



2018 OHA Legislative Package

OHA-4

HB1747/SB2136

Updating and Upholding the Public Land Trust

The Hawai'i State Constitution recognizes the native Hawaiian people's right to a fair pro rata share of the income and proceeds from former Hawaiian Kingdom lands, taken during the illegal overthrow and currently held by the state as the Public Land Trust (PLT). The Constitution also identifies OHA as the body to administer these funds. Despite these constitutional mandates, native Hawaiians continue to struggle to ensure they receive get their fair share of the Public Land Trust, recognized and affirmed in statute as 20% of Public Land Trust revenues. Years of updated state accounting information today demonstrates that the fixed, \$15.1 million "interim" amount of Public Land Trust receipts annually transferred to OHA since 2006, far less than 20% of Public Land Trust revenues. Therefore, after 12 years, this "interim" \$15.1 million amount must finally be updated to better reflect what should be Hawaiians' fair share of the Public Land Trust.

Accordingly, based on current data generated by state agencies and historic agreements between OHA and the state, HB1747/SB2136 would

- Increase Hawaiians' annual "interim" share from \$15.1 million to \$35 million;
- Transfer to OHA back-due revenue in the amount of \$119 million, that should have been set aside over the past six years;
- Maintain state agency reporting requirements; and
- Convene a Public Land Trust Revenues committee every six years, to review and make recommendations on the amount of funds that should be set aside for Hawaiians.

HOW IS THE \$35 MILLION ANNUAL TRANSFER CALCULATED? HOW IS THE \$119 MILLION BACK-DUE AMOUNT CALCULATED?

The \$35 million annual amount is based on state reporting and transferring records spanning a number of years, independent accountants' financial reviews, and additional OHA research. It includes the following **undisputed revenue streams**:

- Revenues that agencies currently transfer to OHA;
- Revenues not currently transferred due to accounting errors;
- Revenues inconsistently transferred by agencies (e.g. one agency transfers parking revenues from one lot but not another lot, despite both being on Public Land Trust Lands; one agency transfers vending machine revenue from Public Land Trust lands, but a different agency does not);
- Revenues not currently transferred, even though agencies have previously transferred those revenues in the past (past precedence), and
- Revenues not currently transferred but that fall within categories of revenue that have been historically agreed upon as subject to Hawaiians' Public Land Trust share.

The \$35 million amount does **not** include the following revenue streams, which would otherwise fall into one of the above revenue streams:

- Revenues derived from hospital patient fees from state hospitals on Public Land Trust lands,

- Revenues derived from residential rentals in state public housing, and
- Revenues derived from unknown receipts when withheld by a state agency (e.g. the University of Hawai'i).

Although these revenues are also subject to native Hawaiians' pro rata share, OHA chose not to include them in calculating the proposed amount at this time. OHA does not concede Hawaiians' interest in or right to these revenue streams.

The \$119 million back-due amount is calculated by taking the "corrected" annual amount of \$35 million and subtracting the \$15.1 million OHA receives annually, then multiplying this figure by six, to represent the last six fiscal years OHA was underpaid. $\$35 \text{ m} - \$15.1 \text{ m} = \$19.9 \text{ m} * 6 \text{ years} = \119 million .

HOW WILL THIS BENEFIT HAWAIIANS AND OTHER HAWAI'I RESIDENTS?

OHA has a proven track record of investing in strategic, innovative, and award-winning programs and services, that seek and explore solutions to systemic issues and challenges faced by Hawaiians and other Hawai'i residents. OHA-funded programs, grants, and services have won national recognition for moving people off of the streets and into housing; helped small businesses and entrepreneurs get started, stay afloat, and thrive; sent students to college and beyond; engaged grassroots communities with government agencies and landowners in the stewardship and sustainability of our natural resources and environment; and much, much more.

Public Land Trust revenue is the primary source of funding for such programs, grants, and services that benefit both the Hawaiian and larger community. Raising the annual payment to \$35 million will support a wider range of strategic and innovative OHA-run and OHA-funded programs and activities specifically designed to improve the conditions of Hawaiians and Hawai'i in such vital areas as education, health, economic self-sufficiency, culture, land, and access to justice.

WHERE CAN I LEARN MORE ABOUT THE PUBLIC LAND TRUST?

A highly informative, half hour video on the history of the Public Land Trust, featuring historians, researchers, attorneys, and community leaders can be viewed at www.oha.org/plt.