

Honolulu, Hawaii

APR 09 2009

RE: H.B. No. 1713
H.D. 2
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committees on Judiciary and Government Operations and
Ways and Means, to which was referred H.B. No. 1713, H.D. 2,
S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HAZARDS,"

beg leave to report as follows:

The purpose of this measure is to authorize the Governor to
enter private property to mitigate situations deemed hazardous to
the health and safety of the public, following appropriate notice
procedures to the owner and occupier.

This measure also:

(1) Clarifies that:

- (A) Dangerous trees or branches that pose a falling hazard;
- (B) Stabilizing or removing unstable rock and soil hazards; and
- (C) Cleaning streams and waterways to mitigate or prevent flooding or other disasters;

constitute situations that are hazardous situations to
the health and safety of the public that the Governor is
authorized to mitigate;



- (2) Requires the Governor to provide a ten day notice to the landowner and occupier of private property before entering on the private property; and
- (3) Extends the lapsing date for the remaining unexpended appropriations granted under Act 78, Session Laws of Hawaii 2007, from June 30, 2009, to June 30, 2010. Act 78 appropriated funds in response to the Kiholo Bay earthquake disaster that occurred on October 15, 2006.

Written testimony presented to the Committees may be reviewed on the Legislature's website.

Your Committees find that this measure will allow the State to prevent hazardous situations on private property, such as falling trees or branches, unstable rock and soil, and clogged streams and waterways that may pose a significant risk of harm to adjoining landowners and the general public when property owners fail to properly maintain their properties.

It is your Committees' understanding that while Hawaii State Civil Defense has performed ably to oversee the expenditure of Act 78 funds, important work remains to be done. Another year is needed to complete repairs to earthquake-damaged facilities, including agricultural irrigation systems and hazard mitigation projects on the islands of Hawaii, Maui, and Oahu. One of the most destructive consequences of the earthquake was the severe damage sustained by the Kohala Ditch. Suspension of the flow of water in the Kohala Ditch has resulted in severe losses to agricultural and livestock operations in North Kohala, including one of the last two remaining dairies in Hawaii. Extending the lapsing date of the appropriations provided by Act 78 will enable the completion of recovery efforts.

Your Committees have amended this measure by:

- (1) Clarifying that designated state employees may enter a private landowner's property pursuant to the requirements of this measure;
- (2) Clarifying that the authority to enter a private landowner's property is limited to mitigation of the three hazardous situations identified in this measure;



- (3) Requiring the Governor to first provide the landowner or occupier with a reasonable opportunity to mitigate the hazardous situation without assistance of the State; and
- (4) Changing the effective date to July 1, 2050, to promote further discussion.

As affirmed by the records of votes of the members of your Committees on Judiciary and Government Operations and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1713, H.D. 2, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 1713, H.D. 2, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Government Operations and Ways
and Means,



DONNA MERCADO KIM, Chair



BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1713, HD 2, SD 1	PSM, JGO/WAM	4/8/2009		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"><input type="checkbox"/> Pass, unamended 2312</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div style="text-align: center;"><input type="checkbox"/> Hold 2310</div> <div style="text-align: center;"><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)	✓			
BUNDA, Robert				✓
GABBARD, Mike	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	5	0	0	1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="text-align: center; height: 30px;"> </div>				
Distribution: <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 5px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes

The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Ways and Means
WAM

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Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	\			
TSUTSUI, Shan S. (VC)	\			
CHUN OAKLAND, Suzanne	\			
ENGLISH, J. Kalani	\			
FUKUNAGA, Carol	\			
GALUTERIA, Brickwood	\			
HEE, Clayton	\			
HOOSER, Gary L.	\			
KIDANI, Michelle N.	\			
KOKUBUN, Russell S.	\			
TOKUDA, Jill N.	\			
HEMMINGS, Fred	\			
TOTAL	12	0	0	0
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: 				
Distribution: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="text-align: center;">Original File with Committee Report</div> <div style="text-align: center;">Yellow Clerk's Office</div> <div style="text-align: center;">Pink Drafting Agency</div> <div style="text-align: center;">Goldenrod Committee File Copy</div> </div>				

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