A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.

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

SECTION 1. Section 208 of the Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

"§208. Conditions of leases. Each lease made under the authority granted the department by section 207 of this Act, and the tract in respect to which the lease is made, shall be deemed subject to the following conditions, whether or not stipulated in the lease:

(1) The original lessee shall be a native Hawaiian, not less than eighteen years of age. In case two lessees either original or in succession marry, they shall choose the lease to be retained, and the remaining lease shall be transferred, quitclaimed, or canceled in accordance with the provisions of succeeding sections.

(2) The lessee shall pay a rental of $1 a year for the tract and the lease shall be for a term of ninety-nine years; except that the department may extend the term of any lease, provided that the approval of any extension shall be subject to the condition that the aggregate of the initial ninety-nine year term and any
extension granted shall not be for more than one hundred ninety-nine years.

(3) The lessee may be required to occupy and commence to use or cultivate the tract as the [person's] lessee's home or farm or occupy and commence to use the tract for aquaculture purposes, as the case may be, within one year after the commencement of the term of the lease.

(4) The lessee [shall] thereafter, for at least such part of each year as the department shall prescribe by rules, shall occupy and use or cultivate the tract on the [person's] lessee's own behalf.

(5) The lessee shall not in any manner transfer to, or otherwise hold for the benefit of, any other person or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the department, or agree so to transfer, or otherwise hold, the [person's] lessee's interest in the tract[.]; except that the lessee, with the approval of the department, also may transfer the lessee's interest in the tract to the following qualified relatives of the lessee who are at least one-quarter Hawaiian: husband, wife, child, or grandchild. Such interest
shall not, except in pursuance of such a transfer to or holding for or agreement with a native Hawaiian or Hawaiian or qualified relative who is at least one-quarter Hawaiian approved of by the department[,] or for any indebtedness due the department or for taxes[,] or for any other indebtedness the payment of which has been assured by the department, including loans from other agencies where such loans have been approved by the department, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet the [person's] lessee's interest in the tract or improvements thereon; provided that a lessee may be permitted, with the approval of the department, to rent to a native Hawaiian or Hawaiians, lodging either within the lessee's existing home or in a separate residential dwelling unit constructed on the premises.

Notwithstanding the provisions of paragraph (5), the lessee, with the consent and approval of the commission, may mortgage or pledge the lessee's interest in the tract or improvements thereon to a recognized lending institution authorized to do business as a lending institution in either the State or elsewhere in the United States; provided the loan
secured by a mortgage on the lessee's leasehold
interest is insured or guaranteed by the Federal
Housing Administration, Department of Veterans Affairs,
or any other federal agency and their respective
successors and assigns, which are authorized to insure
or guarantee such loans, or any acceptable private
mortgage insurance as approved by the commission. The
mortgagee's interest in any such mortgage shall be
freely assignable. Such mortgages, to be effective,
must be consented to and approved by the commission and
recorded with the department.

Further, notwithstanding the authorized purposes
of loan limitations imposed under section 214 of this
Act and the authorized loan amount limitations imposed
under section 215 of this Act, loans made by lending
institutions as provided in this paragraph, insured or
guaranteed by the Federal Housing Administration,
Department of Veterans Affairs, or any other federal
agency and their respective successors and assigns, may
be for such purposes and in such amounts, not to exceed
the maximum insurable limits, together with such
assistance payments and other fees, as established
under section 421 of the Housing and Urban Rural
Recovery Act of 1983 which amended Title II of the National Housing Act of 1934 by adding section 247, and its implementing regulations, to permit the Secretary of Housing and Urban Development to insure loans secured by a mortgage executed by the homestead lessee covering a homestead lease issued under section 207(a) of this Act and upon which there is located a one to four family single family residence.

(7) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The department may pay such taxes and have a lien therefor as provided by section 216 of this Act.

(8) The lessee shall perform such other conditions, not in conflict with any provision of this Act, as the department may stipulate in the lease; provided that an original lessee shall be exempt from all taxes for the first seven years after commencement of the term of the lease.

