

STAND. COM. REP. NO.

772

Honolulu, Hawaii

March 6, 2009

RE: H.B. No. 951

H.D. 1

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

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 951 entitled:

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

begs leave to report as follows:

The purpose of this bill is to codify common law in Hawaii to limit the liability of owners of unimproved land for damage, injury, or harm to person or properties outside the boundaries of the land caused by any naturally occurring land failure originating on the unimproved land.

The Department of the Attorney General, the Building Industry Association of Hawaii, the Land Use Research Foundation of Hawaii, and Kamehameha Schools testified in support of this bill. The Department of Land and Natural Resources and Office of Hawaiian Affairs supported the intent of this measure. The Hawaii Association for Justice, Niu Valley Community Association, Kuli'ou'ou/Kalani Iki Neighborhood Board #2, and several concerned individuals opposed this bill. A concerned individual submitted comments.

Your Committee understands that the issue of landowner liability, particularly with respect to adjacent ridgetop and downslope properties, remains difficult and complex. Occasionally, tragic incidents do result from naturally occurring conditions that would be difficult to foresee.

HB951 HD1 HSCR JUD HMS 2009-2795



Your Committee has amended this measure by:

- (1) Clarifying that the landowner remains liable for negligence and intentional torts arising from activities on unimproved land that result in harm outside the boundaries of the land;
- (2) Changing the effective date to January 1, 2046, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 951, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 951, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



JON RIKI KARAMATSU, Chair



