

Honolulu, Hawaii

MAY 01 2009 , 2009

RE: S.B. No. 1345
S.D. 1
H.D. 1
C.D. 1

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

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 1345, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURE,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to provide fair compensation, including an automatic lease extension, for lessees when the Department of Land and Natural Resources withdraws, takes, or condemns any portion of the leased land that prevents a lessee from using the land for the purposes for which it was originally leased.

Specifically, this measure provides that in addition to any rent reduction or compensation for improvements on withdrawn, taken, or condemned land, the lessee shall be entitled to:

- (1) Compensation for costs attributable to the diminished use of the leased land, including reimbursement for insurance



costs and loss of reasonably anticipated income minus operating expenses; and

- (2) An extension on the lease for not more than the number of years remaining in the original lease.

Your Committee finds that the Saddle Road widening project in the County of Hawaii is a good example of a taking of leased land with inadequate compensation for the lessee. In that project, the Department of Land and Natural Resources established conservation easements on leased land used for pasture or special livestock. As a result of the taking, the lessee ranchers suffered serious financial losses over an extended period of time. The intent of this measure is to prevent present and future lessees from experiencing similar situations in the future.

Your Committee has amended this measure by:

- (1) Removing the phrase "minus operating expenses," because your Committee expects the Department of Land and Natural Resources to define in rulemaking the parameters of "reasonably anticipated income";
- (2) Changing the effective date to upon approval; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity.

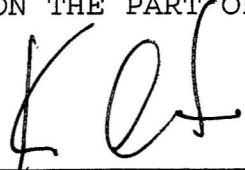
As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1345, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1345, S.D. 1, H.D. 1, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE



KEN ITO, Co-Chair



CLAYTON HEE, Chair



CLIFT TSUJI, Co-Chair



DONNA MERCADO KIM, Co-Chair

SHAFON E. HAR, Co-Chair



Hawaii State Legislature

CCR 107

Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: SB 1345, SD 1, HD 1	Date/Time: 5/1/09 10:15am
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
HEE, Clayton, Chr.	✓	✓			ITO, Ken, Co-Chr.	✓	✓		
KIM, Donna Mercado, Co-Chr.	✓	✓			TSUJI, Clift, Co-Chr.	✓	✓		
KOKUBUN, Russell S.	✓	✓			HAR, Sharon E., Co-Chr.	✓	✓		
TAKAMINE, Dwight Y.	✓	✓			CHING, Corinne W.L.	✓	✓		
HEMMINGS, Fred	✓	✓							
TOTAL	5	0	0	0	TOTAL	4	0	0	0

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
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