

Honolulu, Hawaii

FEB 12 2019

RE: S.B. No. 1135
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred S.B. No. 1135 entitled:

"A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION,"

begs leave to report as follows:

The purpose and intent of this measure is to provide the Land Use Commission with the power to amend, revise, or modify a decision and order granting a land use district boundary amendment when there has been a finding by the Land Use Commission that a petitioner or its successors or assigns has not adhered to a representation made by the petitioner or its successor or assigns or conditions previously imposed by the Commission, regardless of whether there has been substantial commencement of use of the land.

Your Committee received testimony in support of this measure from the Office of Planning, Land Use Commission, Hawaii Advocates for Consumer Rights, Ho'omanapono Political Action Committee, and four individuals. Your Committee received testimony in opposition to this measure from the Chamber of Commerce Hawaii and Building Industry Association of Hawaii.

Your Committee finds that the only enforcement mechanism currently available to the Land Use Commission for noncompliance with the requirements or conditions of a district boundary amendment is issuing an order to show cause, which may result in a



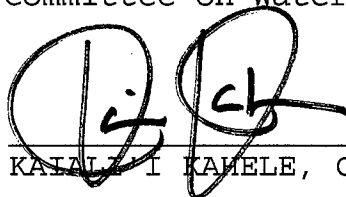
reversion to the former land use classification. However, even that mechanism is available only prior to substantial commencement of use of the land. Furthermore, reversion is not always an appropriate or economically desirable solution. The Land Use Commission is restricted by limited statutory authority and therefore cannot change or modify conditions where less severe actions than reversion may be more appropriate. This measure would give the Land Use Commission the authority and flexibility to address deficiencies and non-compliance with conditions and representations that are raised by the parties and interested persons.

Your Committee has amended this measure by:

- (1) Clarifying that "substantial commencement" means completion of all public improvements and infrastructure required by conditions imposed pursuant to chapter 205, Hawaii Revised Statutes, within and outside the project area, and completed construction of twenty percent of any affordable housing requirement such that they are usable or habitable;
- (2) Inserting an effective date of December 31, 2050, to encourage further discussion; 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 Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1135, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1135, S.D. 1, and be referred to your Committee on Judiciary.

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

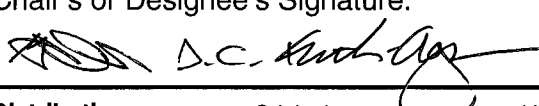


KAIULANI I. KAMELE, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB1135	Committee Referral: WTL, JDC	Date: 2/6/2019		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KAHELE, Kaiali'i (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
NISHIHARA, Clarence K.	X			
RIVIERE, Gil	X			
FEVELLA, Kurt				X
TOTAL	4			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes