

Honolulu, Hawaii

, 2010

APR 22 2010
RE: S.B. No. 532
S.D. 1
H.D. 1
C.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 532, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LIMITING CIVIL LIABILITY,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to limit the civil liability of property owners for damages to persons injured on premises while committing certain criminal offenses.

Your Committee on Conference finds that the intent of this measure is to protect an owner of real property from an individual who intends to or commits a crime from gaining from his or her criminal activity if the individual is wounded during the commission of the crime. Your Committee on Conference notes that there have been only a few instances in the history of this State where a homeowner was forced to defend his or her dwelling through the use of a firearm.



Your Committee on Conference notes that an earlier version of the measure, S.B. No. 532, S.D. 1, contained similar language, but limited civil liability for not only injuries to a perpetrator, but also the death of the perpetrator. After discussion, your Committee on Conference has chosen to revert to this earlier version, with amendments, as described below.

Your Committee on Conference has amended this measure by deleting its contents and replacing it with the contents of S.B. No. 532, S.D. 1, with amendments. As amended, this measure:

- (1) Limits civil liability for an owner of any estate or any other interest in real property to any perpetrator engaged in enumerated felonies for any injury or death to the perpetrator that occurs on that property during or after the commission of the felony, or when a reasonable person would believe that commission of an enumerated felony was imminent;
- (2) Requires that, if the perpetrator is injured, the perpetrator must be charged with the criminal offense and be convicted of the criminal offense or of a lesser included felony or misdemeanor;
- (3) Enumerates the felonies applicable to the limitation of liability;
- (4) Defines the time period for which the limitation of liability is applicable as arising the moment the perpetrator commences the enumerated felony or the moment the owner believes that a commission of an enumerated felony is imminent;
- (5) Provides that the limitation of liability is only applicable when the perpetrator's conduct in furtherance of the enumerated felony causes the injury or death;
- (6) Provides that the limitation of liability does not limit liability of the owner that would otherwise exist for certain wrongful conduct of the owner or the injury or death caused to individuals other than the perpetrator;
- (7) Provides that the owner is not required to warn the perpetrator that the owner is armed and ready to cause injury or death in order to benefit from the limitation of liability;



- (8) Indicates that the limitation of liability is in addition to other available defenses for the owner; and
- (9) Makes the measure effective upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 532, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 532, S.D. 1, H.D. 1, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE


JON RIKI KARAMATSU, Chair




BRIAN T. TANIGUCHI, Chair



Hawaii State Legislature

91-10

Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 532, SD 1, HD 1					Date/Time: <i>April 22, 2010; 4:07 pm</i>						
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).											
<input type="checkbox"/> The Committee is reconsidering its previous decision.											
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.						
Senate Managers		A	WR	N	E	House Managers		A	WR	N	E
TANIGUCHI, Brian T., Chr.		✓				KARAMATSU, Jon Riki, Chr.		✓			
TAKAMINE, Dwight Y.		✓				ITO, Ken		✓			
SLOM, Sam		✓				THIELEN, Cynthia		✓			
TOTAL		3				TOTAL		3			
A = Aye		WR = Aye with Reservations			N = Nay			E = Excused			
Senate Recommendation is:					House Recommendation is:						
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted						
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:						
											
Distribution:		Original			Yellow		Pink		Goldenrod		
		File with Conference Committee Report			House Clerk's Office		Senate Clerk's Office		Drafting Agency		