

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

AMENDED

CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

In reply, please refer to:
File:

COMMITTEE ON JUDICIARY

SB 1259, SD2, HD1, Relating to Environmental Response

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 31, 2009
4:00 P.M.

- 1 **Department's Position:** The Department strongly supports this measure.
- 2 **Fiscal Implications:** None.
- 3 **Purpose:** This bill provides state consistency with federal laws on the liability of bona fide prospective
- 4 purchasers and contiguous property owners for contaminated real property.
- 5 **Justification:** The Department of Health supports this bill in its entirety. This bill has been
- 6 successfully amended by replacing its contents with the language of the Administration bills, and S.B.
- 7 No. 935 (companion to H.B. 1117, introduced by Representative Morita), along with stakeholder
- 8 identified amendments pertaining to all appropriate inquiries. This bill revises Chapter 128D to include
- 9 two provisions similar to those in 42 United States Code section 9601 added by the federal Small
- 10 Business Liability Relief and Brownfields Revitalization Act in 2002. In doing so, this bill provides
- 11 consistency between state and federal environmental liability laws. It sets forth conditions under which
- 12 innocent contiguous property owners or "bona fide prospective purchasers" are not held liable for
- 13 damages or costs related to contamination of real property not caused by either party. This bill also

1 successfully reflects the results of extensive stakeholder involvement led by the Department over a two-
2 year period. This bill closely matches the needs identified, discussed, and endorsed by the community.

3 The Department requests one technical adjustment to the amendments made in HD1. The
4 reference on page 4, line 10 "*42 United States Code section 9605(a)(5)*" needs to be corrected to read
5 "*42 United States Code section 9605(a)*" so that the reference to the National Contingency Plan
6 revisions is accurate.

7 It is for the above stated reasons that the Department supports this bill as written.

8 Thank you for the opportunity to testify on this measure.