

STAND. COM. REP. NO.

112

Honolulu, Hawaii

February 9, 2017

RE: H.B. No. 1497
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Water & Land, to which was referred H.B. No. 1497 entitled:

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

begs leave to report as follows:

The purpose of this measure is to address state landowner liability by:

- (1) Creating a civil cause of action against the State for failure to properly maintain its lands; and
- (2) Appropriating funds for necessary maintenance of state lands.

Two concerned individuals supported this measure. The Department of the Attorney General, Department of Land and Natural Resources, Department of Hawaiian Home Lands, Ho'omana Pono LLC, and one concerned individual opposed this measure. The Office of Hawaiian Affairs, Department of Agriculture, and two concerned individuals provided comments.

Your Committee has amended this measure by:

- (1) Clarifying that failing to keep state-owned land in a safe condition, rather than a clean and safe condition shall be a cause of action against the State by an adjacent landowner;

HB1497 HD1 HSCR WAL HMS 2017-1765

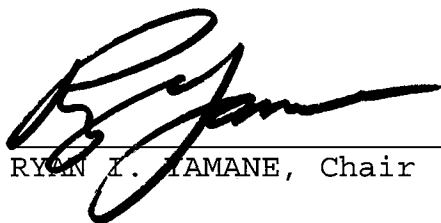


- (2) Indicating that a neighboring landowner shall send the notice of breach, along with all sums sought related to the breach, to the Department of Land and Natural Resources (DLNR) and not the Department of the Attorney General;
- (3) Clarifying that the DLNR may be responsible for all costs regarding the breach, including all court costs resulting from a court claim;
- (4) Specifying that all court costs regarding a claim for breach by an adjacent landowner shall be paid from the Natural Area Reserve Fund;
- (5) Removing the provisions regarding remedy of the breach by the neighboring landowner;
- (6) Removing the distance requirement to qualify within the definition of "neighboring landowner";
- (7) Specifying that the funds to the DLNR for tree and vegetation trimming on state lands shall be appropriated out of the Natural Area Reserve Fund;
- (8) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (9) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Water & Land that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1497, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1497, H.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Water & Land,



RYAN I. YAMANE, Chair



