EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 12, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

Re: House Bill No. 2098 HD1 SD1 CD1

On July 11, 2006, House Bill No. 2098, entitled "A Bill for an Act Relating to Developmental Disabilities" became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The purpose of this bill is to establish a pilot project to expand the residential options of developmentally disabled or mentally retarded individuals to allow them to live in a setting of the person's choice if it is determined that "the person can be sustained with supports, the supports are attached to the person, and adequate consideration and recognition is given to the person's safety and well-being." This bill will be repealed on June 30, 2008.

This bill is problematic because the language is unclear and may create problems in implementation.

First, this bill does not state how the person's choice of residential setting is to be made and how the Department of Health (DOH) is to support the choice. Under the current system employed by the Developmental Disabilities Division (DDD) of the DOH, DDD assists clients to locate licensed or certified homes. This bill will create uncertainty over the DOH's role in selection of these residential alternatives even though State money would be spent supporting the individual.

Second, the bill does not specify how to determine whether "adequate consideration and recognition" has been given to the person's safety and well-being. This bill does not mention licensing or certification requirements, an omission that could lead to an interpretation that this amendment to section 333F-2(c) allows placement in unlicensed or uncertified homes. Allowing placement in unlicensed or uncertified homes poses a risk for the safety and well-being of persons with developmental disabilities or mental retardation because it is only through licensing or certification requirements that safety standards such as criminal history background checks of the home operator and periodic monitoring or unannounced home visits are maintained. Any

program that purports to assist the developmentally disabled under the care of the State must include a degree of accountability within the system.

This bill will likely create problems in implementation due to the fact that many parts are vague enough to be subject to more than one interpretation. My Administration will work within the confines of this law to provide the best protection possible for State clients. However, it will be necessary to amend the law in the next legislative session to clarify the problems with this bill.

For the foregoing reasons, I allowed House Bill No. 2098 to become law as Act 303 effective July 11, 2006 without my signature.

Sincerely,

LINDA LINGLE