

Honolulu, Hawaii

March 1, 2012

RE: H.B. No. 2852  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2852 entitled:

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

begs leave to report as follows:

The purpose of this measure is to maintain the natural beauty of our islands by creating a private cause of action for damages due to the maintenance of real property in a manner that injures another person or the property of another person provided that the property is not used for a permitted use, public use, agricultural use, permitted or otherwise authorized construction, or unimproved land.

The Waiialae-Kahala Neighborhood Board 3, the Representative of District 4 to the Honolulu City Council, and one concerned individual testified in support of this measure. The Department of Environmental Services of the City and County of Honolulu, Department of Facility Maintenance of the City and County of Honolulu, and Insurance Auto Auctions testified in opposition to this measure. The Department of the Attorney General, Department of Design and Construction of the City and County of Honolulu, Honolulu Authority for Rapid Transportation, and Hawaii Farm Bureau Federation provided comments and concerns.



Your Committee has amended this bill by:

- (1) Restricting the applicability of the offense of maintaining a property nuisance to land zoned exclusively for residential use;
- (2) Exempting from the applicability of the offense certain uses or conditions including:
  - (A) Public works, publicly funded projects, and property for agricultural use;
  - (B) Vacant property that has never been built upon that is in a predominantly natural state; and
  - (C) Construction and demolition activity pursuant to a permit, law, ordinance, regulation, or an emergency and material for a reasonable time after construction and demolition;
- (3) Changing its effective date to January 7, 2059, to facilitate further discussion; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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. 2852, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2852, H.D. 1, and be placed on the calendar for Third Reading.

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



GILBERT KEITH-AGARAN, Chair



