

STAND. COM. REP. NO.

1077

Honolulu, Hawaii

MAR 27 2009

RE: H.B. No. 951
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred H.B. No. 951, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY,"

begs leave to report as follows:

The purpose of this measure is to relieve landowners of liability for any damage, injury, or harm to persons or property outside the boundaries of the landowner's land caused by naturally occurring land failure originating on unimproved land, except for harm arising from negligent or wanton acts by the owner of the unimproved land.

Testimony in support of this measure was submitted by two state agencies, one county agency, one private organization, and three individuals. Testimony in opposition was submitted by four private organizations and two individuals. Comments were submitted by one state agency, one county agency, one private organization, and one individual. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that the State of Hawaii owns and manages millions of acres of public lands, much of which is unimproved conservation or forest reserve land. This measure would allow the State to serve the public interest to keep these lands in their natural state without fear of liability for damages occurring outside the boundaries of its lands caused by



unpredictable and naturally occurring land failures, such as landslides and rockfalls.

Your Committee has amended this measure by:

- (1) Clarifying that with regard to liability, if a dangerous condition is known, or by the exercise of ordinary care, could have been known by the landowner, the landowner has a duty to exercise reasonable care in the maintenance of the property to prevent any damage, injury, or harm to property on or outside of the landowner's property; and
- (2) Adding a new section to chapter 46, Hawaii Revised Statutes, as part of the county approval process, to require a study to determine rockfall risks, a risk assessment to determine the extent of risk, and creation of a hazard buffer zone or other mitigation if a hazard exists, for any plan not approved prior to July 1, 2009.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 951, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 951, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,



CLAYTON HEE, Chair



