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## HOUSE RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS AT LAHAINA,  
MAUI, FOR MAINTENANCE AND REPAIR OF EXISTING DECK AND  
IMPROVEMENTS.

1           WHEREAS, concrete pilings were placed on submerged lands in  
2 Lahaina, Maui, and owned by the State of Hawaii sometime in the  
3 1920s; and

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5           WHEREAS, in 1968, Patrick J. Ballenger and Mariana Van Blom  
6 acquired private parcel 4, adjacent to land owned by the State  
7 of Hawaii; and

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9           WHEREAS, at that time, there was an old building with a  
10 deck extending out over the ocean on private parcel 4; and

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12           WHEREAS, in 1968, the County of Maui issued a building  
13 permit to the owners to rebuild the existing building and deck;  
14 and

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16           WHEREAS, many parts of the old building were left intact  
17 and additional improvements were made to enhance the property;  
18 and

19  
20           WHEREAS, in 1987, the Department of Land and Natural  
21 Resources informed the owners' tenant, Oceanhouse Restaurant,  
22 that the building was encroaching over 1,229 feet of state land;  
23 and

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25           WHEREAS, a proposal was made between the Department of Land  
26 and Natural Resources and the owners to resolve the encroachment  
27 by requiring the owners to submit a conservation district use  
28 application; and

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30           WHEREAS, upon the approval of the conservation district use  
31 application, the Department of Land and Natural Resources would  
32 issue a grant of easement covering the use of state submerged  
33 lands; and

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1 WHEREAS, on April 28, 1989, under agenda item H-7, the  
2 Board of Land and Natural Resources approved the owners' after-  
3 the-fact conservation district use permit for commercial use of  
4 state submerged lands; and

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6 WHEREAS, on October 27, 1989, under agenda item F-12, the  
7 Board of Land and Natural Resources approved the direct issuance  
8 of a term, non-exclusive easement to Patrick J. Ballenger,  
9 Trustee of the Patrick J. Ballenger and Mariana Von Blom Trust;  
10 and

11  
12 WHEREAS, the lease of Non-Exclusive Easement S-5217  
13 commenced on August 1, 1991, for a term of twenty years; and

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15 WHEREAS, the encroachment area is approximately 1,312  
16 square feet; and

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18 WHEREAS, on November 22, 2010, under agenda item D-6, the  
19 Board of Land and Natural Resources approved and amended the  
20 direct issuance of a term, non-exclusive easement to Patrick J.  
21 Ballenger, Trustee of the Patrick J. Ballenger Revocable Trust,  
22 dated October 10, 1988, and Matthew Ballenger, Trustee of the  
23 Revocable Trust Agreement of Mariana Von Blom, dated March 16,  
24 1983; and

25  
26 WHEREAS, the character of use of the term, non-exclusive  
27 easement is the right, privilege, and authority to maintain and  
28 repair the existing deck, and to use, repair, and maintain the  
29 existing improvements constructed thereon, located on state  
30 submerged lands, subject to certain terms and conditions; and

31  
32 WHEREAS, on July 8, 2011, under agenda item D-8, the Board  
33 of Land and Natural Resources approved to amend its prior action  
34 of November 22, 2010, by authorizing a one-year holdover for  
35 Lease of Non-Exclusive Easement S-5217 until the Department of  
36 Land and Natural Resources and the owners are able to obtain the  
37 legislative concurrent resolution from the Twenty-sixth  
38 Legislature of the State of Hawaii, Regular Session of 2012; and

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40 WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
41 the prior approval of the Governor and prior authorization of  
42 the Legislature by concurrent resolution to lease state  
43 submerged lands; now, therefore,

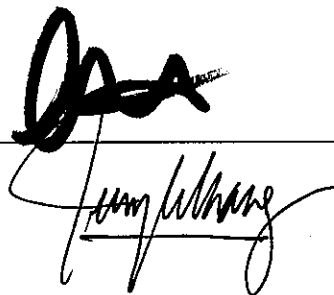


1 BE IT RESOLVED by the House of Representatives of the  
2 Twenty-sixth Legislature of the State of Hawaii, Regular Session  
3 of 2012, that the Board of Land and Natural Resources is hereby  
4 authorized to issue a term, non-exclusive easement covering a  
5 portion of state submerged lands fronting the property  
6 identified as tax map key: (2) 4-5-001: seaward of 4, at  
7 Lahaina, Maui, for maintenance and repair of the existing deck  
8 and for use, repair, and maintenance of the existing  
9 improvements constructed thereon, pursuant to section 171-53,  
10 Hawaii Revised Statutes; and

11  
12 BE IT FURTHER RESOLVED that a certified copy of this  
13 Resolution be transmitted to the Chairperson of the Board of  
14 Land and Natural Resources.

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OFFERED BY: \_\_\_\_\_



JAN 20 2012

