

JAN 23 2020

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# SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS AT KANEOHE,  
KOOLAUPOKO, OAHU, FOR THE EXISTING PIER, AND FOR USE,  
REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS  
CONSTRUCTED THEREON.

1           WHEREAS, the existing pier fronting the property identified  
2 as Tax Map Key: (1) 4-6-001:seaward of 015, Kaneohe, Koolauloko,  
3 Oahu, was placed upon state submerged lands; and  
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5           WHEREAS, around July 2004, the University of Hawaii,  
6 awarded a contract for repair work on the abutting parcel.  
7 However, the building permit required a shoreline certification;  
8 and  
9

10           WHEREAS, as a shoreline certification could not be issued  
11 without first resolving the pier encroachment issue, the  
12 University of Hawaii worked with the Department of Land and  
13 Natural Resources to resolve the pier encroachment; and  
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15           WHEREAS, at its meeting of July 30, 2004, under agenda item  
16 D-28, the Board of Land and Natural Resources, authorized and  
17 recommended to the Governor the issuance of an executive order  
18 setting aside the subject parcel to the University of Hawaii to  
19 resolve the pier encroachment; and  
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21           WHEREAS, at its meeting of February 25, 2005, under agenda  
22 item D-4, the Board of Land and Natural Resources approved to  
23 amend the manner of land disposition by granting a 65-year  
24 direct lease to resolve the pier encroachment at gratis rent;  
25 and  
26

27           WHEREAS, the 65-year direct lease was never consummated  
28 however, due to lack of agreement on the lease conditions, and  
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1 WHEREAS, it was subsequently determined that the Department  
2 of Land and Natural Resources should issue a non-exclusive  
3 easement to resolve the pier encroachment; and  
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5 WHEREAS, at its meeting of August 25, 2017, under agenda  
6 item D-5, the Board of Land and Natural Resources approved a  
7 grant of a 55-year non-exclusive easement to resolve the pier  
8 encroachment, and such non-exclusive easement to run with the  
9 land and to inure to the benefit of the abutting real property  
10 at gratis rent; and  
11

12 WHEREAS, the total encroachment area was determined to be  
13 8,271 square feet as reviewed and approved by the Department of  
14 Accounting and General Services' Survey Division; and  
15

16 WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
17 the prior approval of the Governor and prior authorization of  
18 the Legislature by concurrent resolution to lease state  
19 submerged lands; now, therefore,  
20

21 BE IT RESOLVED by the Senate of the Thirtieth Legislature  
22 of the State of Hawaii, Regular Session of 2020, the House of  
23 Representatives concurring, that the Board of Land and Natural  
24 Resources is hereby authorized to issue a term, non-exclusive  
25 easement covering a portion of state submerged lands fronting  
26 the property identified as Tax Map Key: (1) 4-6-001:seaward of  
27 015, Kaneohe, Koolaupoko, Oahu, for the existing pier, and for  
28 use, repair, and maintenance of the existing improvements  
29 constructed thereon pursuant to section 171-53, Hawaii Revised  
30 Statutes; and  
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32 BE IT FURTHER RESOLVED that a certified copy of this  
33 concurrent resolution be transmitted to the Chairperson of the  
34 Board of Land and Natural Resources.  
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36  
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38 OFFERED BY:   
39 BY REQUEST  
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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KANEOHE, KOOLAUPOKO, OAHU, FOR THE EXISTING PIER, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

PURPOSE: To seek the authorization of the Legislature by concurrent resolution of the issuance of a term, non-exclusive easement by the Board of Land and Natural Resources (Board) for the existing pier, and for use, repair, and maintenance of the existing improvements constructed thereon.

MEANS: Concurrent resolution pursuant to section 171-53, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The existing pier fronting the property identified as Tax Map Key: (1) 4-6-001:seaward of 015, Kaneohe, Koolaupoko, Oahu, was placed upon state submerged lands. The property owner, the University of Hawaii (UH), worked with the Department to resolve the encroachment.

At its meeting of July 30, 2004, under agenda item D-28, the Board authorized and recommended to the Governor the issuance of an executive order setting aside the subject lands to UH to resolve the pier encroachment.

Subsequently, at its meeting of February 25, 2005, under agenda item D-4, the Board approved to amend the manner of land disposition by granting a 65-year direct lease to resolve the encroachment at gratis rent.

The 65-year direct lease was never consummated however, due to lack of agreement on the lease conditions. It was

subsequently determined that the Department should issue a non-exclusive easement to resolve the pier encroachment.

At its meeting of August 25, 2017, under agenda item D-5, the Board approved a grant of a 55-year term, non-exclusive easement to resolve the pier encroachment, to run with the land and inure to the benefit of the abutting real property at gratis rent.

The total encroachment area was determined to be 8,271 square feet as reviewed and approved by the Department of Accounting and General Services' Survey Division.

Section 171-53, HRS, requires the prior approval of the Governor and prior authorization of the Legislature by concurrent resolution to lease state submerged lands. As such, this concurrent resolution has been prepared in compliance with the requirements of section 171-53, HRS.

Impact on the public: None.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: LNR 101.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon adoption.