaiian Homes Commission Act, 1920, as amended - Act 173 (2014)*

**SUMMARY OF ANY OUTREACH OR CONSULTATIONS CONDUCTED WITH THE BENEFICIARIES REGARDING THE PROPOSED AMENDMENT**

The Department of Hawaiian Home Lands did not conduct a statewide beneficiary consultation on this proposed amendment. However, this proposed amendment was part of the department's legislative package for the 2014 Regular Session, and beneficiaries and the public had an opportunity to testify on this proposal to the Hawaiian Homes Commission when it approved the legislative package in September 2013. A copy of the submittal to the commission is enclosed.

Four beneficiaries testified on overall legislative package, and two of the testifiers spoke specifically to this proposal that amends Section 204 of the Hawaiian Homes Commission Act. One beneficiary testified that she "supports all of the proposals which are aimed at bringing opportunities and benefits to beneficiaries on and off the lands." The second beneficiary supports the "legislative proposal to sublease space within a larger parcel to generate more revenue for the beneficiaries."

The final vote by the commission "to approve the legislative proposals for inclusion in the Administration's legislative package for the 2014 Legislative Session" was five votes in favor, zero against, and three members of the commission were excused.



STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

September 23, 2013

To: Chairman and Members, Hawaiian Homes Commission  
From: Dreana Kalili, Policy and Program Analyst *JK*  
Subject: Approval of 2014 Legislative Proposals

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission approves the legislative proposals for inclusion in the Administration's legislative package for the 2014 Legislative Session.

DISCUSSION

The Department of Hawaiian Home Lands is preparing four draft legislative proposals for submission to the Governor's Policy Office for inclusion in the Administration's legislative package. These draft legislative proposals, upon submission, will be under review by the Department of the Attorney General, the Department of Budget & Finance, and the Governor. These proposals are pending final approval and no proposal is considered part of the package until final approval is granted. In this phase of the review process, the department may amend or withdraw any measure.

In June, the department solicited recommendations for legislative proposal, and received just one proposal requesting CIP funding for infrastructure for the Waiohuli undivided interest subdivision in Kula, Maui. Since CIP requests are not submitted as a legislative proposal in the Administration's package, this request is not included among our proposals.

The summaries of the draft legislative proposals are presented below.



## **PROPOSAL SUMMARIES**

### *Proposal HHL-01(14)*

#### *RELATING TO AFFORDABLE HOUSING ON HAWAIIAN HOME LANDS.*

This proposal repeals the June 30, 2015 sunset of §46-15.1 (b) Hawaii Revised Statutes, the statute that authorizes counties to issue affordable housing credits to the department for existing and future affordable units on Hawaiian home lands.

Repealing the sunset allows the department to continue to receive and transfer affordable housing credits and to promote private-public partnerships by providing incentive for private sector developers to build affordable homes on Hawaiian home lands. The department can attract competitive bids and resources with affordable housing credits, and can use the resources to develop and award more homestead lots.

### *Proposal HHL-02(14)*

#### *RELATING TO PERSONAL PRIVACY.*

This proposal amends §92F, Hawaii Revised Statutes, by adding DHHL applicant and lessee files to the list of information in which an individual has a significant privacy interest, and thereby disallowing public access to these government records.

In the past year, the department has received Uniform Information Practices Act (UIPA) requests for specific applicant and lessee files. These files include personal contact information, genealogies, finance and loan documents, and other correspondence between the department and the individual. The department's administrative rules require that "Personal data received or recorded by the department shall be held in absolute confidence and no release of information shall be made without written approval of the individual concerned."

Public access to this information should be considered an unwarranted invasion of privacy. Examples in the existing statute of information in which an individual has a significant privacy interest that may be found in an applicant or lessee file include information relating to eligibility for social services or welfare benefits or the determination of benefit levels; information describing an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness; and social security numbers.



*Proposal HHL-03(14)*

*RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.*

This proposal amends existing law to authorize the department to grant the use and occupancy of any portion of a facility that it owns or controls to derive revenue there from.

The department currently has authorization to dispose of its available lands, but does not have explicit authorization to lease space in a facility it owns on its available lands. As certain general leases expire, the department will become the owner of improvements on the leased lands. These improvements include facilities like warehouses and buildings. The authority to lease space would allow the department greater flexibility to generate revenue. For example, if there is a DHHL-owned warehouse on a parcel of available lands, the department currently may only lease the parcel. If this proposal passes, the department would be able to lease bays (or other spaces) within the warehouse to various lessees.

*Proposal HHL-04(14)*

*RELATING TO HAWAIIAN HOME LANDS.*

This proposal amends §182, Hawaii Revised Statutes, by inserting language to clarify that all minerals in, on, or under Hawaiian home lands or lands which hereafter become Hawaiian home lands are reserved to the Department of Hawaiian Home Lands.

It remains unclear whether any pre-Statehood conveyances of public land to the department and the trust under the authority of Congress and the Hawaiian Homes Commission Act would carry with it the mineral rights. This proposal seeks to clarify the ownership of mineral rights on these lands.

*Proposal HHL-05(14)*

*RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.*

This proposal amends Act 195, Session Laws of Hawaii, 2011, by repealing Section 3. This section includes a directive to amend the Hawaiian Homes Commission Act to accomplish the purposes set forth in Act 195 (2011).

Act 195 (2011) established the Native Hawaiian Roll Commission, and the department is on record supporting this legislation. However, no amendments to the Hawaiian Homes Commission Act are required to accomplish the purposes of the Native Hawaiian Roll



Commission. The purposes of Act 195 are broad, and this language may not sufficiently protect the rights of the existing beneficiaries of the Hawaiian home lands trust, and may raise legal challenges. Further, there have been attempts in 2011 and 2013, supported by the department, to repeal this section of Act 195.





EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

**GOV. MSG. NO. 1276**

July 1, 2014

The Honorable Donna Mercado Kim,  
President  
and Members of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 1, 2014, the following bill was signed into law:

HB2288 HD1 SD1 CD1

RELATING TO THE DEPARTMENT OF  
HAWAIIAN HOME LANDS  
**ACT 173 (14)**

A handwritten signature in cursive script that reads "Neil Abercrombie".

NEIL ABERCROMBIE  
Governor, State of Hawaii

Approved by the Governor  
on JUL 1 2014  
HOUSE OF REPRESENTATIVES  
TWENTY-SEVENTH LEGISLATURE, 2014  
STATE OF HAWAII

**ACT 173**  
**H.B. NO.** 2288  
H.D. 1  
S.D. 1  
C.D. 1

---

## A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

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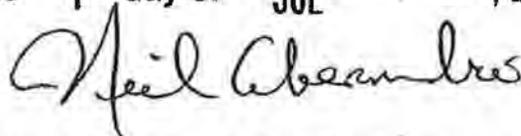
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3           SECTION 2. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 3. This Act shall take effect on July 1, 2014.

APPROVED this 1 day of JUL , 2014



GOVERNOR OF THE STATE OF HAWAII