SECTION 2. The provisions of the amendments made by this Act to the Hawaiian Homes Commission Act, 1920, as amended, are declared to be severable, and if any section, sentence, clause, or phrase, or the application thereof to any person or circumstance, is held ineffective because there is a requirement
1 of having the consent of the United States to take effect, then
2 that portion only shall take effect upon the granting of consent
3 by the United States and the effectiveness of the remainder of
4 these amendments or the application thereof shall not be
5 affected.
6 SECTION 3. Statutory material to be repealed is bracketed.
7 New statutory material is underscored.
8 SECTION 4. This Act shall take effect upon its approval.
February 2, 1999

To: The Honorable Paul T. Oshiro, Chair
   House Committee on Judiciary and Hawaiian Affairs

From: Raynard C. Soon, Interim Chairman
       Hawaiian Homes Commission

Subject: Testimony On H.B. 1114 Relating to the Hawaiian Homes
         Commission Act, 1920, As Amended

Chair Oshiro and members of the House Committee On Judiciary and Hawaiian Affairs. Thank you for the opportunity to testify on H.B. 1114. This Administration bill would authorize a homestead lessee to transfer his leasehold interest to a spouse, child or grandchild who is at least one-quarter Hawaiian.

Section 209(a) of the HHCA currently allows a homestead lessee to designate a husband, wife, child, or grandchild who is at least one-quarter Hawaiian to succeed to the leasehold interest upon the death of the lessee. The proposed amendment would extend the homestead lessee’s transfer rights to also include a spouse, children or grandchildren who are at least one-quarter Hawaiian. This amendment will enable lessees to transfer their homestead rights to eligible relatives who are at least one-quarter Hawaiian while the lessee is still living.

The amendment proposed in this bill will help insure that the homestead lease remains in the family of the original lessee. Support for this change was expressed by many beneficiaries who attended statewide public hearings on proposed changes to DHHL’s administrative rules.

We urge your favorable passage of H.B. 1114.
KAWAIHAE HAWAIIAN HOMES COMMUNITY ASSOCIATION
P.O. BOX 44337
KAWAIHAE, HAWAII 96743
PHONE/FAX: (808) 326-7182

To: House Sergeant-At-Arms
Fax No.: 1-800-535-3859
Meeting Date: 2/2/99
Time: 2:00 p.m.
Re: H.B. 1114. RELATING TO THE HAWAIIAN HOMES COMMISSION
ACT, 1920, AS AMENDED.

Authorizes that a homestead lessee may transfer the leasehold interest in a
tract to a spouse, child, or grandchild who is at least one-quarter Hawaiian.

Aloha and Mahalo for allowing KHHCA to express our views on this issue. My name is
Jojo Tanimoto and I am the president of this grassroots association since 1991.

This is not a new issue, and perhaps this has already been approved by Congress. We
respectfully request that some research verify this approval.

The purpose for this proposal is to include the "grandchild" to section 209(a)(1) of the
Hawaiian Homes Commission Act, 1920, as amended.

THEREFORE, KHHCA SUPPORTS this measure and hopes that these Committee members
will support these efforts also.

Respectfully submitted,

Jojo Tanimoto
President
TO:  Rep Paul T. Oshiro, Chair  
     Rep Eric Hamamoto, Vice Chair  
     All Committee Members

FROM:  M Kapunaiai  
    President & Legislative Committee Chair  
    Waimea Hawaiian Homesteaders’ Association, Inc  
    Director  
    Waimea Hawaiian Civic Club  
    Sonny Kaniho  
    Spokesman for the Aged Hawaiians

SUBJECT:  HB 1114 — RELATING TO HAWAIIAN HOMES COMMISSION ACT  
           1920, AS AMENDED

We SUPPORT passage of HB 1114.

This change will allow transfer of lease to:

1) A Successor before death  
2) A Successor who is younger  
3) A Successor who is most probably, gainfully employed  
4) A Successor who qualifies for financing to improve or build anew

Thank you!!

M Kapunaiai
Phone (808) 885-8336
Fax (808) 885-4998
Aloha!

My name is Randolph Hack, and I am with United Self-Help and Vice-Chair of the State Council On Mental Health.

I was formerly homeless and have been under treatment for mental illness for 33 years. Being homeless is an invitation to collision with the police and law enforcement.

We are strongly against this bill. Many homeless people have mental illness and commit misdemeanors on a regular basis because of their illness. Creating a new class of felons is unacceptable. Homeless and mentally ill people are prone to violate any probation and may wind up serving five years in prison. Our correctional facilities, already overburdened, would be further overcrowded.

Rather, we should divert this type of offender to a mental health treatment facility. If the person has no housing, there should be enough transitional housing available to properly house them.

Please hold this bill in committee.

Mahalo,

Randolph Hack
United Self-Help
State Council On Mental Health