H.B. NO. 2258

## A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that providing lifequard 2 services at beaches and in the ocean is vital to the health, 3 safety, and welfare of the public. Every day, residents and 4 tourists enjoy recreational activities on and the natural beauty 5 of the State's beaches. Lifeguards provide constant 6 surveillance of the dynamic ocean and changing beach conditions to fulfill their duty to protect those in and close to the water 7 from danger. Like firefighters and emergency medical 8 9 technicians, lifeguards are first responders in emergencies. 10 While the protection of many of the State's public 11 resources and facilities, such as the airports, harbors, and 12 wildlife, are performed by state employed officers or quards 13 with enforcement or first responder powers, state beaches are 14 protected by county employed lifeguards. Accordingly, the 15 threat of potential tort liability has made some counties 16 reluctant to provide lifeguard services at some beaches. Thus,



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some beaches were left without critical services to ensure 1 2 public safety at one of the State's most important assets. 3 In response to these concerns, the legislature passed 4 Act 170, Session Laws of Hawaii 2002, to provide limited tort 5 liability protection for county lifeguards and counties 6 providing lifeguard services on beaches or in the ocean, except 7 in cases of gross negligence or wanton acts or omissions. This 8 limited tort liability sunsetted on June 30, 2017. As a result, 9 county lifeguards are faced with potential tort liability in the 10 course of performing their lifeguard duties, which in turn, may 11 cause some beaches to become unsafe due to a lack of an on-duty 12 lifequard.

13 The purpose of this Act is to reestablish the limited 14 liability protection for county lifeguards and counties 15 providing lifeguard services on beaches or in the ocean and to 16 make the law permanent.

SECTION 2. Chapter 663, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

# 20 "§663- Exception to liability for county lifeguard 21 services. (a) Notwithstanding any other law to the contrary, a



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1	county lifeguard, the employing county, and the State shall not
2	be liable for any civil damages resulting from any act or
3	omission of the lifeguard while providing rescue, resuscitative,
4	or other lifeguard services on the beach or in the ocean in the
5	scope of employment as a county lifeguard. This exception from
6	liability, however, shall not apply when the claim for civil
7	damages results from a county lifeguard's gross negligence or
8	wanton act or omission.
9	(b) For purposes of this section:
10	"County lifeguard" means a person employed as a lifeguard
11	by a county of this State.
12	"Employing county" means the county employing a county
13	lifeguard."
14	SECTION 3. This Act does not affect rights and duties that
15	matured, penalties that were incurred, and proceedings that were
16	begun before its effective date.
17	SECTION 4. New statutory material is underscored.
18	SECTION 5. This Act shall take effect upon its approval.
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	INTRODUCED BY: Lyn D. Crita
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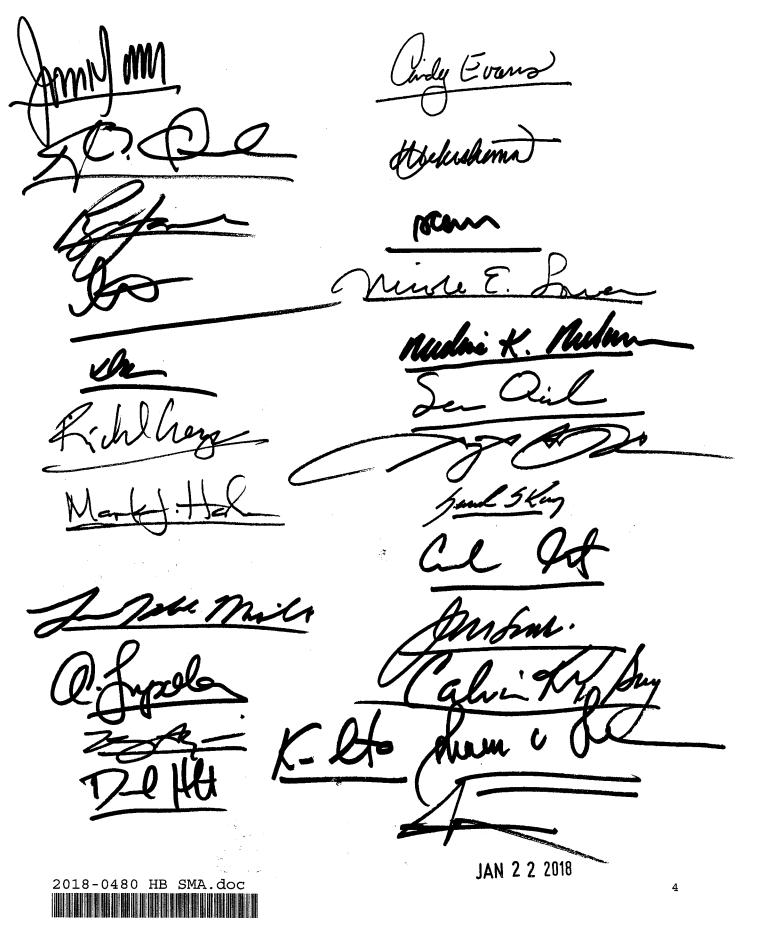


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### Report Title:

Tort Liability; Immunity; County Lifeguards; Beaches; Ocean

#### Description:

Provides limited liability protection for county lifeguards and counties providing lifeguard services on beaches or in the ocean.

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