

Honolulu, Hawaii

Feb 17, 2006

RE: H.B. No. 3241
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Water, Land, & Ocean Resources, to which was referred H.B. No. 3241 entitled:

"A BILL FOR AN ACT RELATING TO THE LAND COURT,"

begs leave to report as follows:

The purpose of this bill is to protect the public's right to the state's limited shoreline by prohibiting private owners of oceanfront property from claiming accreted land that resulted from the owner planting and maintaining, or otherwise encouraging vegetation on the seaward boundary of the property.

The Department of Land and Natural Resources and several concerned individuals supported this bill. The plaintiffs in *Maunalua Bay Beach Ohana 28 v. State of Hawaii*, Civil No. 05-1-0904-05 (*Maunalua Bay*), and two concerned individuals supported this bill with amendments. The Department of the Attorney General and a concerned individual submitted comments.

Your Committee discussed the necessity of imposing the additional condition that the accreted land cannot be the result of encouraging vegetation on the seaward boundary of the property. Before any decision on the necessity of the additional condition could be reached, the underlying controversy of the disposition of accreted land took center stage.

Act 73, Session Laws of Hawaii 2003 (Act 73), declared that the accreted portion of oceanfront property shall be state lands.

HB3241 HD1 HSCR WLO HMS 2006-1918



Act 73 also prohibited private oceanfront landowners from registering or quieting title to accreted lands, except those accreted lands that were lost by erosion and subsequently restored by accretion.

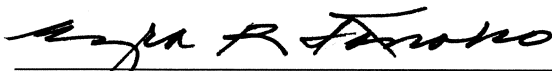
Prior to Act 73, Hawaii oceanfront property owners gained title to accreted lands by registering with the Land Court or by a quiet title action. *Maunalua Bay* is pending in the First Circuit Court, State of Hawaii, wherein plaintiff oceanfront owners are alleging that Act 73 effected a taking of their pre-existing rights to claim accreted land. They also claim that the Act does not provide for just compensation and is, therefore, unconstitutional and void.

Your Committee is mindful of the stakes involved for public users of our shorelines as well as for private oceanfront property owners in the proper disposition of accreted lands in a state with a growing population and a finite seashore. Furthermore, any attempts to resolve or influence a pending lawsuit through the legislative process should not be taken lightly, especially given the limited knowledge of the lawsuit possessed by your Committee.

Accordingly, your Committee has amended this bill by changing its effective date to July 1, 2020, to encourage meaningful discussion and resolution of this contentious issue. Technical, nonsubstantive amendments have also been made for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3241, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3241, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land, &
Ocean Resources,


EZRA R. KANOHO, Chair



