
SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TWENTY-FIVE-YEAR TERM, NON-
EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED
LANDS AT KIKIAOLA, KEKAHA, KAUAI, FOR A SHORELINE
PROTECTION STRUCTURE, AND FOR USE, REPAIR, AND MAINTENANCE
OF THE IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, the existing shoreline protection structure
2 seaward of the property identified as Tax Map Key: (4) 1-2-
3 013:031, Kikiaola, Kekaha, Kauai, was constructed on state
4 submerged lands; and
5

6 WHEREAS, Graham and Marisa Chelius, owners of the private
7 residential property identified as Tax Map Key: (4) 1-2-013:031,
8 were granted an emergency authorization pursuant to section 13-
9 5-35, Hawaii Administrative Rules, for temporary shoreline
10 stabilization to place geotextile bags on state submerged lands
11 along the erosion scarp abutting the makai boundary of their
12 private property by the Department of Land and Natural
13 Resources' Office of Conservation and Coastal Lands under
14 Emergency Conservation District Use Permit KA-14-03, for a five-
15 year term commencing July 16, 2013; and
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17 WHEREAS, at its meeting on December 13, 2013, under agenda
18 item D-2, the Board of Land and Natural Resources approved a
19 corresponding right of entry permit for the temporary structure,
20 which constitutes an encroachment on state shoreline lands and
21 delegated authority to the chairperson to issue one-year
22 extensions of the right of entry permit; and
23

24 WHEREAS, on April 9, 2018, the Office of Conservation and
25 Coastal Lands approved a five-year extension of the Emergency
26 Conservation District Use Permit, identified as Extension KA-18-
27 12, and the Chairperson of the Board of Land and Natural
28 Resources approved an extension of the right of entry permit for
29 the temporary structure; and



1 WHEREAS, on May 6, 2023, Graham and Marisa Chelius
2 applied to the Office of Conservation and Coastal Lands for a
3 second extension of their Emergency Conservation District Use
4 Permit and requested permission to repair the structure, which
5 the Office of Conservation and Coastal Lands granted; and
6

7 WHEREAS, the Office of Conservation and Coastal Lands
8 referred the request to renew the right of entry permit to the
9 Department of Land and Natural Resources' Land Division, which
10 triggered Land Division's review of the temporary permits and
11 the statutory authority that authorize them; and
12

13 WHEREAS, Land Division's review and analysis revealed that
14 the Department's past practice of continual reauthorization of
15 temporary permits without compensation was not proper under
16 chapter 171, Hawaii Revised Statutes, and recommended conversion
17 of temporary right of entry permits to long-term easement
18 dispositions in compliance with chapter 171; and
19

20 WHEREAS, the Office of Conservation and Coastal Lands has
21 no objection to a non-exclusive easement to resolve the
22 encroachment; and
23

24 WHEREAS, at its meeting on September 22, 2023, under agenda
25 item D-3, the Board of Land and Natural Resources approved the
26 grant of a twenty-five-year term, non-exclusive easement for the
27 existing shoreline protection structure to bring the permits for
28 the structure at issue into compliance with relevant state law,
29 to run with the land, and to inure to the benefit of the
30 abutting real property; and
31

32 WHEREAS, at the same meeting, the Board approved an
33 immediate right of entry permit to allow the property owners to
34 maintain the structure during the pendency of the easement
35 process, subject to payment of monthly rent, posting of a
36 removal bond, and provision of liability insurance for the
37 structure; and
38

39 WHEREAS, a professional survey of the structure, as
40 reviewed and approved by the Department of Accounting and
41 General Services' Survey Division, determined that its total
42 size is 2,366.18 square feet; and



1 WHEREAS, on June 12, 2024, Graham and Marisa Chelius
2 executed a removal bond agreement in which Graham and Marisa
3 Chelius tendered and endorsed over to the Department of Land and
4 Natural Resources securities in the amount of \$44,855, to insure
5 the State of Hawaii against the cost of removing the
6 encroachments in the event that the Legislature and the Governor
7 do not approve the issuance of the non-exclusive easement
8 approved by the Board of Land and Natural Resources; and
9

10 WHEREAS, the Board of Land and Natural Resources executed
11 Right of Entry Permit No. 4610 on June 12, 2024, granting Graham
12 and Marisa Chelius the right to enter and occupy the subject
13 portion of state submerged lands, subject to terms including the
14 payment of \$101 monthly rent and provision of liability
15 insurance; and
16

17 WHEREAS, Graham and Marisa Chelius shall pay the State the
18 fair market value of the non-exclusive easement area as
19 consideration for the use of state submerged lands, to be
20 determined by an independent appraisal; and
21

22 WHEREAS, section 171-53(c), Hawaii Revised Statutes,
23 requires the prior approval of the Governor and the prior
24 authorization of the Legislature by concurrent resolution to
25 lease state submerged lands; now, therefore,
26

27 BE IT RESOLVED by the Senate of the Thirty-third
28 Legislature of the State of Hawaii, Regular Session of 2025, the
29 House of Representatives concurring, that the Board of Land and
30 Natural Resources is hereby authorized to issue a twenty-five-
31 year term, non-exclusive easement covering a portion of state
32 submerged lands seaward of the property identified as Tax Map
33 Key: (4) 1-2-013:031, Kikiaola, Kekaha, Kauai, to Graham and
34 Marisa Chelius, for the existing shoreline protection structure,
35 and for use, repair, and maintenance of the improvements
36 constructed thereon pursuant to section 171-53, Hawaii Revised
37 Statutes; and
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39 BE IT FURTHER RESOLVED that a certified copy of this
40 Concurrent Resolution be transmitted to the Chairperson of the
41 Board of Land and Natural Resources.
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