DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII

WILLIAM J. AILA, JR
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

December 26, 2019

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki,
Speaker and Members of the House of Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

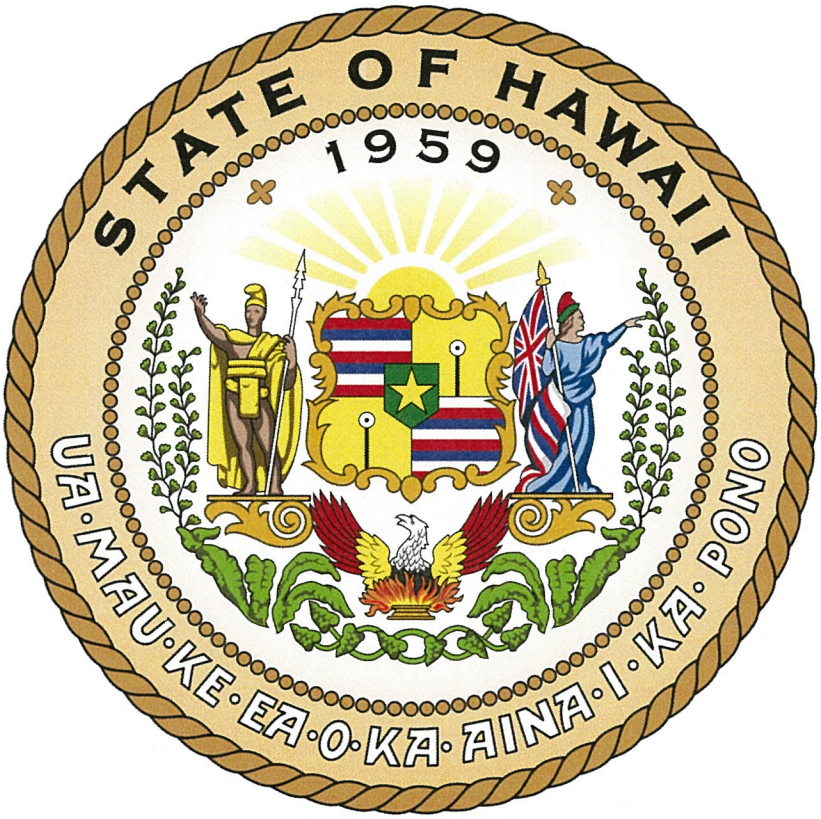
For your information and consideration, I am transmitting a copy of the Report to the 2020 Legislature as required by Act 179 (2018). In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at http://dhhl.hawaii.gov/legislative-briefings/.

Sincerely,

William J. Aila, Jr., Chairman
Hawaiian Homes Commission

REPORT TO THE 2020 LEGISLATURE

RELATING TO
ACT 179 (2018)



Prepared by

State of Hawaii
Department of Hawaiian Home Lands

December 2019

REPORT TO THE 2020 LEGISLATURE

RELATING TO ACT 179 (2018) REQUIRING THE DEPARTMENT OF HAWAIIAN HOME LANDS TO CONDUCT A STUDY ON THE ISSUE OF HAWAIIAN HOME LANDS LESSEES SELLING OR TRANSFERRING THEIR HAWAIIAN HOME LANDS LEASE TO ANOTHER NATIVE HAWAIIAN FOR A FEE OR PERSONAL GAIN AND THEN APPLYING FOR A SUBSEQUENT HAWAIIAN HOME LANDS LEASE

BACKGROUND:

Act 179 (2018) states that the "legislature finds that certain native Hawaiians who are eligible for a lease pursuant to the Hawaiian Homes Commission Act, 1920, as amended, have acquired a lease, sold or transferred their interest in the lease, and then placed their name on the waitlist for a second lease of Hawaiian home lands." Although the bill as originally introduced would "prohibit lessees who sell or transfer their interest in a Hawaiian home lands tract from being placed on the waiting list maintained by the department of Hawaiian home lands for an additional lease," the legislature ultimately passed a measure requiring the Department of Hawaiian Home Lands (DHHL) to conduct a study on the issue of Hawaiian home lands lessees selling or transferring their Hawaiian home lands lease to another native Hawaiian for a fee or other personal gain and then applying for a subsequent Hawaiian home lands lease.

FINDINGS:

DHHL identified applicants on the waiting list who were previously awarded a pastoral, agriculture, or residential lease. The following findings are identified by category:

I. Pastoral

3,057 Pastoral Applications as of October 31, 2019.
Of that number, 15 applicants had a prior pastoral lease or less than half of 1%.
None of the 15 applicants sold or transferred their lease for a fee or other personal gain and then applied for a subsequent Hawaiian home lands lease.

#	Disposition	%
14	Land disposition not for fee of which 11 (79%) transferred to a family member	93%
1	Transfer lease for fee but application pre-dated transfer	7%

II. Agricultural

18,963 Agricultural Applications as of October 31, 2019.
Of that number, 79 applicants had a prior agricultural lease or less than half of 1%.
The dispositions are as follows:

#	Disposition	%
65	Land disposition not for fee of which 47 (72%) transferred to a family member	82%
1	Transfer lease for fee to a family member and subsequently applied	1%
10	Transfer lease for fee to a non-family member and 6 subsequently applied	13%
3	Additional information needed	4%

III. Residential

23,047 Residential Applications as of October 31, 2019.
Of that number, 956 applicants had a prior residential lease or 4%.
The dispositions are as follows:

#	Disposition	%
654	Land disposition not for fee of which 416 (64%) transferred to a family member	68%
46	Transfer lease for fee to a family member and 37 subsequently applied	5%
136	Transfer lease for fee to a non-family member and 132 subsequently applied	14%
103	Unknown if property transferred for fee of which 89 transferred to a family member	11%
17	Additional information needed	2%

RECOMMENDATIONS:

Given the small number of applicants (176) that transferred their lease for a fee or other personal gain and then applied for a subsequent Hawaiian home lands lease, DHHL recommends the following:

1. Legislative action is not needed to address the issue of applicants transferring their lease for a fee or other personal gain and then applying for a subsequent Hawaiian home lands lease.

2. DHHL's existing administrative rules already provide a priority and preference for award of leases. HAR §10-3-7(b) states that "in making awards, the department shall give preference to an applicant who is not a lessee, or whose spouse is not a lessee."

3. DHHL's administrative rules were amended on March 31, 2017 to stipulate that "leases for vacant or undeveloped lots and undivided interests, or any interest therein, shall not be sold but may be transferred for no consideration or by succession" [HAR §10-3-36(a)]. The rules further provide that "lease transfers to qualified relatives of a lessee or to beneficiaries on a waitlist shall have priority for processing over transfers to beneficiaries not on a waitlist" [HAR §10-3-36(b)].