CONFERENCE COMMITTEE REP. NO.

59

Honolulu, Hawaii April 28, 2011 RE: H.B. No. 227 H.D. 2 S.D. 2 C.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Sixth State Legislature Regular Session of 2011 State of Hawaii

Honorable Shan S. Tsutsui President of the Senate Twenty-Sixth State Legislature Regular Session of 2011 State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 227, H.D. 2, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO TRESPASS,"

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 bill is to help protect owners of unimproved and unused land by, among other things:

- (1) Making entering or remaining unlawfully on unimproved or unused agricultural lands without permission the offense of criminal trespass in the second degree if the lands are fenced, enclosed, or secured, or if a sign that meets certain criteria is displayed to provide notice;
- (2) Deleting the statutory provision that a person who enters or remains on unimproved and apparently unused

HB227 CD1 HCCR HMS 2011-3957

land that is not fenced or otherwise enclosed in a manner designed to exclude intruders, unless notice against trespass has been given, is allowed to be on the land and is not trespassing;

- (3) Including evidence of livestock-raising, such as cattle, horses, water troughs, shelters, or paddocks, as a characteristic of agricultural lands onto which unauthorized entry constitutes entering or remaining unlawfully on agricultural lands;
- (4) Making entering or remaining unlawfully on agricultural lands without permission a civil offense if the land is fenced, enclosed, or secured; is marked with a sign that meets certain criteria to provide notice; or is fallow or has a visible presence of livestock-raising or a crop;
- (5) Limiting the liability of agricultural landowners for any injury, death, loss, or damage suffered by a trespasser, with certain exceptions; and
- (6) Adding definitions for "agricultural land", "fallow", "owner", "trespasser", and "unimproved or unused lands".

Your Committee on Conference has amended this bill by:

- (1) Simplifying the characteristics of agricultural lands onto which unauthorized entry constitutes criminal trespass in the second degree to lands that are fallow or have a visible presence of livestock or a crop at the time of entry; and
- (2) Making technical, nonsubstantive amendments for clarity consistency, and style.

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 H.B. No. 227, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 227, H.D. 2, S.D. 2, C.D. 1.



CONFERENCE COMMITTEE REP. NO. 59 Page 3

Respectfully submitted on behalf of the managers:

ON THE PART OF THE SENATE

areas

CLARENCE K. NISHIHARA, Chair

C Co air

MALAMA SOLOMON Co-Chair

ON THE PART OF THE HOUSE

JERRY I CHANG Co-Chair

CLIFT TSUJI Chair Co

GILBERT KEITH-AGARAN, CO-Chair



Hawaii State Legislature

CCR 59

Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: HB ₂ 227, HD 2, SD 2				Date/Time: 4/2-1/11 1:00	pm	_			
The recommendation of the H	Iouse and S	enate	mana	gers i					
The Committee is reconsider									
The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure				The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.					
Senate Managers	Α	WR	N	Е	House Managers	A,	WR	N	E
NISHIHARA, Clarence K., Chr.					CHANG, Jerry L., Co-Chr.				
HEE, Clayton, Co-Chr.					TSUJI, Clift, Co-Chr.	 √			
SOLOMON, Malama, Co-Chr.					KEITH-AGARAN, Gilbert S.C., Co-Chr.	\checkmark			
KAHELE, Gilbert	\checkmark				HAR, Sharon E.		ĺ		
SLOM, Sam				$\overline{\mathbf{A}}$	NAKASHIMA, Mark M.	\checkmark			
					TOKIOKA, James Kunane				\checkmark
					RIVIERE, Gil	\checkmark			
<u> </u>									
			┟──┤						$\left - \right $
								<u> </u>	
					······································			<u> </u>	┼──┨
						<u> </u>		<u> </u>	
· · · · · · · · · · · · · · · · · · ·						 		<u> </u>	
						 		<u> </u>	
<u> </u>						<u> </u>		<u> </u>	
						<u> </u>		<u> </u>	
TOTAL	4				TOTAL	6			/
A = Aye	WR = Aye with Reservation				N = Nay $E = Excused$				
Senate Recommendation is: Adopted INot Adopted				House Recommendation is:					
Senate Lead Chair's or Designee's Signature:				House Lead Chair's or Designee's Signature:					
Distribution: Original File with Conference Committee Report How				Yellow Pink Goldenrod puse Clerk's Office Senate Clerk's Office Drafting Agency					