



GOV. MSG. NO. 1397

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 10, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

I am transmitting herewith SB2536 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB2536 HD2 CD1

RELATING TO CLEAN AND SOBER HOMES AND
HALFWAY HOUSES.

Aloha
Sincerely,
Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2012

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2536

Honorable Members
Twenty-Sixth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2536, entitled "A Bill for an Act Relating to Clean and Sober Homes and Halfway Houses."

The purpose of this bill is to establish a clean and sober home and halfway house task force, to be chaired by the Director of Health, and for the task force to establish a pilot clean and sober home and halfway house on Oahu.

Section 14 of Article III of the Hawaii Constitution requires: "Each law shall embrace but one subject, which shall be expressed in its title." The title of this bill, "Relating to Clean and Sober Homes and Halfway Houses," contains two different subjects in violation of the Hawaii Constitution. The current laws defining "clean and sober homes" and "halfway houses" exist in section 46-4(f), Hawaii Revised Statutes. "Clean and sober homes" and "halfway houses," although similar, serve different types of residents and are structured differently. Therefore, the title of this bill expresses two different subjects, in conflict with Section 14 of Article III of the Hawaii Constitution.

In addition, one of the purposes for and responsibilities of the task force is "establishing a pilot clean and sober home and halfway house for a county with a population over 900,000." "Establish" means "to bring into existence," and a task force does not have the legal authority or means to establish either a clean and sober home or a halfway house. The task force would not be able to comply with this mandate.

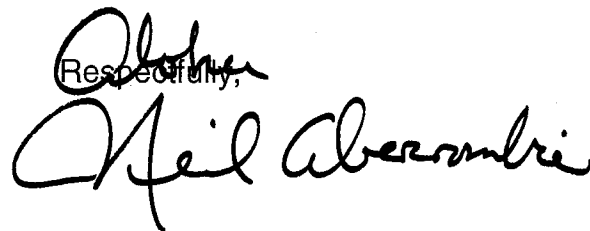
The goals of the proposed task force are laudable, and efforts are underway by the Administration to further these goals. The Department of Health has already met with members of the Legislature, and representatives of the Judiciary, the Department of Public Safety, and the Department of the Attorney General, to set up a

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working group specifically to explore ways to develop a plan to ensure that clean and sober homes and halfway houses are properly monitored and accountable for meeting occupancy, zoning, and permitting requirements, and that the residents become respectful and responsible members of the communities in which they live.

Furthermore, the Justice Reinvestment Initiative Working Group is examining the issue of clean and sober homes and halfway houses and there are funds available for community programs such as those to support substance abuse treatment and the maintenance of sobriety.

For the foregoing reasons, I am returning Senate Bill No. 2536 without my approval.

Respectfully,


NEIL ABERCROMBIE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO CLEAN AND SOBER HOMES AND HALFWAY HOUSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that clean and sober
2 homes and halfway houses provide a means for persons to return
3 to the community through support in a home-like environment
4 without the rigid structure of a therapeutic care facility or
5 therapeutic living program. The legislature also finds that
6 many persons being released from incarceration need the support
7 of a home environment while trying to deal with the stressors of
8 reintegrating back into society while maintaining sobriety.
9 Often, community residents have expressed concerns over the
10 legal operation of such homes in their immediate vicinity and
11 the compliance of those homes with all state and county laws.
12 The legislature acknowledges that the needs and concerns of the
13 community must be tempered with the needs of the individuals
14 requiring support.

15 The purpose of this Act is to establish a clean and sober
16 home and halfway house task force and a pilot clean and sober
17 home and halfway house for a county with a population over
18 900,000.



1 SECTION 2. There is established a clean and sober home and
2 halfway house task force, exempt from section 26-34, Hawaii
3 Revised Statutes, charged with the following responsibilities:

- 4 (1) Establishing a clear, legal definition of a "clean and
5 sober home";
- 6 (2) Establishing clear occupancy requirements for clean
7 and sober homes and halfway houses;
- 8 (3) Developing a plan of accountability for clean and
9 sober homes and halfway houses to ensure compliance
10 with occupancy and other requirements. In developing
11 the plan, the task force shall review the need for or
12 appropriateness of regulation of these facilities, as
13 well as the most appropriate practices regarding
14 regulation;
- 15 (4) Conducting an inventory of clean and sober homes
16 statewide, identifying current occupancy levels, and
17 determining compliance with county zoning laws and tax
18 requirements;
- 19 (5) Promoting community and advocate education;
- 20 (6) Balancing community concerns with the needs of
21 individuals requiring clean and sober homes and
22 halfway houses; and



1 (7) Establishing a pilot clean and sober home and halfway
2 house for a county with a population over 900,000.

3 SECTION 3. The director of health, or the director's
4 designee, shall chair and convene the clean and sober home and
5 halfway house task force, which shall also include:

6 (1) The directors of each of the county planning
7 departments or the directors' designees;

8 (2) The chair of the Hawaii paroling authority or the
9 chair's designee;

10 (3) Homeless advocates, as determined by the department of
11 human services;

12 (4) Representation from clean and sober homes and halfway
13 houses, as determined by the department of health;

14 (5) Legislative representatives in equal number from the
15 senate and house of representatives, as determined by
16 the president of the senate and the speaker of the
17 house of representatives;

18 (6) Legal representatives, as determined by the department
19 of health, to address issues such as discrimination,
20 including the attorney general or the attorney
21 general's designee; and



1 (7) Others, as appropriate, as determined by the director
2 of health.

3 SECTION 4. The task force shall consult with the
4 appropriate county agencies to ensure that clients are referred
5 only to clean and sober homes and halfway houses that meet the
6 zoning requirements and definitions under section 46-4, Hawaii
7 Revised Statutes, the Federal Fair Housing Act, Section 504 of
8 the Rehabilitation Act, Titles II and III of the Americans with
9 Disabilities Act, and other laws providing housing opportunities
10 and protections for people with disabilities.

11 SECTION 5. The task force shall report to the legislature
12 on the scope and nature of the accountability plan for clean and
13 sober homes and halfway houses, the process by which the houses
14 will be monitored, the way in which concerns of the community
15 members are balanced with the concerns of those requiring the
16 support of the homes, and how the homes will be regulated short
17 of direct governmental oversight. The report shall be submitted
18 to the legislature no later than twenty days prior to the
19 convening of the regular session of 2013 and shall also include
20 findings and recommendations of the task force and any proposed
21 legislation that may be necessary to effectuate those
22 recommendations.



1 SECTION 6. The task force shall cease to exist on June 30,
2 2013.

3 SECTION 7. This Act shall take effect upon its approval.

APPROVED this day of , 2012

GOVERNOR OF THE STATE OF HAWAII