

MAR 10 2023

SENATE CONCURRENT RESOLUTION

REQUESTING THAT ALL GOVERNMENTAL BODIES RECOGNIZE THE
LEGISLATURE'S INTENT THAT TRESPASS LAWS NOT APPLY TO A
CONSTRUCTION CRANE OR OTHER MACHINERY THAT TEMPORARILY
INTRUDES INTO A NEIGHBORING LANDOWNER'S AIRSPACE WHILE USED
TO CONSTRUCT AFFORDABLE HOUSING.

1 WHEREAS, Hawaii is facing a historic affordable housing
2 crisis; and

3
4 WHEREAS, public officials and agencies are taking steps to
5 address this crisis by funding and constructing additional
6 affordable housing units; and

7
8 WHEREAS, construction of affordable housing sometimes
9 requires that cranes be utilized in airspace over a neighboring
10 property; and

11
12 WHEREAS, existing state law establishes a number of
13 offenses in varying degrees relating to trespass, and the
14 enforcement and interpretation of these statutes has frustrated
15 the State's ability to quickly address the housing crisis; and

16
17 WHEREAS, the United States Supreme Court has recognized
18 that airspace, apart from the immediate reaches above private
19 land, is part of the public domain; now, therefore,

20
21 BE IT RESOLVED by the Senate of the Thirty-second
22 Legislature of the State of Hawaii, Regular Session of 2023, the
23 House of Representatives concurring, that governmental bodies
24 are requested to recognize the Legislature's intent that
25 trespass laws not apply to a construction crane or other
26 machinery that temporarily intrudes into a neighboring
27 landowner's airspace; provided that the intrusion does not
28 materially interfere with the landowner's actual use of the
29 premises and is directly related to the construction,



S.C.R. NO. 152

1 maintenance, or repair of affordable housing as defined in
2 section 201H-57, Hawaii Revised Statutes; and

3

4 BE IT FURTHER RESOLVED that certified copies of this
5 Concurrent Resolution be transmitted to the Chief Justice of the
6 Supreme Court of Hawaii, Attorney General, Prosecutor of the
7 City and County of Honolulu, Prosecutor of the County of Hawaii,
8 Prosecutor of the County of Maui, and Prosecutor of the County
9 of Kauai.

10

11

12

OFFERED BY:

A handwritten signature in black ink, consisting of stylized, overlapping letters, is written over a horizontal line.