

STAND. COM. REP. NO.

2195

Honolulu, Hawaii

FEB. 16

, 2006

RE: S.B. No. 2986  
S.D. 1

Honorable Robert Bunda  
President of the Senate  
Twenty-Third State Legislature  
Regular Session of 2006  
State of Hawaii

Sir:

Your Committees on Water, Land, and Agriculture and Intergovernmental Affairs, to which was referred S.B. No. 2986 entitled:

"A BILL FOR AN ACT RELATING TO EMINENT DOMAIN,"

beg leave to report as follows:

The purpose of this measure is to clarify the requirements for taking private property by eminent domain.

Testimony in support of this measure was submitted by C&H Farms, Hawaii Crop Improvement Association, Hawaii Farm Bureau, Maui County Farm Bureau, Small Landowners Association of Hawaii, Small Landowners of Oahu, and three individuals. Testimony in opposition to this measure was submitted by the City and County of Honolulu's Department of the Corporation Counsel and Department of Planning and Permitting, the Hawaiian Electric Company, Hawaii Electric Light Company, and Maui Electric Company.

Your Committees find that in the wake of a recent United States Supreme Court decision in *Kelo v. New London*, 125 S.Ct. 2655 (2005), there has been a growing concern that the need for urban renewal or economic development may be cited as justification for allowing the government to condemn private property for the benefit of another private entity but not clearly for a public use. Thus, this measure amends the provisions for taking private property to require that:



- (1) Private property may be taken only upon an independent judicial review;
- (2) The property must be used and occupied by the condemnor or may be leased only to entities regulated by the Public Utilities Commission; and
- (3) The former owner or heir may have the right of first refusal to reacquire the property if the property ceases to be used for the stated public purpose.

Your Committees have amended this measure by:

- (1) Adopting Hawaiian Electric Company's recommendations to preclude public utilities from the independent judicial review process;
- (2) Clarifying that only properties taken after the effective date of this Act are subject to the right of first refusal provisions;
- (3) Providing that the price for reacquiring the property will be fair market value;
- (4) Providing a definition for "stated public use"; and
- (5) Making technical, nonsubstantive changes for style.

As affirmed by the records of votes of the members of your Committees on Water, Land, and Agriculture and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2986, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2986, S.D. 1, and be referred to the Committee on Judiciary and Hawaiian Affairs.



Respectfully submitted on  
behalf of the members of the  
Committees on Water, Land, and  
Agriculture and  
Intergovernmental Affairs,

  
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DAVID Y. IGE, Chair

  
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RUSSELL S. KOKUBUN, Chair





