

STAND. COM. REP. NO.

400

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 1259  
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 Energy and Environment, to which was referred S.B. No. 1259 entitled:

"A BILL FOR AN ACT RELATING TO ENVIRONMENTAL RESPONSE,"

begs leave to report as follows:

The purpose of this measure is to exclude bona fide prospective purchasers and owners of contiguous properties who meet certain conditions from liability under the environmental response law.

Specifically, this measure shields certain persons from liability under section 128D-6, Hawaii Revised Statutes, for owning real property that is or may become contaminated, solely by reason of such contamination or threatened contamination, subject to certain conditions.

Testimony in opposition to this measure was submitted by the Department of Health and one private organization. Written testimony presented to your Committee may be reviewed on the Legislature's website.

The Department of Health submitted testimony expressing concern over the measure as drafted, preferring S.B. No. 935 as it is more closely aligned with federal law. The Department of Health specifically requested that the contents of this measure be replaced with the contents of S.B. No. 935, along with certain amendments to S.B. No. 935 for clarity and conformity to federal law.

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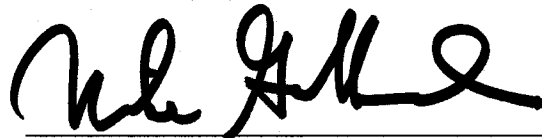


Your Committee finds that, it is important to provide consistency between the state and federal law regarding the liability of bona fide prospective purchasers and contiguous property owners of contaminated land, and the contents of S.B. No. 935, as amended by the language suggested by the Department of Health, is perhaps the better vehicle to do so.

Your Committee has amended this measure by deleting its contents and inserting language from S.B. No. 935, as amended by the revisions suggested by the Department of Health. This measure, as amended, provides consistency between federal and state environmental liability laws in setting forth the conditions and circumstances under which an innocent contiguous property owner or a "bona fide prospective purchaser" shall not be held liable for damages and costs related to the contamination of real property not owned or operated by the property owner or purchaser.

As affirmed by the record of votes of the members of your Committee on Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1259, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1259, 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 Energy and  
Environment,



MIKE GABBARD, Chair



