STAND. COM. REP. NO.

мо. 434

Honolulu, Hawaii
February 16, 201

RE: H.B. No. 437

H.D. 1

Honorable Joseph M. Souki Speaker, House of Representatives Twenty-Ninth State Legislature Regular Session of 2017 State of Hawaii

Sir:

Your Committee on Ocean, Marine Resources, & Hawaiian Affairs, to which was referred H.B. No. 437 entitled:

"A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," begs leave to report as follows:

The purpose of this measure is to prohibit variances for construction of seawalls in shoreline areas, unless:

- (1) A public hearing is held;
- (2) The applicant demonstrates that the seawall is necessary to protect an existing legal object, structure, or activity from damage due to seawater inundation or shoreline erosion; and
- (3) No reasonable alternative locations exist.

The Department of Transportation, Office of Planning, Planning Department of the County of Kauai, Office of Hawaiian Affairs, Sierra Club of Hawaii, Ho'omana Pono, LLC., and several individuals testified in support of this measure. Two individuals commented on this measure.

Your Committee finds that while seawalls are necessary in some instances to protect property and infrastructure, seawalls have notoriously led to erosion of beaches throughout the State. The public hearing and requirements for approval of a variance

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mandated in this measure will prohibit the installation of seawalls except where absolutely necessary. However, your Committee raised concerns that the measure might have a negative impact on cultural and public use and access, potentially for the sole benefit of a private landowner. Accordingly, your Committee recommends the inclusion of additional criteria to be considered in the issuance of a variance under section 205A-46(d), Hawaii Revised Statutes, of this measure.

Your Committee has amended this measure by:

- (1) Clarifying the provisions regarding the approval of variances to require the variance approval authority to consider:
  - (A) The nature and scope of cultural and historical resources, or Native Hawaiian traditional or customary practices that may be impacted;
  - (B) Whether the shoreline hardening structure is the only reasonable alternative to protect relevant structures, objects, or activities from damage due to shoreline erosion; and
  - (C) The diminution of safe lateral public access and enjoyment of the shoreline area;
- (2) Clarifying that no public hearing may be waived for action on a variance application for construction of a shoreline hardening structure that will artificially fix the shoreline, including seawall, revetment and groin;
- (3) Changing the reference made to seawalls to shoreline hardening structures, including seawalls, revetments, and groins; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ocean, Marine Resources, & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 437, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 437, H.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on behalf of the members of the Committee on Ocean, Marine Resources, & Hawaiian Affairs,

KANIELA ING, Chair

## State of Hawaii House of Representatives

The Twenty-ninth Legislature 7/34

## Record of Votes of the Committee on Ocean, Marine Resources, & Hawaiian Affairs

Bill/Resolution No.: HB 437	Committee Referral:  OMH , JUD	Date:	Date: 2/7/2017		
$\theta$ The committee is reconsidering its previous decision on the measure.					
The recommendation is to: $\theta$ Pass, unamended (as is) $\theta$ Pass, with amendments (HD) $\theta$ Hold $\theta$ Pass short form bill with HD to recommit for future public hearing (recommit)					
OMH Members	Ayes	Ayes (WR)	Nays	Excused	
1. ING, Kaniela (C)	<b>V</b>				
2. GATES, Cedric Asuega (VC)			MARINE SALDEN		
2 CDEACAN DI LA					
3. CREAGAN, Richard P.					
4. DeCOITE, Lynn					
4. Decorre, Lym					
5. LoPRESTI, Matthew S.			euserratura Nealaid III.		
6. TAKAYAMA, Gregg		and the state of t			
7. THIELEN, Cynthia					
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TOTAL (7)					
The recommendation is:   Adopt	ed θ Not Adopte	<u>                                     </u>			
If joint referral, did not support recommendation.					
Vice Chair's or designee's signature:					
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO					