

Honolulu, Hawaii

FEB 28 2014

RE: S.B. No. 2270

S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2270, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COUNTY ZONING,"

begs leave to report as follows:

The purpose and intent of this measure is to confer on a
property owner a private right of action and allows the property
owner to file suit directly in circuit court to enforce zoning
violations on neighboring properties that directly affect them.

Your Committee received testimony in support of this measure
from three individuals. Your Committee received testimony in
opposition to this measure from the Mayor, County of Maui;
Planning Department, County of Kauai; Department of Planning and
Permitting, City and County of Honolulu; Planning Department,
County of Hawaii; Department of Planning, County of Maui; Hawaii
Association of REALTORS; and Hawaii Rifle Association.

Your Committee finds that counties may not be able to take
action to investigate and enforce every operation that violates
county zoning ordinances. The lack of enforcement of zoning laws
imposes a burden on neighboring property owners, which is an
unfair imposition on their quality of life. This measure seeks to
improve the application of section 46-4, Hawaii Revised Statutes,
and provide aggrieved property owners with a private right of
action to enforce zoning violations in court, without having to
wait until relevant issues are resolved by an administrative body
first or exhaust administrative remedies first.



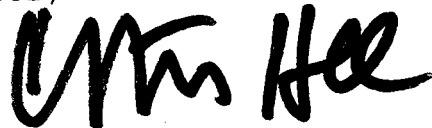
Your Committee notes the concerns raised in written testimony in opposition to this measure that allowing a property owner a private right of action to enforce zoning violations has the potential to create situations that may pit neighbor against neighbor and could lead to abuse by neighbors. Thus, your Committee believes that the scope of the private right of action be limited to enforce zoning violations related to transient vacation rentals on neighboring properties.

Accordingly, your Committee has amended this measure by:

- (1) Limiting the scope of a property owner's private right of action to the enforcement of zoning violations related to transient vacation rentals on a neighboring property that directly affect the property owner;
- (2) Allowing the court to award attorney's fees and other reasonable expenses incurred to the prevailing party of the private right of action; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2270, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2270, S.D. 2.

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



CLAYTON HEE, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2270 SD 1	Committee Referral: PSM, JDL	Date: 2/24/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
GALUTERIA, Brickwood				✓
IHARA, Jr., Les	✓			
SOLOMON, Malama				✓
SLOM, Sam		✓		
TOTAL	4	1		2
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature:				
Distribution: <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 5px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes